

# PLANNING COMMITTEE MEETING

Date: Thursday 23 July 2020

Time: 6.00 pm

Venue: Remote Meeting - The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website

Membership:

Councillors Adkinson, Brindle, Chappell-Tay, English (Chairman), Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Spooner (Vice-Chairman), Vizzard and Wilby

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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## AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 30 July 2020
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 25 June 2020 adjourned to 2 July 2020 - to follow
11. Appointment of Conservative Group Political Group Spokesperson
12. Presentation of Petitions (if any)

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**Issued on Wednesday 15 July 2020**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

13.	20/501029/FULL & 20/501030/LBC Len House	1 - 59
14.	19/504403/FULL Land At Teiseside Nurseries	60 - 72
15.	20/501750/FULL Land Rear Of 13 Manor Close	73 - 82
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17.	Appeals Decision List	91

#### **PLEASE NOTE**

**The order in which items are taken at the meeting may be subject to change.**

**The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.**

**For full details of all papers relevant to the reports on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection; please follow this link:**

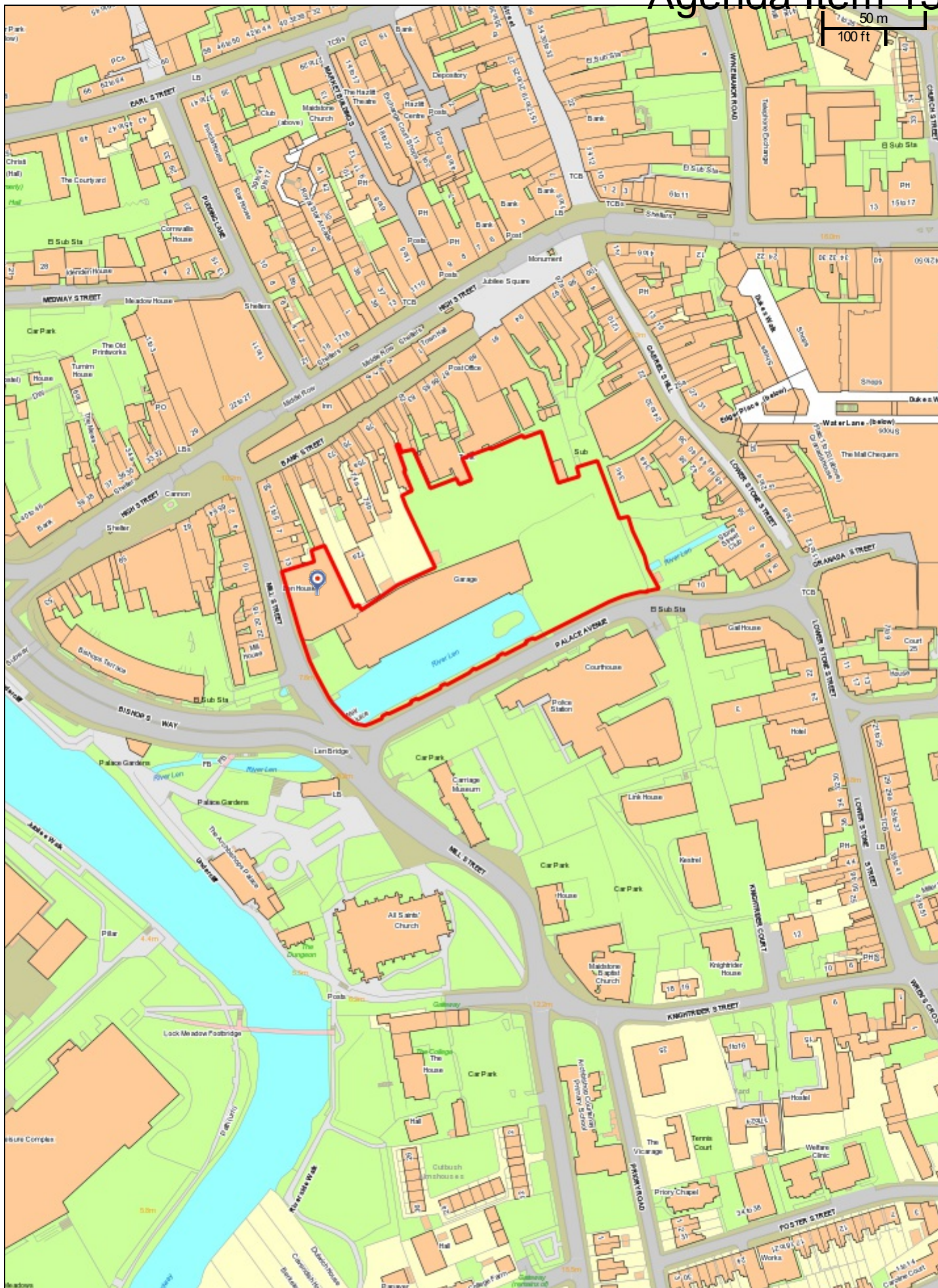
**<https://pa.midkent.gov.uk/online-applications/>**

#### **PUBLIC REPRESENTATIONS AND ALTERNATIVE FORMATS**

**In order to make a submission to the Committee, please call 01622 602899 or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 4 p.m. on the working day before the meeting. You will need to tell us which agenda item you wish to make representations on. Please note that slots will be allocated for each application on a first come, first served basis.**

**If you require this information in an alternative format please contact us, call 01622 602899 or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).**

**To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk).**



20/501029/FULL & 20/501030/LBC - Len House, Mill Street, Maidstone, Kent, ME15 6YD

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Printed on: 10/6/2020 at 9:42 AM by JoannaW



## UPDATE REPORT SUMMARY

**Members should note that this report addresses two applications: (A) the application for planning permission and (B) the application for the associated listed building consent works.**

**The Update Report provides further information in response to the deferral of the applications at the Planning Committee Meeting on 2 July 2020, but in assessing the applications, Members should also have regard to the content of the original report.**

**REFERENCE Nos - (A) 20/501029/FULL and (B) 20/501030/LBC**

### APPLICATION PROPOSALS

- (A)** Restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide 3,612 sqm (GIA) flexible commercial floorspace (A1/A2/A3/A4/A5/B1a/D1/D2) at ground floor, 18 No. residential apartments (C3) at first floor level, together with ancillary car parking. (ii) Erection of part rear first floor and two storey roof extension to provide 62 No. new residential apartments, with rooftop amenity space. (iii) Construction of two new buildings of up to 5-storeys to provide 79 No. residential apartments (C3) with amenity space. (iv) Provision of associated car parking, open space, earthworks including demolition of hardstanding and structures, and new boardwalk to north side, and re-utilisation existing vehicular access points from Mill Street and Palace Avenue.
- (B)** Listed Building Consent for restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide 3,612 sqm (GIA) flexible commercial floorspace (A1/A2/A3/A4/A5/B1a/D1/D2) at ground floor, 18 No. residential apartments (C3) at first floor level, together with ancillary car parking. (ii) Erection of part rear first floor and two storey roof extension to provide 62 No. new residential apartments, with rooftop amenity space. (iii) new boardwalk to north side.

**ADDRESS** Former Rootes Site, Len House, Mill Street / Palace Avenue, Maidstone

**RECOMMENDATION** That (A) planning permission and (B) listed building consent be granted, subject to the updated conditions listed below and subject to the Applicant entering into a s106 unilateral undertaking to transfer the section of the culverted River Len to the Council, together with a payment of £80,000 towards its implementation.

### SUMMARY OF REASONS FOR RECOMMENDATION

The scheme involves the refurbishment and extension of a significant heritage asset and redevelopment of under-utilised land within a prominent town centre location.

The site is not allocated for development within the Local Plan, but is one of five town centre sites that have been the subject of the preparation and adoption of an Opportunity Site Brief that has been approved by the Council's SPI Committee.

The proposals have been the subject of detailed pre-application discussions with Officers at MBC, KCC and Historic England.

This is considered to be a highly sustainable town centre location and, subject to detailed tests, an appropriate location for mixed-use development.

The proposed refurbishment works to the listed building are sensitive to its history and fabric and the proposed alterations and new build elements are of a high quality. Whilst some harm is identified in terms of, for example, the change of use from the building's original function and removing the original roof, such works are considered to be the minimum necessary in order for a viable refurbishment scheme to be brought forward.

These impacts are considered to result in less than significant harm to the heritage asset, but are considered to be outweighed by the significant heritage benefits of bringing the building as a whole back into use in a manner that can be appreciated by the public and the benefits that this will offer in terms of enhancing the vitality and viability of the town centre. In addition, significant public benefits arise through the construction of a significant number of high quality new housing within a highly sustainable town centre location.

AS AN UPDATE TO THE ORIGINAL SUMMARY, THE APPLICANT NOW PROPOSES TO OFFER THE TRANSFER OF THE CULVERTED RIVER LEN TO THE COUNCIL IN ORDER THAT IT MAY UNDERTAKE THE DAYLIGHTING WORKS. IT IS CONSIDERED THAT THIS REPRESENTS FURTHER SIGNIFICANT ENVIRONMENTAL BENEFITS THAT WEIGH IN FAVOUR OF THE PROPOSAL.

**REASON FOR REFERRAL TO COMMITTEE**

It is a significant town centre scheme that merits Planning Committee consideration.

<b>WARD</b> High Street	<b>APPLICANT</b> Len House (Maidstone Ltd) Part Of Classicus Estates
	<b>AGENT</b> Esquire Developments

<b>DECISION DUE DATE</b> 15/07/20 (PPA date to be extended following deferral)	<b>PUBLICITY EXPIRY DATE</b> 07/03/2019	<b>OFFICER SITE VISIT DATE</b> Various
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**RELEVANT PLANNING HISTORY:**

See main report at Appendix 1

**1 INTRODUCTION**

1.1 At the Planning Committee meeting of 2 July 2017, Members deferred determination of these applications in order for Officers to consider the following matters:

- River Len Daylighting - A scheme for the land, under which the culverted river runs, to be transferred to the Council in order that it can progress a scheme for the daylighting of the River.
- Boardwalk - Further information on the Boardwalk scheme in terms of ecological impacts and public safety.
- Mill Street Forecourt - Clarity on the future design and delivery strategy for the kiosk and public realm.
- Noise - Clarity on whether any further noise assessments are required.
- Planning Conditions - A detailed work up of the proposed planning conditions.

- 1.2 This addendum report accompanies the main report attached at Appendix 1, which set out the main assessment of the applications, including, for example, third party representations and relevant policy considerations.

## **2 REPRESENTATIONS / CONSULTATION**

- 2.1 No further comments have been received following the 2<sup>nd</sup> July Committee.

## **3 OFFICER UPDATE**

### River Len Daylighting

- 3.1 Committee Members identified that it was a longstanding aspiration of the Council to open up (daylight) the River Len within the town centre.
- 3.2 Members acknowledged that that the Applicant could not be expected to carry out the daylighting works themselves for reasons of, inter alia, scheme viability and timescale; but considered the daylighting of the Len to be necessary in order to (i) balance the potential ecological impacts of the Boardwalk and (ii) support the delivery of the Council's wider biodiversity enhancement strategy for the town centre.
- 3.3 Rather than undertake a feasibility study of the scheme, Officers were instructed to explore the option for the ownership of the relevant land to be transferred to the Council in order that it could commission and deliver the daylighting scheme.
- 3.4 Immediately following the previous Planning Committee a meeting was held with the Applicants to discuss the scope of a transfer. The outcome is that the Applicant has agreed to enter into a s106 unilateral undertaking to transfer the land to the Council, together with an £80,000 contribution to its delivery (this being the estimated cost of the Applicant's alternative landscaping scheme for the area).
- 3.6 The undertaking commits the developer to transfer the land to the Council within 6 months of the grant of planning permission and indicates that should the daylighting scheme not be implemented by the time the development has reached practical completion, then the Applicant would be able to implement their alternative landscaping scheme using the funds that would have otherwise been paid to the Council.
- 3.7 This structure ensures that the consideration of the daylighting scheme does not fetter the commencement and delivery of the development as a whole, a critical factor in terms of, for example, funding the listed building restoration, but affords the Council control over the land in order to carry out a daylighting feasibility study and to commission the works within a reasonable timeframe.
- 3.8 Officers consider the terms of the proposed undertaking to be acceptable, but request that the detailed wording and conditionality of the unilateral undertaking,

together with any subsequent land transfer agreement, be delegated to Officers to agree in consultation with colleagues in Legal and Property.

- 3.9 In agreeing to accept any land transfer, Members should be aware that at this stage, there is no feasibility assessment that demonstrates that works are either physically deliverable or financially viable, but in agreeing to receive the land, the Council would adopt responsibility for the daylighting scheme, with no further obligation upon the Applicant other than the £80,000 payment.
- 3.10 Officers advise that should subsequent assessments identify that the daylighting scheme is not deliverable, then whilst this element would have represented a significant environmental benefit, having regard to the wider benefits that the scheme would deliver, the Applicant's alternative landscaping scheme would be acceptable.

#### Boardwalk

- 3.11 Some questions were raised regarding the safety of members of the public on the boardwalk and its potential ecological impacts as a result of overshadowing.

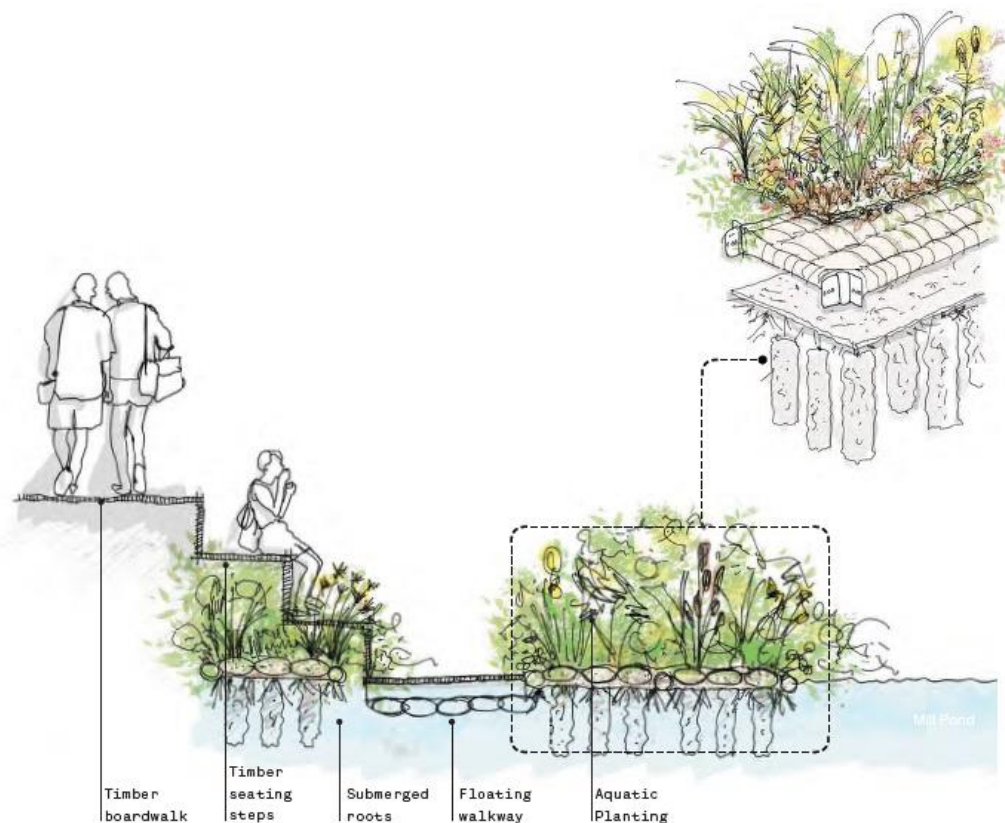
- 3.11 The boardwalk is to be cantilevered from the listed building rather than built on piles into the water and subject to the depth of the deck structure, it will sit approximately 1m above the water level.



- 3.12 Along the majority of its length the boardwalk will be circa 3metres wide, with some narrowing at the centre and a widening adjacent to the western end to allow for ecological enhancement works.

- 3.13 This elevation of Len House faces due south and so natural sunlight will penetrate beneath the deck for considerable periods of the day, limiting any net impact upon the habitat to negligible for the majority of its length.

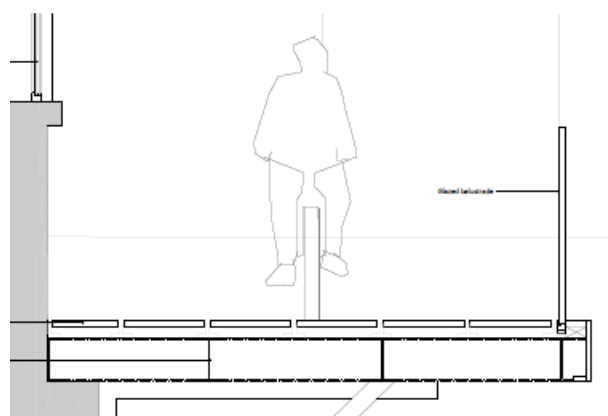
- 3.14 As mentioned, the western end of the boardwalk will widen in width where it fronts the proposed new public realm. The impact on natural lighting will be more significant here, although the area is already impacted due to its adjacency with the adjacent road bridge. To mitigate any impacts, the scheme proposes new floating island habitats. These will incorporate submerged root structures and aquatic planting that will benefit a variety of bird and other species.



3.15 Further floating islands and new bankside planting around the wider perimeter of the Mill Pond will also introduce significant new habitats.

3.16 It is therefore considered that the net impacts of the scheme on the Mill Pond section of the River Len will be materially beneficial, resulting in net biodiversity gain. Such benefits could be further enhanced by the Council's daylighting scheme for the currently culverted section, which could incorporate planted margins and further floating habitat.

3.18 In terms of public safety, the majority of the boardwalk will be edged with a glazed screen, supported by metal balustrades with a narrow profile. The transparent design of the screen will ensure that the existing visual relationship of Len House to the Mill Pond is maintained, whilst also providing appropriate safety for users.



3.19 Whilst the submitted plans show the platform at the western end of the boardwalk to be in-part open, a planning condition is proposed requiring further details and a



management scheme to be approved to ensure that there are no adverse, safety, littering or ecological disturbance impacts.

- 3.20 Officers consider that the boardwalk represents a key element of the scheme in terms of enhancing permeability and also enhancing the character and function of the new use of the building. It is considered that this element would have a less than significant impact upon the character and appearance of the listed building and delivers significant public benefits.

#### Mill Street Forecourt

- 3.21 Officers consider that this element of the scheme has the potential to deliver significant benefits in terms of heritage, public realm and the overall vitality of the scheme.
- 3.22 This area of the town centre is dominated by traffic conditions, with no 'breathing' space or opportunity to dwell for pedestrians.
- 3.22 As illustrated in the original Officer report at Appendix 1, this element of the scheme is inspired by the original petrol forecourt and it is considered that the reinterpretation of the original kiosk in a modern form, providing the focal point for an outdoor food and drink activity offers significant heritage benefits that are integral to the wider refurbishment and re-activation of the building.
- 3.23 Whether this element is an independent unit, or tied to the food and drink offer within the main building hall, it is considered that it will provide an active use and space that will significantly enhance the vitality of this part of the town centre.

As the following image shows, the forecourt adjoins the widened area of the boardwalk, to provide a significant enhancement to the public realm and an opportunity for pedestrians to step back from the heavily trafficked highway conditions of Mill Street and Palace Avenue.



Updated Image showing the character of the Mill Street frontage and boardwalk

### Noise

- 3.24 Members requested clarity on whether further noise surveys were necessary in order to assess the necessary mitigation that may be required, particularly for the management of impacts from adjacent leisure and entertainment uses.
- 3.25 Whilst the submitted acoustic report identifies that traffic conditions are a dominant condition, the noise survey locations were such that the noise monitoring equipment would have identified noise from commercial premises.
- 3.26 The noise surveys were undertaken between 10 and 20 December 2019, not only when adjacent entertainment uses would have been open during the busy pre-Christmas period. The surveys also included night time measurements between 2300 and 0700.
- 3.27 As highlighted within the original report, objectors have raised concerns that the acoustic assessment does not specifically assess the noise impact of entertainment uses, however, officers have proposed a robust pre-commencement condition that requires the necessary impact of such uses and the required mitigation to be assessed and approved before the development commences. This condition will require consideration of both the new-build and converted elements of the listed building to be assessed.
- 3.28 Whilst there may be limitations upon the degree of mitigation that can be applied to some heritage assets, such as timber frame buildings, Len House is a robust

industrial building and Officers consider that options such as high performance internal glazed systems could be installed behind the rear facing windows whilst preserving the character and appearance of the building.

#### Conditions

3.29 An updated schedule of planning conditions is attached. In addition to a number of typical conditions, Members attention is drawn to the following matters to be covered by condition:

#### Planning Application

- Further archaeological assessment before development commences on the open part of the site (3-5)
- Controls on the use of the main ground floor area to food and drink with associated retail sales (6)
- A requirement that the listed building conversion works be completed (7)
- Details of proposed materials to ensure that the necessary quality is achieved (8-11)
- Approval of slab levels for the new build element, to ensure that the proposed relationship with Bank Street is not materially changed (12)
- A biodiversity enhancement scheme to be approved (21)
- Details of the kiosk and boardwalk to be submitted (26, 27)
- A building and open space lighting strategy to be submitted (29)

#### Listed Building Application

- Approval of details, such as further internal fixtures and a strategy for managing the character of the internal winter gardens.

## **4 CONCLUSIONS**

(To be read in conjunction with the main report)

- 4.1 The works to Len House represent an exciting opportunity to breathe life into the building whilst preserving or enhancing its key heritage significance in a manner that the public will be able to experience.
- 4.2 The new build elements are considered to be of a high quality design and an enhancement when compared to the existing character and condition of the open part of the site.
- 4.3 Officers maintain the view that this scheme delivers significant heritage and public benefits as detailed in the original report. Whilst there are some less than significant impacts to Len House and to the setting of nearby heritage assets, these are heavily outweighed by the range of heritage and public benefits arising from the scheme.

- 4.4 Conditions are proposed to ensure that the quality of the scheme is maintained and that details of key public areas and the living conditions of future occupiers can be delivered to an acceptable standard.
- 4.5 Subject to the Applicant completing the proposed unilateral undertaking and the listed conditions, Officers maintain the recommendation in the main report that both planning permission and listed building consent be granted.

## **5 RECOMMENDATION –**

### 5.1 It is recommended that:

Recommendation (A) Planning permission be granted for the development subject to conditions and the s106 undertaking

Recommendation (B) Listed building consent be granted for the associated works to the listed building subject to conditions

### Proposed Planning Conditions - 20/501029/FULL

#### 1) River Len

Notwithstanding the landscaping drawings hereby approved, prior to the commencement of the new build elements above slab level (and within a period of no later than 6 months from the grant of planning permission), a feasibility and viability assessment of the 'daylighting' of the River Len within the application site shall be submitted to the Local Planning Authority.

Reason: The 'daylighting' of the River Len would deliver key townscape and ecological benefits and the Council, in accordance with its approved Planning Brief for the site, wishes to ensure that the potential opportunity to deliver such works is fully investigated.

#### Archaeology

#### 2) No development of the new build elements of the scheme or any excavations adjacent to or beneath Len House shall take place until the applicant has secured and had implemented a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority. This should include:

- assessment of Early Medieval and earlier archaeology
- potential for remains within the east part of the site which may have complex Post Medieval or earlier remains surviving, including Post Medieval water channels and Medieval riverside activities
- assessment of the early 20th century industrial and commercial activity represented in the archaeological resource
- some preliminary fieldwork to clarify potential for as yet unknown significant archaeology, including modern structural remains associated directly with Len House

Reason: To enable the recording of any items of historical or archaeological interest.

- 3) Prior to first occupation, a final report detailing all archaeological results and finds resulting from the approved scheme of archaeological work shall be submitted to and approved by the Local Planning Authority.

Reason: In the interests of recording any below ground structures or finds and to inform KCC Heritage's archives.

#### Contamination

- 4) The new build elements of the development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved by the Local Planning Authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

- 5) A Closure Report shall be submitted for approval by the Local Planning Authority upon completion of the approved remediation works. The closure report shall include full verification details and should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

#### Use

- 6) The commercial use of the former vehicle workshop fronting the River Len and the Mill Street forecourt, as annotated on drawing number ..... shall only be used for purposes falling within Classes A3 and A4 and for the associated retail sales of food and drink and ancillary products only and for no other purpose (including any other purpose in Classes A, B or D of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any statutory instrument revoking and re-enacting those Orders with or without modification).

Reason: Unrestricted use of the building or land could cause harm to the character, appearance and functioning of the surrounding area and/or the enjoyment of their properties by adjoining residential occupiers. In addition the building lies outside of the primary retail area, where unrestricted retail class A1 sales would not be appropriate.

- 7) No more than 50% of the units in the new-build apartment blocks(excluding any new units created within or above Len House), shall be occupied until all of the Len House conversion works hereby approved have been completed.

Reason: To ensure the timely repair and conversion works to the listed building.

Material- Len House

- 8) The approved works to Len House shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved by the Local Planning Authority. These shall respect that this is a listed building in a prominent location so should match existing architectural details and include use of vernacular materials in a modern idiom. The development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

- 9) The approved works to Len House shall not commence until the following constructional details have been submitted to and approved by the Local Planning Authority:

- all replacement windows which shall be like for like of the existing including the pattern of fenestration
- all new windows
- all new external doors
- in situ mock-ups of the façade of a typical bay of the roof extension to Len House in a range of tones
- the vehicular entrance shutter
- Rain water goods

The development shall be constructed as approved.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

Material Samples – New Build

- 10) The construction of the new build apartment blocks shall not commence above slab level until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved by the Local Planning Authority. These shall respect the setting of a listed building in a prominent location so should include use of vernacular materials in a modern idiom. The development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

- 11) The construction of the new build apartment blocks shall not commence above slab level until the following constructional details with section drawings at a minimum scale of 1:20 have been submitted to and approved by the Local Planning Authority:

- windows
- External doors
- Balconies
- Eaves
- Rain water goods

The development shall be constructed as approved.

Reason: To ensure a satisfactory appearance to the development

#### Slab Levels

- 12) The construction of the new build apartment blocks hereby approved shall not commence until details of the proposed slab levels of the new build elements and the existing and proposed site levels have been submitted to and approved by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the topography of the site and the relationship of the development to properties to the north.

#### Roof Details

- 13) The works to Len House hereby approved shall not commence above existing roof level until details of the scheme of treatment of the existing roof (ie proposed second floor balcony) and the new roof above third floor levels have been submitted to and approved by the Local Planning Authority. The submitted scheme shall include details of the design, materials, specification and management plans for all roof level planting beds and green roofs.

Reason: In the interests of the character and appearance of the locality.

- 14) The works to Len House hereby approved shall not commence above existing roof level until a renewable energy strategy for the entire site has been submitted to and approved by the Local Planning Authority. The strategy shall include the physical details and energy performance of air source heat pumps and solar PV array as detailed within the approved Sustainability And Energy Statement by Sol Environment Ltd. The Renewable Energy strategy shall be implemented before

first occupation of the related phase. All renewable energy systems shall thereafter be retained and maintained in a working order.

Reason: In the interests of renewable energy and the character and appearance of the locality.

#### EV Charging

- 15) Notwithstanding the submitted Entran Air Quality Assessment, the development hereby approved shall not commence until details of the location and specification of accessible electric vehicle charging points including a programme for their installation, maintenance and management, has been submitted for approval by the Local Planning Authority. The electric vehicle charging points as approved shall be installed prior to first occupation of the related buildings hereby permitted and shall thereafter be retained and maintained in accordance with the approved details.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles

#### Hard Landscaping

- 16) The works to Len House hereby approved shall not commence above existing roof level until details of related hard landscape works have been submitted for approval to the Local Planning Authority. The hard landscape works shall be carried out in accordance with the approved details before first use.

Reason: To ensure a satisfactory appearance to the development.

- 17) The construction of the new build apartment blocks shall not commence above dpc level until details of hard landscape works have been submitted for approval by the Local Planning Authority. The hard landscape works shall be carried out in accordance with the approved details before first occupation.

Reason: To ensure a satisfactory appearance to the development.

#### Soft landscape scheme

- 18) The works to Len House hereby approved shall not commence above existing roof level until a details of a related landscape planting scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted for approval to the Local Planning Authority that shall include all areas of amenity land indicated in the Landscape Masterplan (dwg 0250-1000 Rev2) hereby approved. The scheme shall show all existing trees and blocks of landscaping on and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on site replacement planting to enhance amenity and biodiversity value and include a planting specification, implementation details and a 5 year management plan.

Reason: In the interests of a satisfactory appearance to the development and biodiversity.

- 19) The construction of the new build apartment blocks shall not commence above dpc until details of a related landscape planting scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted for approval to the Local Planning Authority that shall include all areas



of amenity land indicated in the Landscape Masterplan (dwg 0250-1000 Rev2) hereby approved. The scheme shall show all existing trees and blocks of landscaping on and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on site replacement planting to enhance amenity and biodiversity value and include a planting specification, implementation details and a 5 year management plan.

Reason: In the interests of a satisfactory appearance to the development and biodiversity.

- 20) All planting, seeding and turfing specified in the approved landscape details shall be completed in the first planting season (October to February) following first use or occupation of the related phase. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the Local Planning Authority. gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

#### Ecological enhancements

- 21) Within 6 months of the first commencement of works on site, a scheme for the enhancement of biodiversity on the site shall be submitted for approval by the Local Planning Authority. The scheme shall consist of a scheme for the enhancement of biodiversity within the Mill Pond and through integrated methods into the design and appearance of the buildings by means such as swift bricks, bat bricks and habitat for solitary bees. The development shall be implemented in accordance with the approved details and all features shall be retained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

#### Landscape and Ecological Management Plan

- 22) A landscape and ecological management plan, including long term design objectives, management responsibilities, timetable and maintenance schedules for all landscaped and open areas other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to first occupation of any dwelling on the site. Landscape and ecological management shall be carried out in accordance with the approved plan and timetable unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of biodiversity, landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

#### Acoustic Protection

- 23) The development hereby approved shall not commence until a scheme has been submitted to and approved by the Local Planning Authority to demonstrate that the internal noise levels within all proposed residential units (both new build and listed building conversion) and the external noise levels in relevant amenity areas

will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, Local Planning Authority. The scheme must include an assessment of and necessary mitigation to address potential late night noise from nearby entertainment and leisure venues and include an acoustic assessment of proposed commercial uses within the converted Len House. The scheme shall be carried out as approved prior to the first occupation of the relevant residential unit and be retained thereafter.

Reason: In the interests of aural amenity and to ensure that the development does not prejudice the ongoing viability of nearby entertainment and leisure venues.

#### Parking/Turning Implementation

- 24) The approved details of the cycle parking and vehicle parking/turning areas shall be completed before the commencement of the use of the related land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access thereto.

Reason: In the interests of road safety.

#### Advertisements

- 25) Notwithstanding the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, no advertisements shall be placed on the site or buildings hereby approved without the express consent of the Local Planning Authority

Reason: To ensure adequate control of the character, appearance and setting of the listed building.

#### Kiosk

- 26) Prior to works to Len House commencing above existing roof level, a detailed scheme for the Mill Street forecourt and beverage kiosk shall be submitted for approval to the Local Planning Authority. Such a scheme shall include the design, materials, lighting strategy and hard landscaping/seating proposals for the external area and include any all weather proposals such as umbrellas or canopies. The approved scheme shall be completed prior to the first use of any part of the main A3/A4 element within Len House and the kiosk shall be used thereafter primarily for the sale of beverages unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that forecourt enhancement scheme is delivered to a satisfactory standard.

#### Boardwalk

- 27) Prior to works to Len House commencing above existing roof level, a detailed scheme for the proposed Mill Pond boardwalk shall be submitted for approval by the Local Planning Authority. Such a scheme shall include the form of attachment, design and materials including any handrails, a lighting strategy and

access and arrangements for long term management. The approved scheme shall demonstrate that the deck structure has been design to optimise natural light levels in the below section of the Mill Pond and shall be completed prior to the first use of commercial elements of the scheme.

Reason: In the interests of the Listed Building and its setting.

- 28) The Boardwalk and Mill Street Forecourt shall be retained as part of a continuous publicly accessible thoroughfare linking Mill Street and Palace Avenue.

Reason: In the interests of pedestrian permeability.

#### Lighting Strategy

- 29) Prior to works to Len House commencing above existing roof level, a lighting strategy of the buildings and public areas shall be submitted for approval to the Local Planning Authority. These details shall include measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors, including the Mill Pond. The development shall thereafter be carried out in accordance with the subsequently approved details prior to first use/occupation and retained thereafter.

Reason: In the interest of visual amenity, heritage sensitivity and ecology.

#### CCTV

- 30) Notwithstanding the Town and Country Planning (General Permitted Development) (England ) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no CCTV or other communications or monitoring equipment, including satellite dishes shall be erected on Len House without the prior written consent of the LPA.

Reason: To ensure that the character and appearance of the listed building is not harmed.

#### Subdivision

- 31) The ground floor commercial space shall be retained as hereby approved and not be further subdivided by way of internal partitions or ceilings.

Reason: To ensure that the character and appearance of the listed building is not harmed.

#### Plant and Ducting Systems

- 32) There shall be no external plant (including ventilation, refrigeration and air conditioning) or ducting system except in accordance with details that have been submitted to and approved by the Local Planning Authority. The details must include an acoustic assessment which demonstrates that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 as defined by BS8233: 2014 Guidance on Sound Insulation and Noise Reduction For Buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever

operating. The development shall be carried out in accordance with the approved details and no further plant or ducting system shall be installed without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual and aural amenity.

#### Cooking Odour

- 33) The works to Len House hereby approved shall not commence above existing roof level until details of a scheme for the extraction and treatment of cooking fumes has been submitted for approval to the Local Planning Authority. The approved scheme shall be fully implemented prior to the first use of the premises and thereafter maintained to the original specification. Such a scheme should typically include a grease filter, pre-filter and activated carbon treatment, together with high level fume dispersion.

Reason: To safeguard the amenities of the surrounding area.

#### Travel Plan

- 34) Within 6 months of the commencement, a Travel Plan and a timetable for its implementation shall be submitted for approval by the Local Planning Authority. The approved Travel Plan shall be registered with KCC Jambusters website ([www.jambusterstpm.co.uk](http://www.jambusterstpm.co.uk)). The applicant shall implement and monitor the approved Travel Plan as approved, and thereafter maintain and develop the travel plan to the satisfaction of the Local Planning Authority. Monitoring requirements should only cease when there is sufficient evidence for all parties to be sure that the travel patterns of the development are in line with the objectives of the Travel Plan. Completed post occupation survey forms from all new dwellings/occupants on the site will be required to be submitted on the final monitoring period

Reason: In the interests of environmental sustainability.

#### Access

- 35) The approved details of the access points to the site shall be completed before the commencement of the use of the relevant land or buildings hereby permitted and, any approved sight lines shall be retained free of all obstruction to visibility above 1.0 metres thereafter.

Reason: In the interests of highway safety.

- 36) No use or occupation of the development hereby permitted shall take place until installation/reinstatement of closed crossways, new access points and pavement crossovers have been implemented.

Reason: In the interests of highway safety.

#### SUDS

- 37) The development of the open areas of the site shall not begin until a sustainable surface water drainage scheme for the relevant part of the site has been submitted to and approved by the Local Planning Authority. The drainage scheme shall be based upon the approved Drainage Strategy and shall demonstrate that the surface water generated by this development (for all rainfall durations and

intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that (with reference to published guidance):

- silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 38) No part of the new build element of the development shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

#### Air Quality Mitigation

- 39) Prior to the first occupation of any part of the development, the development, a scheme of air quality mitigation measures shall be implemented in accordance with details that have been submitted to and approved by the Local Planning Authority. This should include at least one residential receptor modelled in Upper Stone Street. It should include a costed mitigation scheme showing how the money is to be spent. It should include EV charging in a minimum of 20% of the parking spaces and ducting to allow EV charging to be installed at a later date in the remainder of the spaces and at least 2 EV charging bays in the publicly accessible spaces. The damage cost could be spent on cycle storage and low NOx boilers.

Reason: In order to ensure that an acceptable level of mitigation of potential air quality impacts is secured.

Proposed Listed Building Conditions - 20/501030/LBC

Time Limit

- 1) The works to which this consent relates must be begun before the expiration of three years from the date of this consent.

Reason: In accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Plans

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

*[ENTER PLAN TITLE/ DRG NOS/ DATE RECEIVED FOR ALL PROPOSED PLANS AND RELEVANT INFO]*

Reason: To clarify which plans have been approved.

Material- Len House

- 3) The approved works to Len House shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved by the Local Planning Authority. The development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

- 4) The approved works to Len House shall not commence until the following constructional details have been submitted to and approved by the Local Planning Authority:

- in situ mock-ups of the façade of a typical bay of the roof extension to Len House in a range of tones
- subdivision of the winter gardens
- the vehicular entrance shutter
- internal blinds to second and third floor flats
- Rain water goods

The development shall be constructed as approved. The Winter Gardens shall be retained as approved with single glazing to the façade and shall not be used as habitable space.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

- 5) With the exception of remedial and survey works, no development within the listed building shall take place until details in the form of large scale drawings (at a scale of 1:10 or 1:20) of the following matters have been submitted to and approved by the Local Planning Authority.;

i) Details of those windows and doors which are to be retained, restored or replaced

ii) Details of existing brickwork or other external finishes that are to be restored/made good or replaced, including details of any new materials that are intended to match existing

iii) A fully detailed schedule of repairs and redecoration shall be provided for approval for all internal surfaces. This shall include specifications of materials and methods where appropriate and recommendations for a maintenance regime. Such details shall also include:

- Alterations to staircases and stair compartments
- Internal ramps
- New internal opening or closures
- Any proposed secondary glazing

The development hereby approved shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure the quality of the development is maintained and to prevent harm to the special architectural and historic interest of the listed building.

#### Historic Features

- 6) All existing historic features shall be retained in situ, except where indicated otherwise on the approved drawings. Prior to the commencement of any works to the listed building, a method statement shall be submitted for proposed internal and external repair works, including façade repairs.

Reason: To ensure the quality of the development is maintained and to prevent harm to the listed building.

#### Internal Services

- 7) Prior to the commencement of development, a method statement shall be submitted to and approved by the Local Planning Authority covering the following items of work. The statement shall be supplemented with drawings/specifications of typical details as necessary.

- Plumbing including all ground and above level drainage
- Ventilation provision
- Mechanical & Electrical services for heating and lighting
- Fire strategy - measures for prevention, detection, and means of escape
- Acoustic attenuation between spaces
- Removal of any asbestos
- New interior lighting scheme
- Any special measures for kitchens and kitchen storage areas

The development shall be carried out in complete accordance with the approved details.

Reason: To protect and preserve the appearance and character of the listed buildings

Historic Archive

- 8) Prior to the commencement of development, a full set of record photographs of the existing building shall be taken. Photographs should be cross referenced to key plans and elevations in accordance with recommendations for a level 1 recording standard as specified in English Heritage's publication 'Understanding Historic Buildings: A Guide to Good Recording Practice'. Copies shall be made available to the Local Planning Authority for inclusion in the Historic Environment Record. In addition, the record shall include acceptable quality reproductions of all available photographic and documented historic images of the site.

Reason: To ensure that the heritage benefits associated with archiving the building's history are secured.

- 9) Prior to the commencement of development above existing roof level, details of an archaeological/historic interpretation strategy for the purposes of education and learning shall be submitted for the approval of the Local Planning Authority. This shall include representative material copied from the Historic Archive appropriately integrated into the public areas of building. The interpretation strategy shall be implemented as approved prior to first use of the building.

Reason: To ensure that the heritage benefits associated with archiving the building's history are beneficially used.



## REPORT SUMMARY

**Members should note that this report introduces two applications: (A) the application for planning permission and (B) the application for the associated listed building consent works.**

**REFERENCE Nos** - (A) 20/501029/FULL and (B) 20/501030/LBC

### APPLICATION PROPOSALS

- (A)** Restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide 3,612 sqm (GIA) flexible commercial floorspace (A1/A2/A3/A4/A5/B1a/D1/D2) at ground floor, 18 No. residential apartments (C3) at first floor level, together with ancillary car parking. (ii) Erection of part rear first floor and two storey roof extension to provide 62 No. new residential apartments, with rooftop amenity space. (iii) Construction of two new buildings of up to 5-storeys to provide 79 No. residential apartments (C3) with amenity space. (iv) Provision of associated car parking, open space, earthworks including demolition of hardstanding and structures, and new boardwalk to north side, and re-utilisation existing vehicular access points from Mill Street and Palace Avenue.
- (B)** Listed Building Consent for restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide 3,612 sqm (GIA) flexible commercial floorspace (A1/A2/A3/A4/A5/B1a/D1/D2) at ground floor, 18 No. residential apartments (C3) at first floor level, together with ancillary car parking. (ii) Erection of part rear first floor and two storey roof extension to provide 62 No. new residential apartments, with rooftop amenity space. (iii) new boardwalk to north side.

**ADDRESS** Former Rootes Site, Len House, Mill Street / Palace Avenue, Maidstone

**RECOMMENDATION** That (A) planning permission and (B) listed building consent be granted, subject to conditions.

### SUMMARY OF REASONS FOR RECOMMENDATION

The scheme involves the refurbishment and extension of a significant heritage asset and redevelopment of under-utilised land within a prominent town centre location.

The site is not allocated for development within the Local Plan, but is one of five town centre sites that have been the subject of the preparation and adoption of an Opportunity Site Brief that has been approved by the Council's SPI Committee.

The proposals have been the subject of detailed pre-application discussions with Officers at MBC, KCC and Historic England.

This is considered to be a highly sustainable town centre location and, subject to detailed tests, an appropriate location for mixed-use development.

The proposed refurbishment works to the listed building are sensitive to its history and fabric and the proposed alterations and new build elements are of a high quality. Whilst some harm is identified in terms of, for example, the change of use from the building's original function and removing the original roof, such works are considered to be the

minimum necessary in order for a viable refurbishment scheme to be brought forward.

These impacts are considered to result in less than significant harm to the heritage asset, but are considered to be outweighed by the significant heritage benefits of bringing the building as a whole back into use in a manner that can be appreciated by the public and the benefits that this will offer in terms of enhancing the vitality and viability of the town centre. In addition, significant public benefits arise through the construction of a significant number of high quality new housing within a highly sustainable town centre location.

**REASON FOR REFERRAL TO COMMITTEE**

It is a significant town centre scheme that merits Committee consideration.

<b>WARD</b> High Street	<b>APPLICANT</b> Len House (Maidstone Ltd) Part Of Classicus Estates
	<b>AGENT</b> Esquire Developments

<b>DECISION DUE DATE</b> 15/07/20	<b>PUBLICITY EXPIRY DATE</b> 07/03/2019	<b>OFFICER SITE VISIT DATE</b> Various
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**RELEVANT PLANNING HISTORY:**

The site has an extensive planning history relating mainly to commercial activities associated with its previous motor trade use, none of which is relevant to the present application.

**MAIN REPORT**

**1.0 SITE DESCRIPTION**

1.01 The application site comprises Len House, the former Rootes motor dealership, which is Grade II listed. The site is prominently located along one of the main traffic routes through the town centre and on the busy junction of Mill Street / Palace Avenue / Bishops Way. As a consequence Len House is a prominent feature within the local townscape. Having regard to the building’s scale, architectural quality and history, it is considered to be a highly significant building.



- 1.02 The site lies towards the southern side of Maidstone town centre's main commercial area, with frontages and access points to both the Mill Street and Palace Avenue frontages. The River Len is culverted under the eastern part of the site, with the Mill Pond defining the Palace Avenue setting of the main building, before re-joining the culvert into the Medway.



- 1.03 The application site, which includes the Mill Pond, represents a large single plot size for the town centre, comprising circa 1.38 hectares. The principal access into the building is from the lower end of Mill Street, where the original showroom, offices and vehicular entrance are sited. The existing building is broadly L-shaped with a shorter frontage to Mill Street and a long prominent frontage to Palace Avenue. To the east and rear of the building are large open areas of hard surfacing previously used for the storage and display of cars.
- 1.04 The site levels rise towards the northern boundary, where the site abuts the rear of established development along Bank Street. Properties in Bank Street principally comprise commercial units with some residential accommodation on upper floors or to the rear. To the east, the site adjoins areas to the rear of commercial properties within Gabriel's Hill, which have a generally low grade appearance and detract from the character and appearance of the surrounding area, including the conservation area. The relationship of the proposed development to existing neighbouring uses, both commercial and residential, is set out in Section 6.1 of the 'Appraisal' section below.
- 1.05 The site lies within the Maidstone Town Conservation Area. A significant number of other heritage assets, both listed buildings and scheduled monuments are located within the surrounding area including; The Archbishop's Palace (Grade 1 and a scheduled monument) and All Saints Church (Grade 1). The All Saints Conservation Area lies to the south west.

#### **SITE HISTORY**

- 1.06 A unique characteristic of the site is that until vacated in 2019, when the motor dealership relocated to a site outside of the town centre, it had been in continuous

use by the Rootes Group since the early 20<sup>th</sup> Century, with the recent motor trade operation being continuous since the building's construction in the late 1930's.

1.07 The site and surrounding area represent a significant element in the development of Maidstone. Located adjacent to the 14<sup>th</sup> Century river bridge (parts of which remain and are designated as a scheduled ancient monument), what is now Mill Street formed part of the early medieval grid development of the town centre, with long narrow Burbage plots extending south from Bank Street. These characteristic plots remain evident today when viewing the rear of the Bank Street properties. The Mill Pond, also of medieval origin was constructed to serve the corn mills adjacent to the application site.



1.08 By the mid to late 19<sup>th</sup> Century a tannery was built on the application site, covering the area now occupied by Len House itself. The tannery continued in operation until the First World War when it was acquired by the Rootes Group and converted into an engineering works. During WW1 the company repaired aircraft engines on behalf of the Government.

1.09 After WW1 the Rootes company manufactured vehicles at the site until relocating its manufacturing base out of the town in the 1930's. At this time Rootes commissioned *Howard and Souster* to design a new flagship dealership. The resulting building was built in three phases around the tannery, with the first phase comprising a showroom on the Mill Street frontage, phase 2 the main workshops fronting the Mill Pond, completed by the frontage and forecourt in 1941.

1.10 Designed in a streamline modernist style, key features of the new building that were typical of the architectural style and approach of the architects included:

- A simple restrained approach to the facades
- Application of clean smooth curves on corner features
- Long strips of metal windows
- Use of towers and neon lighting to emphasise branding



1.11 Having been in continuous use as a motor dealership, with the same functions of sales, repair, service, parts and administration, many of the building's internal spaces and functions have remained unchanged throughout its operation.

*Showroom Fronting Mill Street*



*Main Workshops*



1.12 Over its lifetime the building has been the subject of numerous unsympathetic alterations, including internal office divisions and a mezzanine, but in the main the principal large internal voids remain. One notable features, which remains intact today and contributes to the building's heritage significance, is the large scale concrete vehicular ramp that allows vehicles to move between the two large workshop floors.



## 2 THE PROPOSAL

- 2.01 The Applicant is understood to have acquired the building in 2019. Both prior to purchase and during the evolution of the scheme, a series of pre-application discussions have taken place between the applicant, MBC, KCC and Historic England, which have informed the design team's approach to the scheme, in both in terms of the works to the listed building and the scale and form of the new-build elements.
- 2.02 The proposals, whilst designed to present a single cohesive scheme, can be broken down into a number of elements:
- 2.03 Len House Ground Floor

Restoration and conversion into commercial uses comprising 2,612 sq.m.

The application seeks permission for a flexible range of uses within use classes A1/A2/A3/A4/A5/B1a/D1/D2, but importantly, the application seeks to limit uses within the main part of the building to classes A3/A4, principally food and drink.

The commercial spaces at ground floor will retain the principally open and defining characteristic of the existing building interior.

The former forecourt facing Mill Street is to be converted to an active food and/or beverage area that would take the form of a modern interpretation of the now lost petrol kiosk. The details of the new kiosk will be sought through a subsequent application, but the submission is accompanied by a series of illustrations to demonstrate how this could work.



This new area of public realm will connect to the remainder of the site to the east via a boardwalk that sits over the building's frontage to the Mill Pond. The boardwalk has been designed to be minimal in nature so as not to interrupt the building's visual / reflective relationship to the water body. The boardwalk will not only allow food and drink uses within the building to have a some external seating area, but also allow pedestrians to pass east – west away from the traffic intense environment of Palace Avenue.



#### 2.04 Len House First Floor & Extensions

Together with a small rear infill extension of the Mill Street element, the first floor of the building will be converted to residential use, which, with a two level roof extension, will provide 62 residential apartments.

The first floor apartments fronting Palace Avenue will be set back behind winter gardens that will ensure that the existing character of the long unbroken string of windows is not interrupted by internal divisions.



The innovative retention of the vehicular ramp for its original function will provide access to residential parking within the deep internal floorplates of the building that would not suit residential or other commercial uses.

The new upper floors will have a lightweight appearance and have been set back a significant distance from the main building frontage and set down below the front parapet in order to minimise their overall visual impact.



## 2.05 New Build

The new build on the former parking areas will comprise two distinct elements. Fronting Palace Avenue will be a 4 storey building, the design of which represents a contemporary, but subordinate interpretation of Len House.



Members should note that following the submission of the application, the application has been amended for reasons of viability and deliverability to exclude the de-culverting of the River Len to the east of the site (as shown in image above), together with some minor remodelling of the massing of elements on the eastern part of the site to avoid sewer alignments. Whilst the de-culverting of the Len would have been welcomed, its exclusion does not undermine the overall design approach of the scheme and the priority is to secure a viable scheme of restoration for Len House.



The new build element to the rear of the site will possess a very different character that will respond to the town centre to the north. Pitched roofs and a vertical emphasis are informed by the character of the historic burbage plots. The buildings range from 2 to 5 storeys in height and utilise the site slope to create a varied roofscape, typical of the area immediately to the north. These residential units are set around a podium courtyard, beneath which is ground level car parking.



Building heights are modulated to reflect the organic character of the wider 'Town' conservation area, as well as allowing views of the historic building pattern to be achieved. Together with the upper elements being set in from the rear boundary, the a section is intentionally lowered in height elements to allow natural light into residential properties to the rear of Bank Street. In total the new build elements will provide 79 apartments.

2.06 The overall schedule of residential accommodation proposed is therefore:

Len House	New Build	Total
80	79	159

The unit mix, which reflects the site's central location, comprises:

1-bed - 42	2-bed - 108	3-bed - 9
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2.07 Car parking will be provided in the form of:

- 21 spaces within the first floor of Len House accessed via the existing Mill Street access
- 89 spaces below the new build element accessed off Palace Avenue
- 24 spaces for the commercial uses, also accessed off Palace Avenue

2.08 Residential parking is provided at a ratio of 70%, with 5% disabled parking.

2.09 168 cycle spaces will be provided for residents, a ratio of over 1 p/unit. Surface cycle parking will be provided for visitors to the commercial uses.

### **3.0 POLICY AND OTHER CONSIDERATIONS**

3.01 The following Maidstone Borough Local Plan policies are considered to be relevant to this application:

- SS1 Spatial strategy
- SP1 Maidstone urban area
- SP4 Maidstone town centre
- SP18 Historic environment
- SP19 Housing mix
- SP20 Affordable housing
- SP21 Economic development
- SP23 Sustainable transport
- DM1 Design Quality
- DM2 Sustainable design
- DM4 Development affecting heritage assets
- DM5 Brownfield land
- DM6 Air quality
- DM12 Density
- DM16 Town centre uses
- DM19 Open space
- DM20 Community facilities
- DM21 Transport impacts
- DM23 Parking standards

3.02 Supplementary guidance is provided in the form of the Len House Planning Guidelines, which were approved by SPI in 2019 and published in January 2020. Whilst not formal SPG, they are a material planning consideration.

3.03 The National Planning Policy Framework (NPPF) introduces a number of relevant considerations, including:

- An overarching objective of delivering sustainable development (7-11)
- Weight on the local plan (47)
- Housing supply / meeting housing needs (59-76)
- Promoting sustainable transport (102+/108+)
- Parking standards (105-106)
- Effective use of land (117+)
- Density of development (122-123)
- Design Quality (124-132)
- Climate change (149+)
- Historic environment (184+)

National Planning Practice Guidance (NPPG) supplements the NPPF and relevant guidance is assessed below.

### **4.0 LOCAL REPRESENTATIONS**

4.01 Representations have been received from 4 local residents occupying flats within a building in Bank Street, raising the following (summarised) issues

- Overshadowing and loss of natural light
- Potential loss of trees
- Increased traffic pollution / air quality impacts
- Inadequate parking
- Increased traffic impacts
- Impact on listed status of building
- Overbearing massing and density
- Increased flood risk
- Overlooking and loss of privacy
- The noise impact from entertainment venues on existing residents is unacceptable and it is not appropriate to build more in such close proximity
- The new buildings will also rebound noise from commercial premises increasing the existing impacts.

Non-planning consideration raised include:

- There are legal restrictions affecting building on the application site
- Construction impacts on night workers
- Loss of property value
- Loss of security
- Loss of outlook.

4.02 In addition, a number of representations have been received from owners / operators of commercial, mainly food/drink, establishments located adjacent to or nearby the site.

The operators that have expressed concerns are:

- The Bierkeller / Fever Bar complex has operated on their site since the 1970's and has capacity for 1,150 persons with a license to operate until 0200 daily. It employs a significant number of staff both directly and indirectly.
- Brenchley's has an active curtilage, with open areas serving food and drinks which is open to 0100 and lies immediately adjoining the site boundary close to the proposed dwellings.
- Harry's bar is open to 0200 and has an outside terrace with capacity for 150.
- Madisons in Gabriel's Hill has a rooftop bar and license to 0300.
- Banks Nightclub is open to 0300 on some nights and hosts both recorded and live music events and DJ's

Matters raised by these businesses focus upon:

- The introduction of new dwellings in close proximity to proposed residential dwellings may lead to increased complaints and threaten the viability of the business and their operating license.
- The NPPF seeks to avoid unreasonable restrictions being placed upon existing businesses – reference is made to the 'agent of change' principle – see 'Appraisal - 6.1' below.
- The Council need to have regard to whether the occupiers of the proposed new dwelling will experience adequate amenity.

- There is a need to assess whether occupiers of a heritage asset can be adequately mitigated from external noise.
- The NPPF recognises the role of bars and restaurants within town centre and their contribution to vitality.
- The loss of an established business could have material economic and social impacts.
- The submitted noise impact assessment is considered to be inadequate.
- Balconies should be removed from the proposed scheme as they are vulnerable to noise.
- Overlooking and / or overshadowing of the external areas by new residents could affect the enjoyment of patrons.
- There will be overlooking of the new homes and visa versa of the commercial outdoor areas leading to a respective loss of privacy.
- Inadequate parking within the development may lead to increased parking stress and together with increased traffic in the town centre could disrupt deliveries.
- The development will place increased pressure on local infrastructure.
- Bin storage areas are adjacent to the boundary and can involve staff emptying glass waste between 0200 and 0300.

4.03 These issues are considered in further detail within the Appraisal section below.

## **5.0 CONSULTATIONS**

The following (summarised/extract) comments have been received, full copies of which can be viewed on the Council's website.

### **5.01 MBC Conservation Officer:**

- The building and associated site occupies a large area within the Maidstone Town Centre Conservation Area, at the historic heart of the town. There are a large number of listed buildings to the north and east of the site primarily facing High Street, Bank Street, Gabriel's Hill and Lower Stone Street. The space north of the River Len was historically the burgage plots of the High Street/Bank Street properties, formed from the 12th century onwards.
- The site is close to the All Saints Conservation Area, and within the setting of the Archbishop's Palace (Grade I), Stables (GI and scheduled monument), Gatehouse (Grade II and SM), Dungeons (GII\*), Len Bridge (GII and SM) and All Saints Church (GI), and was historically the site of mill buildings associated with the palace, of which the mill pond is a remnant. Along with the College these assets form a highly significant group of medieval buildings considered of national importance. The road system has degraded the physical connections with the site, but the visual relationship remains, with extensive inter-visibility.
- The Conservation Officer's assessment of impacts is incorporated in the following 'Appraisal' at 6.2.

### 5.02 Historic England:

- The building is most recognisable for its distinctive Art Deco design and prominent location
- Its significance can be broadly summarised in two ways. Firstly, it has architectural interest as a fine example of the Art Deco style, a bold movement which was characterised by streamlined forms and geometric designs and decoration. This is best expressed on its two principal elevations (Mill Street and the elevation addressing the mill pond). Evidence of its original interior e.g. the staircases, also contributes to its significance.
- Secondly, the building has historical value as a rare example of a commercial garage and show room from an early phase of motoring. The building's internal layout including large volume workshops and particularly the ramp for vehicular access to a first floor workshop illustrate its historic function and continued use for the motor industry and thus also make an important contribution to the significance of the building.
- In some areas later 20th century alterations have detracted from an appreciation of the significance of the building particularly where either evidence of internal decoration or the layout of the building has been changed.
- The entire site is within the Maidstone Town Centre conservation area which is principally significant as a good example of a medieval market town with an intact street pattern and a large number of medieval and post medieval buildings. Of note is the high survival of narrow burgage plots and early buildings on Bank Street (at the rear of the site) most of which are no more than three storeys and form the immediate setting of the grade II garage and showroom. While the grade II listed building contributes positively to the conservation area as it illustrates its later development, the wider site of largely undeveloped open ground used mainly for parking is a largely unattractive space and its contribution to the significance of the conservation is much more limited.
- Harm to the significance of the Former Rootes Garage will arise in several ways. Firstly, the significance of the grade II building is intimately connected to its continued use as a garage for which it was designed and converting it to a residential use would harm an understanding of this aspect of significance. The loss of its original roof, which was designed to provide overhead light for first floor workspaces, and thus alludes to the functional use of the building, also causes harm as does the loss of internal features which contribute to significance including a staircase. The proposed two storey roof top extension is also capable of causing harm to the architectural qualities and thus also to the significance of the building which relies on its simplicity of form and repetitive detailing, e.g. window size and pattern for architectural effect. We think the harm arises chiefly from the appearance of the two storey addition which because of its dark cladding detracts from an appreciation of the simplicity of the form and detailing, particularly on the principal elevation of the building.
- We acknowledge that the design of the proposed blocks of development responds to historic roof forms and references the historic streetscape, for example with repetitive gables. However, the scale and massing of the proposed development and especially that to the rear of the site is inevitably greater in bulk and height than some of the surrounding historic townscape

and this has the potential to cause harm to the significance of the conservation area, depending on how the development and historic townscape are appreciated together in key views.

- We think great effort has been made to avoid or minimise harm to heritage significance, most notably in the retention and use of the car ramp for the use it was designed for. Harm to an appreciation of some large open volumes, e.g. the ground floor workshop, has been minimised by uses which require large open volumes. However, it may be worth exploring whether harm to the building's architectural qualities could be minimised by using a lighter coloured cladding for the rooftop extension in order to help reduce the visual impact of the extension.
- Historic England recommends that your Council should consider whether the harm to the architectural qualities of the grade II listed building is capable of being minimised by amending the cladding or perhaps the modulation of the rooftop extension to help you decide whether NPPF requirements to avoid or minimise harm and justify remaining harm are met.

### 5.03 Kent County Council Archaeology:

(Officer Note: in response to the following comments the applicant has since submitted an updated archaeological assessment that seeks addresses the points raised. Any further responses from the consultee will be reported within a UU.)

- The Archbishops Palace and Church are considered to have been the core of the Early Medieval settlement. There is high potential for associated remains, such as Early Medieval structural, industrial and trading activity remains, to survive in the surrounding area, including on the development site itself.
- The development site has been subject to several phases of Post Medieval use, including Tannery and the prestigious car sales complex itself. Len House is situated over much of this activity but there are other areas within the site, particularly to the north east, which may contain early Post Medieval remains. The southern part of the site is still occupied by the mill pond. This mill pond may have Medieval origins, serving a medieval mill complex, but much of the current asset is Post Medieval or later. Part of the mill pond is visible but the eastern part and associated water channels are buried beneath the current surface.
- There is potential for this site to contain significant remains associated with the Scheduled Monuments of Medieval and earlier date. As such this proposed development may have a major impact on significant heritage assets and the assessment of heritage needs to be very robust and comprehensive, to ensure informed decisions are made and there is appropriate and proportionate consideration of the heritage of the site and the town itself.
- I recommend that the assessment of heritage and archaeology needs to be far more detailed. Both heritage reports need to be revised and, in accordance with paragraph 189, NPPF, I recommend some preliminary fieldwork would be extremely helpful to clarify potential for as yet unknown significant archaeology, including modern structural remains associated directly with Len House.
- I recommend that prior to determination of this application, further more detailed heritage assessment would be appropriate.

#### 5.04 Kent County Council Highways:

- The residual difference between trips generated by the existing (prior) use and the proposed uses presented in the Transport Statement represent a robust forecast of the potential vehicle trip impact of this proposal.
- The proposals are projected to generate a net reduction in terms of trip generation in the AM peak. Potential PM peak net vehicle trip impact is varied between the potential scenarios. These impacts range from a net reduction of 8 trips in the PM peak up to an increase of 56 trips. . However, it is concluded that the additional 56 vehicle movements this proposed development would add to the network in the PM peak, under the “worst case scenario”, would represent a low increase that is likely to fall within the day-to-day variations in traffic using this road.
- It cannot be reasonably concluded that the impact of the proposal would be severe or significant in terms of vehicle trip generation.
- In terms of the primary Palace Avenue access, due to the minimal net trip generation of this proposal, the availability of suitable visibility lines and vehicle tracking and the collision record, it can be concluded that the proposal for this access junction would not have any significant impact on highway safety.
- In terms of the Mill Street access in the context of a likely reduction in vehicle movements at this junction compared to the existing use, the proposal for this junction is not considered to represent any potential significant negative highway impacts.
- Due to the nature of the site and the surrounding roads, where there is very limited opportunity to park without residents permits (which residents of this site would not qualify for), it is not considered likely that any parking overspill would occur. The applicant has confirmed that spaces within the site will be allocated and that residents will be fully aware before moving into to the flats whether they will be able to park a car or not. As this level of parking provision is supported by Travel Plan initiatives to minimise car dependency, this is considered a suitable approach to residential parking for this location. Visitors driving to the site are expected to use the nearby publicly available car parks, which is an appropriate strategy in this location given the high levels of public car park provision in the nearby area.
- It is noted that twelve disabled parking bays are proposed for the residential parking element, which is a suitable provision based on SPG4 guidance.
- The proposed “boardwalk” along the front of the Len House building has the potential to offer a benefit to pedestrian permeability, so long it is available as a through route, as it would offer a more attractive walking route than along Palace Avenue (A229).
- The site has access via continuous pavements into the town centre and key pedestrian trip attractors. The pavement widths available on Mill Street are acceptable for the likely increase in pedestrian footfall that this proposal would likely generate.
- The site benefits from access to a large number of different bus services available in close proximity. The nearby bus stops have suitable pedestrian access and generally have a good level of infrastructure, however the stop nearest to the entrance to the site on Mill Street is without a shelter. In order

- to encourage higher levels of sustainable trips to and from this site, it is recommended that the applicant should be required to provide a bus shelter.
- The proposal includes passive provision for all residential spaces with full charging provision in the 1st floor of Len House, a further 35 spaces with passive provision in the main residential car parking and passive provision for all commercial parking spaces.
  - While it would be preferable to have the greatest level of active EV charging provision possible in any new development, providing at least a high level of passive provision serves to reduce barriers to greater levels of EV adoption in the future. The amended proposals for EV charging provision on this site do represent an improvement.
  - It is noted that a total of 168 cycle parking spaces for the residential element and 16 for the commercial element of the on-site parking are proposed. This is consistent with SPG4 requirements.
  - It is noted that a framework Travel Plan has been provided with this application. The Travel Plan sets out suitable initiatives and objectives in order to maintain and enhance a sustainable modal share amongst residents, visitors and businesses on this site.
  - The framework Travel Plan submitted with the application states an overall target of the Travel Plan to “target a reduction of car-based trips by 5% over a 3 or 5 year period, with an aspiration of up to 10%.” These targets are a suitable starting point however it is recommended that the targets used in the final version of the Travel Plan should be agreed with the Local Planning Authority and Local Highways authority so that the most suitable targets can be agreed.

#### **5.05 Kent County Council Flood and Water Management:**

(Officer Note: in response to the following comments the applicant has submitted an updated flood risk assessment that seeks to address the points raised. Any further responses from the consultee will be reported within a UU.)

- The drainage strategy proposes utilisation of green roof, permeable pavement at ground level and attenuation at podium deck level. It is acknowledged in retaining the existing building and the high ground water levels encountered that there are limited design approaches to reduced surface water discharged from the site. The drainage strategy proposed may result in a reduction of discharge rates from the site from pre-developed conditions, from between 70% to 68.5% dependent upon the storm event.
- In general we do not disagree with the approach taken but there is a degree of uncertainty as to the sizing and location of elements of the drainage strategy proposed and whether this proposal is sufficient to provide the appropriate control of surface water generated from the site.
- The level of information is insufficient to provide detailed response to the Full application which has been submitted and we would recommend a holding objection until further information is provided to respond to the issues raised above.

#### **5.06 Kent County Council Ecology:**



- Advise that the proposed development has limited potential to result in ecological impacts and as such we are satisfied that there is no requirement for an ecological survey to be carried out.
- We have taken this view because the site is largely hardstanding and the building on site does not provide optimum habitat for bats (as it is flat roofed, in reasonably good condition and is well lit to due to the large numbers of windows).
- Recommend conditions seeking biodiversity enhancements

5.07 **Kent County Council Economic Development:** Identify the range of infrastructure contributions that should be sought from CIL funding. Also recommend conditions relating to broadband and accessible housing.

5.08 **Kent Police:** Recommend that the applicant engage with regard to secure by design principles.

5.09 **Southern Water:** Identify potential conflicts between the development and sewer. (Officer Note – the applicant has responded with on-site surveys and has adjusted the footprint of relevant buildings).

5.10 **Mid-Kent Environmental Health:**

Noise: A number of queries are raised and recommendations made with regard to noise management. A condition requiring a further noise assessment is recommended.

Air Quality: Our own modelling appears to confirm that there will be no exceedances of any air quality objectives. However, request that additional modelling is undertaken.

The Air Quality Assessment includes a damage cost calculation which yields £196,366. However, there is no costed mitigation scheme showing how the money is to be spent. We would like to see such a scheme, and would suggest that it would include EV charging in a minimum of 20% of the parking spaces and ducting to allow EV charging to be installed at a later date in the remainder of the spaces. We would also like to see at least 2 EV charging bays in the publicly accessible spaces. The damage cost could also be spent on, for example, cycle storage and low NOx boilers.

Land Contamination: Owing to the previous uses of the building, a contaminated land condition should be attached to any permission given for this development.

## 6.0 APPRAISAL

6.01 The appraisal of these applications adopts the following structure:

- 6.1 Principle of Development
- Commercial
  - Residential
- 6.2 Heritage
- Len House
  - Other heritage assets
  - Archaeology

- 6.3 Design and Visual Impact
  - Design Response
  - Townscape Assessment
  - Sustainable Design
- 6.4 Living Conditions
  - Neighbouring residents
  - Future occupiers
- 6.5 Highways and Sustainable Travel
  - Trip Generation
  - Access
  - Parking
  - Sustainable Transport
- 6.6 Ecology and Biodiversity Enhancement
- 6.7 Air Quality
- 6.8 Affordable Housing and Infrastructure

## **6.1 Principle of Development**

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. It is a core principle of Government policy that the planning system must be plan-led. The MBLP 2017 is the principal Development Plan Document for the District. It is up-to-date and must be afforded significant weight.
- 6.1.2 The National Planning Policy Framework (NPPF) provides the national policy context and is a material consideration in the determination of the application. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this again means approving development that accords with the development plan. Members should note that the NPPF also states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- 6.1.3 In addition, it should be noted that despite the NPPF's presumption in favour of sustainable development and the emphasis upon the use of brownfield land, it also states that .... "*Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities* " It is therefore clear that good design is an essential requirement of any scheme that seeks to deliver sustainable development.
- 6.1.4 Policy SS1 of the Local Plan sets out the broad sustainable development strategy for the District and states that the Maidstone urban area will be the principle focus for development, with the best use made of available sites. It also states

that the town centre will be the focus for regeneration. The site falls within the defined town centre boundary as defined under policy SP4

- 6.1.5 Members should note that Policy SP1 seeks to respect and deliver the 'Spatial Vision' set out in the Local Plan. The Spatial Vision states that sustainable growth should be delivered alongside:
- protection of the Borough's built assets
  - creating an enhanced and exceptional urban environment
  - enhancement of heritage assets
  - securing high quality sustainable design and construction
  - ensuring that development is of a high quality design and makes a positive contribution to the area.
- 6.1.6 The Local Plan's vision for the town centre, which is reinforced through Policy SP4 sets out a number of objectives to which the proposed scheme responds positively, including:
- retaining its best environmental features
  - providing enhanced public realm
  - providing a diverse retail and leisure offer
  - ensuring that development is of a high quality design and makes a positive contribution to the area.

#### Commercial Uses

- 6.1.7 The application incorporates a number of commercial elements, namely:
- flexible commercial uses within the former car showroom fronting Mill Street
  - a food and drink related use within the
  - a large space within the former ground floor workshop that is proposed to be used for food and drink uses, namely A3 and A4

As Mill Street lies outside of the defined primary retail area, the flexible range of uses sought within the former showroom are considered to be appropriate.

With regard to the main commercial space fronting the Mill Pond, in response to Officers requests to ensure that this large space principally retains its historic scale and allows public appreciation of its character and history, the proposal limits the uses to those akin to a food and drink court/market. The applicant has referred to precedents such as Macnades and The Goods Yard Canterbury. Officers consider that such a use would respond positively to the Local Plan objective of enhancing the range of retail and leisure uses available within the town centre. In addition to the listed A3/A4 uses, an element of related A1 sales would be supported, but subject to A1 not being the predominant use and challenging the primary shopping area.

The proposal to activate the public realm in front of the buildings is again a positive response to the Local Plan's town centre vision and a proposal that should also enhance the appreciation of the site's heritage.

In summary it is considered that the commercial elements within the proposal respond positively to both NPPF and Local Plan policies. They will assist in

enhancing the economic and social sustainability of the town centre and enhancing its vitality and viability.

6.1.8 There are further commercial considerations that arise from the proposal, principally the potential to impact upon existing businesses within the town centre. This consideration is currently heightened by the economic impacts of the Covid Lockdown, during which the Government has asked local authorities to not place additional burdens upon local business sectors.

6.1.9 Competition between commercial and leisure uses is not a relevant consideration within the context of the site's town centre location, indeed, it is considered that diversity and choice are a positive benefit. However, the principle of 'agent of change' must be considered carefully. This consideration was born from a number of prominent cases where the introduction of new residential units within the vicinity of established entertainment venues impacted upon their potential to continue in the manner that they had previously. This is a concern raised by a number of established food and drink establishments within the proximity of the application site. The matter was highlighted by the (then) Chief Planner in April 2016, when he wrote to all LPA's highlighting:

*"We would like to re-emphasise that updated planning guidance on noise (supporting the National Planning Policy Framework) was published in December 2014. It makes clear that the potential effect of a new residential development being located close to an existing business giving rise to noise, for example a live music venue, should be carefully considered. The guidance also underlines planning's contribution to avoiding future complaints and risks to local business from resulting enforcement action".*

6.1.10 The principle is now enshrined within the NPPF, which at paragraph 182 states:

*"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."*

This is further elaborated in the PPG, which states:

*"The potential effect of a new residential development being located close to an existing business that gives rise to noise should be carefully considered. This is because existing noise levels from the business, even if intermittent (for example, a live music venue), may be regarded as unacceptable by the new residents and subject to enforcement action. To help avoid such*

*instances, appropriate mitigation should be considered, including optimising the sound insulation provided by the new development's building envelope."*

- 6.1.11 The requirement is that the LPA should give sufficient consideration to the potential impact of, for example, noise and disturbance on future residents within the proposed scheme. As highlighted above (4.02), there are a number of existing entertainment establishments within close proximity to the application site, some immediately bordering the site boundary. In the main these benefit from licenses that allow opening until 0100 to 0300 on one or more days per week. A number also have outdoor entertainment licenses and outdoor areas with significant capacity for large numbers of patrons.
- 6.1.12 At 4.01 above, we highlight the comments from flats within a nearby building, who identify that they experience a degree of noise and disturbance. Inevitably within a town centre, particularly one with such a tight urban grain, the juxtaposition of residential and commercial uses may lead to occasional conflict. Equally, the operators above indicate that they do, where possible engage with the local community to address issues that arise.
- 6.1.13 The creation of sustainable mixed use communities is highly sustainable and the provision of residential accommodation is a key element of the Council's strategy for the town centre. One might expect purchasers of town centre apartments to see the immediate area's vitality as a positive aspect. However, having regard to the number of nearby venues, Officers consider that the potential impacts require careful consideration. The principal impacts are likely to arise from noise generated by patrons and music, which could cover extended periods into the evening / early morning. In addition, there may be other operational noise impacts such as refuse disposal and servicing.
- 6.1.14 Within the new build elements, both the additional floors to Len House and the new buildings to the rear, a significant number of the units face away from the adjacent entertainment uses. Terraces or balconies within exposed locations are relatively limited. However, those facing may require additional mitigation above what may normally be required. As new build elements, there is considerable flexibility to use new building fabric with increased performance levels and this could be secured through a condition.
- 6.1.15 One objector refers to case law relating to the need to adequately consider the potential limitations of heritage buildings in being able to secure adequate noise mitigation. Within Len House the proposed residential accommodation that will be converted within the existing fabric at first floor level will already be required to mitigate noise impacts from road traffic and also transmission from the commercial uses at ground floor level – to be addressed through conditions. In part the design addresses this, with the use of winter gardens on the frontage. With regard to other rear facing apartments, the character of Len House is that of a robust concrete frame with brick panelling. To the rear elements of the walls are to be upgraded or re-built and where necessary windows that are not capable of restoration replaced. Officers consider that with the improvements to the fabric that are necessary and / or with additional measures such as

secondary glazing, these could be secured by condition without prejudice the sensitivity or significance of the listed building.

6.1.16 In response to objections, the Applicant responds:

*In respect of noise it is proposed that detailed façade calculations and assessments are to be conditioned to be undertaken at a later stage to establish which specific windows may require greater forms of mitigation such as triple glazing and acoustic attenuation ventilation. Triple glazing and acoustic attenuating ventilation is likely to be sufficient in this location based on the noise assessment model already undertaken. The Condition will allow specific measures to be delivered to individual properties where appropriate and go hand in hand with the Condition detailing the replacement windows. It is further considered that this would address the 'agent of change' principle as the details of the Condition could potentially highlight any further or additional mitigation measures necessary to be applied to specific individual dwellings.*

6.1.16 Officers consider that an appropriate condition could secure the further assessment required, with additional acoustic surveys to focus on entertainment based noise, secure the implementation of a scheme of mitigation and require its retention in perpetuity. It is not considered that a s106 agreement is necessary in order to secure such a scheme. As the venues are currently closed, it has not been possible to carry out surveys at the present time, but a conditioned approach is considered acceptable.

#### Residential Uses

6.1.17 The site does not form part of a site allocation, but being within the town centre is a broad location for housing growth as defined under Policy H2(1). The site comprises previously developed land within the defined urban area of Maidstone. In principle the application will make a significant contribution to the provision of high quality housing within a sustainable town centre location. As such, the principle of residential development is acceptable and in general accordance with the provisions of the Development Plan and the NPPF, subject to the assessment of the scheme against the wider policies of the development plan as a whole.

6.1.18 The supporting text to Policy DM5 lists further considerations that will inform as to the acceptability of brownfield development, including:

- Any harm to the character and appearance of an area
- That densities are appropriate
- Impacts on residential amenity
- The scope for sustainable travel modes
- What traffic the present or past use has generated; and
- The number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.

These, together with other relevant considerations are appraised below.

## 6.2 Heritage

6.2.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6.2.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which may impact upon a conservation area, to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area.

Similar requirements apply to the assessment of scheduled ancient monuments.

6.2.3 The National Planning Policy Framework indicates that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. It also states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. It states that local planning authorities should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. The application is accompanied by a heritage assessment, which identifies the wide range of heritage assets within the vicinity, including a range of listed buildings, conservation areas and scheduled monuments.

6.2.4 The NPPF requires that when considering the impact of a proposal on a heritage asset, the Council should first consider whether the development has sought to minimise any impacts through its design, before considering what the residual level of harm may be.

6.2.5 The NPPF advises that "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal ...*" This requirement is echoed by policy DM4 of the MBLP. The NPPG sets out that public benefits should be of a scale and nature that benefit the public at large. They may involve direct heritage benefits or wider considerations such as the delivery of housing to meet local needs or other economic or social benefits.

### Len House

6.2.6 The significance of Len House is identified in the above comments from both Historic England and the Council's Conservation Officer and includes:

- The principle significance of its main facades

- The large internal voids and the vehicular ramp that are indicative of its historic function.
  - Its relationship to the Mill Pond.
- 6.2.7 The loss of the building's original use is regretted and could be considered harmful to its significance. However, it is clear from discussions with the previous occupier that the building's location and physical constraints are no longer suited to the functions of a modern motor dealership or similar operation. Such a use would also not be capable of maintaining or restoring the sensitive fabric and could lead to continued decline to a stage where any renovation may not be viable.
- 6.2.8 However, there are heritage benefits associated with achieving a sustainable long-term purpose for the building which minimises harm and provides enhancements. For example, the key features that define its significance will be retained and enhanced as part of the proposed works, including the aforementioned elevations, large ground floor void and the ramp. Features that have been lost such as the original kiosk and neon signage will be re-introduced, further enhancing the public's understanding of the site's history. These would represent heritage benefits.
- 6.2.9 The works to the building have been informed by a detailed historic and structural assessment of its fabric and a scheme involving the minimum necessary intervention has been agreed.
- 6.2.10 The loss of the roof, although utilitarian in character and of lesser significance, would diminish the historic character of the workshop by compressing its internal volume and removing overhead daylight. The two storey roof extension would have a significant impact on the appearance of the building due to its height and extent, although the design is considered appropriately simple and has been set down and back from the front elevation in order to minimise its visibility. Likewise, the proposed set-back of the external amenity space is expected to reduce the intrusive appearance of domestic clutter. The material finish of the roof extension cladding/framing will be critical in the ultimate success of the design as it should appear separate yet complimentary to the existing building. It is suggested that a condition should be added to ensure the uses of appropriate finishes and that the curved corner elements are not designed out at a later stage.
- 6.2.11 The potential replacement of original steel-framed windows has been justified on the grounds they are beyond economical repair, which is accepted. The windows are an important feature and account for a substantial proportion of the listed building's elevations. Any replacement windows are intended to be closely matched in terms of design and detail, which should be carefully controlled through a condition to ensure the appearance of the building is not compromised.
- 6.2.12 The retention of the internal ramp, which is a key internal feature of the building, and its proposed continued use as for vehicles, is welcomed. The partitioning of the ramp from the main area is regrettable as it would



compromise the volume of the space, although a satisfactory argument on fire safety and operational grounds has been provided. It recommend the partition's design is conditioned to ensure that public visitors are able to appreciate its historical function.

- 6.2.13 In principle, the reinstatement of the original fuel kiosk as a beverage kiosk; the reinstatement of the original lighting and signage schemes; as well as general repairs to the historic fabric, are considered heritage benefits. A condition is proposed to ensure that the extensive collection of documents stored within the building are deposited in a suitable archive, such as the Kent Archive, in order that they are preserved in appropriate conditions and available to the wider public. This would also be a heritage benefit.

#### Maidstone Centre Conservation Area

- 6.2.14 The current condition of the car park and hard surfaced open space around the building is considered to detract from the character of the Maidstone Town Centre Conservation Area. The proposed new development on this area, together associated landscaping would subject to scale and design, represent an overall enhancement to both the setting of Len House and the conservation area, including the various GII listed buildings that lie within its wider setting. It is considered that although some of the rear elevations on Bank Street are intrusive and of little interest, a number are clearly historic rear projections that have an appropriately secondary scale and character to their principal northern facades. While the scale of the proposed new buildings is generally larger than anything else in this part of the Conservation Area, where buildings are of primarily 2-3 storeys, the proposed site sections indicate that their height will descend from the rear of Bank Street/High Street towards Palace Avenue, which is largely acceptable.
- 6.2.15 The rear buildings would have a loosely vernacular form by incorporating pitched roofs, with the Palace Avenue block being more contemporary in character. While Officers do not object to this approach, it is questioned whether the material palette of the buildings could better reflect the historic town centre context in terms of brick choices and roof coverings. The design and detailing could have more references to the conservation area context which is set out in detail in the Maidstone Centre Conservation Area Appraisal. Maintaining the design quality of the new buildings through appropriate conditions is an important factor in preserving the character and appearance of the conservation area.
- 6.2.16 Notwithstanding the positive aspects of the new development, I consider the changes to historic ground levels, urban grain and uplift in height and mass would result in harm to the conservation area and setting of adjacent listed buildings. This harm would, however, be less than substantial and the heritage and other public benefits of the proposals are potential mitigation provide mitigation.
- 6.2.17 The extended Len House building would be more prominent in a number of key local views, particularly from the area of the Parish Church and Archbishop's Palace, where there are both listed buildings of high significance and scheduled

ancient monuments. The roof extension would reduce views of Coleman House from this area, which would be beneficial. However, it would also largely obscure the view of Holy Trinity Church spire, which would be harmful due to the loss visual connection between historical landmarks. However, this level of harm is considered to be very limited having regard to the already intervening townscape.

- 6.2.18 The visual impact of the conversion and extension of Len House on the setting of All Saints Conservation Area and its highly graded listed buildings and ancient monuments is likely to be greater at night when the large areas of glazing would provide views into the new uses within the building. The building is expected to have more dominant presence than at present, and therefore be potentially harmful to the setting of heritage assets. However, weight should also be afforded to the existing impact of the intervening highways, their activity and artificial lighting, which represent a significant modern barrier between the two areas, thus diminishing the residual impacts on setting to one that is less than significant.
- 6.2.19 In summary, I consider the proposed works to the listed building would provide a range of heritage benefits alongside works that would cause less than substantial harm to its significance. The rooftop additions to the listed building and new development on the site would also provide benefits by enhancing the appearance of the area, but would also cause a degree of less than substantial harm due to the negative aspects of the scheme outlined above.

#### Archaeology

- 6.2.20 The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation. Policy DM4 of the adopted Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, must include an appropriate desk based assessment of the asset. In addition where important or potentially significant archaeological heritage assets may exist, developers may be required to arrange for field evaluations to be carried out in advance of the determination of planning applications.
- 6.2.21 The principles of assessing the heritage significance and potential level of harm to archaeological assets are common to the process for built assets described above.
- 6.2.21 Following the initial comments of KCC's archaeologist, an updated desk top based assessment has been submitted. The DBA identifies the existence of a significant number of sensitive designated heritage assets within the wider vicinity. The updated report recognises the high potential of the area to contain significant remains, but notes that as a result of the history of the site, truncation and contamination of remains is possible.
- 6.2.22 Whilst KCC request pre-determination investigations, Officers consider that a pre-commencement condition would be acceptable.

### **6.3 Design and Visual Impact**

- 6.3.1 Both the NPPF and Local Plan emphasise that good quality design is central to the successful delivery of sustainable growth. In particular the NPPF makes clear it's expectations in respect of design quality:

*"The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."*

It further emphasises that in taking planning decisions the Council will seek to ensure that development:

- a) will function well and add to the overall quality of the area;
- b) is visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) is sympathetic to local character and history, including the surrounding built environment and landscape setting;
- d) establishes a strong sense of place and creates attractive places to live;
- e) in optimising the potential of any site to accommodate development should provide an appropriate scale and mix of development and include necessary green and other public space.

- 6.3.2 The Local Plan is entirely consistent with the NPPF. It's Spatial Vision / Objectives, together with Policies SP1 and SP18 emphasise that sustainable growth should be delivered alongside protection of the built environment and heritage assets.

- 6.3.3 The Local Plan sets out clear expectations in respect of design quality, stating that "Proposals which fail to take opportunities to secure high quality design will be resisted". Policy DM1 sets out a number of design-led tests including:

- the need to respond to local character, including scale, mass and bulk,
- the creation of high quality public realm
- the need to respect the amenity of neighbours
- delivering high quality design which responds to townscape and heritage settings

### Design

- 6.3.4 The scheme has been designed by Kent-based practice *Holloway* who have considerable experience in delivering town centre regeneration schemes and contemporary design solutions within a heritage context across the County.
- 6.3.5 The brief was to sympathetically restore and adapt Len House in a manner that provides accommodation suited to modern user requirements, whilst ensuring that its heritage can be appreciated to the maximum possible extent. The existing external fabric is principally restored or renewed where necessary, whilst unsympathetic alterations are removed and lost features restored.
- 6.3.6 The intervention of a modern upper element is considered to be sympathetic to the original buildings forms and influenced by its overarching modernist streamline form. It is a significant intervention in the building's fabric and overall form, but one that is considered to be successfully executed.
- 6.3.7 The adjacent new building fronting Palace Avenue adopts the design principles of Len House, but in a more contemporary manner. It is considered that its scale and character compliment, but do not compete with Len House, which remains the prominent building on the site.
- 6.3.8 The new element to the rear adopts a contrasting approach, with a tight urban grain, more organic roof form and modulated heights, informed by the character of the conservation area to the north.
- 6.3.8 The manner in which the refurbished buildings engage with the public realm is positive, with the new public areas fronting Mill Street and the boardwalk re-engaging with the Mill Pond providing public access to the new active uses within the ground floor, adding to the vitality of this area of the town centre. The hard and soft landscaping proposals are of a high quality and as explained below, will incorporate biodiversity enhancement measures.

### Townscape Assessment

- 6.3.9 The application is accompanied by a Townscape and Visual Impact Assessment which assesses the site's context, including topography, surrounding townscape character areas and sensitivity, including the relationship of the site to heritage assets.
- 6.3.10 A visual baseline assessment identified 14 localised viewpoints of the site from surrounding areas of the town centre. The assessment identifies that Len House is a clear landmark building with a high degree of authenticity.
- 6.3.11 The principal view of the site frontage across the approach to River Len bridge from Fairmeadow is of a high sensitivity due to the prominence of the building at this busy open highway junction. The view is framed by other significant urban buildings and the increase in scale is not considered to be harmful. The visual clutter of traffic activity and highway paraphernalia diminishes the sensitivity of the view to some extent. As a result of the sensitive restoration of the building

and public realm fronting it, the impact will be positive and not require any mitigation.



- 6.3.11 The assessment identifies that views from within the All Saints conservation area will change as a result of the increased height of Len House. However, views towards the site from the edge of the conservation area have the distraction of Coleman House behind, which will in-part be screened, which itself will be positive. Views from All saints Church itself are more distant, but the change in massing to Len House is still evident. However, the net impact is significantly mitigated by the lightweight nature of the roof addition.



- 6.3.12 Views from the road network to the south and east represent changing glimpses of the site, with a low level of change, with the viewpoints dominated by traffic conditions.

- 6.3.13 The assessment identifies that the open areas of the site make no positive contribution to the character or quality of the townscape. Whilst the magnitude of change will be significant due to the new build elements, the impact is one of positive change, removing the semi-dereliction of the open area, reinstating the built frontage to Palace Avenue and screening the poor quality buildings to the rear of Gabriel's Hill.



#### Sustainable Design Principles

6.3.14 Whilst heritage buildings often offer limited opportunities for the introduction of sustainable principles, due to its modernist design and linear form, Len House offers a number of opportunities to incorporate measures beyond simply passive fabric first design. These include:

- significantly improving the thermal efficiency and air tightness of the existing listed structures
- installing an extensive solar PV array on the new roof
- extensive areas of green / brown roof combined with the introduction of permeable surfaces across the sites hard and soft landscaped areas
- air sourced heat pumps for the new build element

## **6.4 Living Conditions**

### Existing Residential Neighbours

- 6.4.1 The potential impact of the development on the amenities of the occupiers of adjoining properties is a key planning consideration and an essential element of defining acceptable design. Such impacts may include sunlight and daylight, noise, privacy and overlooking and the general scale and physical relationship of new development to its neighbours. As identified in the NPPF, it is also relevant to consider the amenities of future occupiers of the proposed dwellings.
- 6.4.2 At paragraph 127(f) the NPPF confirms that developments should ensure a high standard of amenity for existing and future users and Policy DM1 (iv) of the MBLP reinforces this requirement.
- 6.4.3 Concerns have been raised by nearby residents regarding, for example, the scale of the development, the impacts upon privacy and loss of daylight and sunlight.
- 6.4.4 At the pre-application stage, the potential for adverse impacts on properties to the rear of Bank Street were identified. No.84, from which the objections have been received, sits within a tight cluster of buildings to the rear of Bank Street. In response the proposed new build element to the rear was pulled away from the boundary and its height to the rear of No. 84 was significantly reduced. Whilst the introduction of built development on land that has sat open for some time will inevitably result in a significant degree of change, by deliberately recognising the adjacency of these properties and cutting out a significant section of the building the proposals ensure that, within the context of a town centre location with a tight urban grain and juxtaposition of buildings and uses, the net impacts on existing neighbours is significantly reduced.
- 6.4.4 Property spacing standards are typically reduced within town centres, particularly having regard to the medieval plot dimensions that define this area's character. Nevertheless, the building is pulled back from the northern boundary and the majority of units are designed to have their primary aspect away from the rear of Bank Street and over the new communal open space. It is therefore not considered that the building would result in an unacceptable loss of privacy and therefore complies with the objectives of the NPPF and policies DM1 and 5 of the MBLP.
- 6.4.5 Officers note that some nearby commercial properties suggest that by being overlooked by new residential apartments, their open spaces, such as terraces, beer gardens, will be less attractive to customers. We do not consider this to be a reason to conclude harm.

### Future Occupiers

- 6.4.6 The assessment above in relation to the 'agent of change' issue considers whether, by virtue of noise unacceptable conditions would be likely to arise. Noise is considered to be a matter that can be managed through conditions. In

terms of other amenity considerations, the majority of residents will have access to a range of private terraces and communal spaces that will serve principal habitable rooms and provide positive outlook conditions with interesting views across the development and the surrounding heritage assets beyond. It is not considered that occupiers will be subject to substandard levels of privacy.

- 6.4.7 Being located within the town centre, residents will have access to a wide range of amenities without the need to travel. Having regard to the high quality of the scheme, we consider that it will provide future occupiers with a very positive environment for urban living.

## **6.5 Highways and Sustainable Travel**

- 6.5.1 The site is highly sustainable, its central location offering good access to amenities, services and employment without the need to travel, but where travel is required, KCC acknowledge that it has good access to a range of public transport options.
- 6.5.2 KCC raise no objections to issues of trip generation (there being a net reduction) and also consider the levels of parking to be appropriate to the town centre, with the proposed vehicular access points being acceptable.
- 6.5.3 KCC also consider that the site has good pedestrian accessibility and that the provision of the boardwalk and new public realm are positive measures.
- 6.5.2 A framework Travel Plan has been provided which KCC consider sets out positive measures to further reduce travel impacts.

## **6.6 Ecology & Biodiversity Enhancement**

- 6.6.1 KCC Ecology advised that the characteristics of the site and buildings would not require an ecological impacts assessment to be carried out due to the lack of habitat. Nevertheless, the applicant has provided a preliminary ecological appraisal, which concludes:
- Low potential to support roosting bats;
  - Moderate potential to support foraging and commuting bats;
  - Moderate potential to support commuting riparian mammals;
  - Low to moderate potential to support notable fish; and
  - High potential to support nesting birds.
- 6.6.2 A number of enhancement measures are recommended, which include:
- • Wildlife friendly landscaping;
  - • Enhanced aquatic habitat;
  - • Biodiverse living roofs;



- Invertebrate habitat features (e.g. bee bricks and log piles);
- Living walls; and
- Bird and bat boxes integrated into the fabric of the building.

It is recommended that these are secured through conditions.

## **6.7 Air Quality**

- 6.7.1 The site is located within an area of the town centre that is vulnerable to the impact of vehicular emissions on the quality of air. Both the NPPF and Policy DM6 of the Local Plan require the impact of development upon and its potential vulnerability to air quality to be assessed. The assessment identifies that future occupants would not be exposed to pollutant concentrations above the relevant objective levels.
- 6.7.2 With regard to the potential impact of the operational phase of the development, the transport assessment models a net reduction in traffic compared to the previous use during the am peak and at work, even on the worst case scenario for future trip generation, a small potential increase in the pm. As such, the impacts of the development upon local air quality are predicted to be low / imperceptible.
- 6.7.3 An emissions mitigation calculation suggests a target mitigation cost of circ £196,000. Best practice suggests that mitigation measures should be of an equivalent value and where possible, the net benefit of the measures quantified. With regard to soft measures, precise calculations are rarely possible, but the applicant has put forward the following measures, which can be monitored through condition:
- EV charging points to an agreed minimum number of parking spaces and latency across the majority of the remainder
  - A travel plan incorporating measures to encourage residents to use sustainable transport modes
  - Positive levels of cycle provision
  - Enhanced pedestrian routes across the site

Having regard to the highly sustainable location and nature of development and its limited impacts, these are considered to be acceptable measures.

## **6.8 Affordable Housing & Infrastructure**

### Affordable Housing

- 6.8.1 The NPPF sets out that the Government's aspiration for sustainable development include creating " *strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations*".

6.8.2 As required by the NPPF, the adopted Local Plan makes clear the type and level of affordable housing that will be expected from development. Policy SP20 identifies that in this location 30% of the scheme should provide for affordable housing. Policy SP20 (6) also notes that *"Where it can be demonstrated that the affordable targets cannot be achieved due to economic viability, the tenure and mix of affordable housing should be examined prior to any variation in the proportion of affordable housing"*.

6.8.2 Where there is departure from the affordable policy requirements the onus is therefore on the applicant to demonstrate why the scheme is not policy compliant. At paragraph 57 the NPPF advises that *"It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment (VA) at the application stage"* whilst *"The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case..."*.

6.8.4 As clarified by the NPPG, VA is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. The process includes looking at the key elements such as gross development value, development / build costs, land value, landowner premium, and developer return. The aim of the process is to strike a balance between, for example:

- The aspirations of developers in terms of returns against risk
- The aims of the planning system to secure maximum public benefits through the grant of planning permission

6.8.5 In this case, a number of considerations are available to the LPA when considering whether to accept a viability assessment, for example:

- Is the development otherwise compliant with the development plan?
- Would it contribute positively to achieving sustainable development?
- Are there other public benefits arising?

6.8.6 In the case of this site, having regard to, for example, the costs associated with renovating a listed building and the potential costs of developing a contaminated site, the applicants submitted a VA that sought to demonstrate why affordable housing could not be provided, either on or off site. To assist Members in terms of terminology:

Existing use value - EUV is the value of the land in its existing or lawful use. Existing use value is not the price paid and should disregard hope value.

Benchmark land value - The benchmark land value is established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum

return at which it is considered a reasonable landowner would be willing to sell their land.

Residual land value – Residual land valuation is the process of valuing land with development potential. It seeks to identify the sum of money necessary for the purchase of land and is calculated by in essence estimating the value of the completed development (for example direct sales income) and then subtracting the costs of development (for example, build costs, finance costs, professional fees, planning policy requirements and CIL and profit).

If the residual land value falls below the benchmark land value, then it is unlikely that the developer would be incentivized to deliver the assumed level of affordable housing.

6.8.7 The Applicant's VA identifies a benchmark land value of £3,700,000

For a scheme with 30% affordable housing, it generates a residual land value of (minus) -£5,633,063. This is £9,333,063 (deficit) below the benchmark land value – a loss of 8.8%

If the level of affordable housing is reduced to 0%, it generates a residual land value of (minus) -£2,536,452 which is £6,236,453 (the deficit) below the benchmark land value of £3,700,000 – a loss of 0.65%.

The applicant therefore seeks to demonstrate that in planning terms the scheme cannot viably provide an affordable housing offer.

6.8.8 In order to assess the applicant's VA, the Council appointed independent consultants 'RedLoft' to review the submitted VA. In doing so, they tested the method of calculating the sites existing and benchmark land values. They also tested the inputs to the residual appraisal, such as profit margins, build costs, sales income etc. They have advised the Council that whilst they would tweak some of the applicant's assumptions up and some down, they broadly come to the same conclusion.

6.8.9 It is therefore for the Council to consider whether there are overarching benefits that could be achieved in granting planning permission for a scheme without affordable housing. For the reasons outlined in this report, it is considered that having regard to the exceptional circumstances of this site and the wider benefits arising, this approach is justified.

6.8.10 Officers have considered whether a review mechanism should be imposed. Whilst this would often be best practice, having regard to the significant deficit for even a 0% scheme, this is unlikely to serve any beneficial purpose and may detract from the scheme's funding and timing of delivery.

6.8.11 Having regard to the deficit that the applicant needs to address, Officers are developing a series of planning conditions that seek to ensure that the quality of design and heritage restoration is not dumbed down through costs savings.

Infrastructure

6.8.12 The Council commenced CIL (Community Infrastructure Levy) charging on 1<sup>st</sup> October 2019 and with the exception of affordable housing provision the remaining infrastructure would be funded by CIL.

## **7 CONCLUSIONS**

- 7.1 The principle of a mixed use development within a sustainable town centre location is acceptable. The balance of commercial and residential uses will make significantly positive contributions to the vitality and viability of the town centre and to the aspiration to introduce more high quality housing to the town centre,
- 7.2 Bringing a vacant building and under-utilised site is also considered to be positive and responds to the aspirations of the Council's Opportunity Site Brief.
- 7.3 It is considered that the development can be achieved without adversely affecting the amenity of existing residents and the operational viability of existing commercial uses.
- 7.4 It is considered that the scheme does result in some harm to Len House and to surrounding heritage assets, for example, loss of the original use, removal of the roof, partial subdivision of the internal space. The scheme will also cause a degree of harm to the setting of the two adjacent conservation area and the listed buildings within them. However, it is considered that this harm is less than significant.
- 7.5 The applicant has demonstrated that they have minimised the harm arising through measures such as; designing the new roof to be lightweight, retaining the large ramp and main ground floor void, as well as restoring the facades. These works respect the key defining features of significance and are considered to be heritage benefits. Additional heritage benefits include, for example, restoring the original forecourt and creating an archive of the building's history.
- 7.6 In terms of the new build elements, through their design they have sought to minimise their impact on the setting of nearby heritage assets and it is considered that the character and appearance of the conservation area will be enhanced.
- 7.7 Notwithstanding that the scheme will result in a degree of harm to heritage assets, which is considered to be less than significant, for the reasons set out above, it is considered that this harm will be outweighed by the significant heritage and public benefits that will arise.

## **8 RECOMMENDATION –**

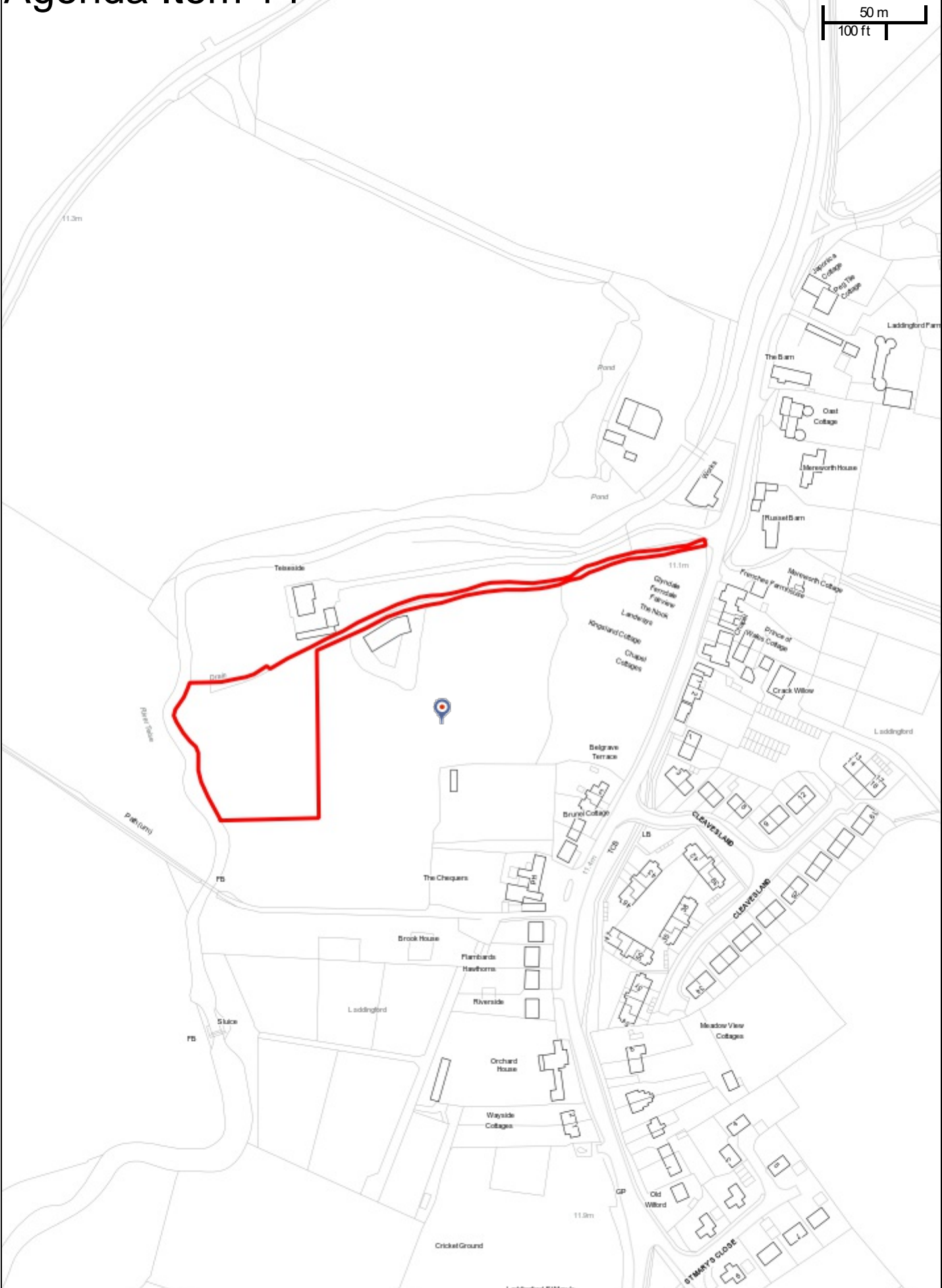
8.01 It is recommended that:

Recommendation (A) Planning permission be granted for the development subject to conditions

Recommendation (B) Listed building consent be granted for the associated works to the listed building

- 8.02 Having regard to the complexity of the scheme, Members should note that a detailed schedule of conditions is being finalised with the applicant and will be submitted as an UU ahead of the meeting

# Agenda Item 14



<b>REFERENCE NO - 19/504403/FULL</b>		
<b>APPLICATION PROPOSAL</b> Part retrospective application for change of use from horticulture/nursery to leisure/recreation for stationing of mobile Shepherd's Huts as short stay tourist accommodation and ancillary works.		
<b>ADDRESS</b> Land at Teiseside Nurseries Lees Road Laddingford Maidstone Kent ME18 6BP		
<b>RECOMMENDATION</b> Application Permitted		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal is acceptable with regard to the relevant provisions of the Development Plan, with appropriate mitigation in place, the NPPF and all other material considerations such as are relevant to the application.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> At the request of Yalding Parish Council.		
<b>WARD</b> Marden and Yalding	<b>PARISH/TOWN COUNCIL</b> Yalding	<b>APPLICANT</b> Mr & Mrs R Edmonds <b>AGENT</b> SIGMA Planning
<b>TARGET DECISION DATE</b> 27/07/20		<b>PUBLICITY EXPIRY DATE</b> 15/04/20

### **Relevant Planning History**

19/505434/OUT

Outline application for the demolition of existing commercial building and erection of a 2 storey self build dwelling (Access being sought).  
Refused Decision Date: 02.01.2020

### **Appeal History:**

20/500069/REF

Outline application for the demolition of existing commercial building and erection of a 2 storey self build dwelling (Access being sought).  
Appeal In Progress

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

- 1.01 The proposal site is part of the former Teiseside Nurseries site located on the western side of Lees Road close to the centre of Laddingford village and the Chequers Public House. There are single storey, very modest buildings on the site that are left over from the former nursery and in general terms the site is undeveloped in nature. The proposal site is accessed from an existing access and is set well back from the road. The site is within Flood Zones 2/3, and for the purposes of the Maidstone Local Plan it is also within the designated countryside.
- 1.02 The residential dwelling known as Teiseside is located to the immediate north/north west of the application site (the nearest and most affected dwelling) and has no ownership relationship to the application site. The dwelling is accessed via a long drive from Lees Road. A PROW is located to the south of the wider site (accessed via The Chequers Public House. A number of listed buildings are located along Lees Road in the vicinity of the wider site.

2. **PROPOSAL**

- 2.01 The application seeks permission for the Change of Use of the land for tourism related purposes with the submitted plans showing the stationing of 3 mobile Shepherds Huts and operational works (bases) within the north east part of the site. The application red line lies in close proximity to the western boundary of the site which runs along the bank of the River Teise. Part of the operational works has already been carried out on the site with the provision of two of the three bases. The Shepherds huts are also currently stored on the land.
- 2.02 The supporting Design and Access Statement (DAS) states that the "Shepherds Huts will be arranged in a row with suitable spacing to ensure privacy and quietness. There will be no physical demarcation of plots but each hut will be on a concrete slab with utility and drainage connections. They will also be "tethered" to underground blocks for security and to prevent them being washed away in the very unlikely situation of an extreme flood event".
- 2.03 The DAS further comments that the Shepherds Huts (see picture below) will be used for short term holiday lets mainly focused on the summer months. It is stated that three Shepherds Huts are proposed at first but that there is space for two more if the enterprise proves popular. Each hut has an overall floor area of 23.7 sq.m, with a height of 3 metres and provides a double bedroom, en-suite shower room/toilet and kitchen area. Each hut is of a standard appearance with dark green coloured metal sheeting on the walls and a convex roof.



- 2.04 A Flood Warning and Evacuation Plan and Flood Risk Assessment is submitted with the application which sets out the measures to be taken in the event of a flood alert and assesses the risk of flooding at the site. An Ecological assessment has also been submitted which assesses the site for habitat potential and sets out suggested mitigation and enhancement.
- 2.05 The application site is below the threshold of 1 hectare required for screening permanent camping and caravanning sites under Schedule 2 of the Town and



3. **POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017 – SS1, SP17, SP21, DM1, DM3, DM30, DM37, DM38  
National Planning Policy Framework (NPPF) – Paragraphs 83 and 84  
National Planning Practice Guidance (NPPG)  
Maidstone Landscape Character Assessment & Maidstone Landscape Capacity Study: Sensitivity Assessment

4. **LOCAL REPRESENTATIONS**

**Local Residents:**

- 4.01 2 representations received from local residents raising the following (summarised) issues
- Will the application be restricted to Shepherds Huts. This site is not suitable for mobile homes or caravans.
  - Narrow entrance to site with poor sight lines
  - Laddingford is prone to flooding
  - What are arrangements for waste-water, the drains along Lees road often overflow
  - Landowner disturbed nesting birds when grubbing out the overgrown site
  - What works are "ancillary works" referring to in the application.
  - Where is private treatment plant situated as this may impact on our amenity
  - Suggest hedge planting is required to screen the development from neighbours
  - Refers to erection of a roofed hard standing BBQ/Communal area erected near the river - will restrictions be imposed to ensure neighbours do not suffer from noise and disturbance when the huts are in use
  - In favour of a holiday occupancy condition

5. **CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

Yalding Parish Council

- 5.01 Object and request the application be heard by the Planning Committee. The Council's main concern relates to flooding and the sites inclusion within zones 2/3 of the E.A's flood risk maps. Photos' submitted showing the sites entrance flooded on recent flood events.

MBC Environmental Health Officer -

- 5.02 Raise no objection but request a condition regarding details of proposed method of foul sewage treatment along with details regarding the provision of potable water and waste disposal.

KCC Highways

- 5.03 Raise no objection

Environment Agency -

- 5.04 Having initially objected to the application, the E.A now raise no objections subject to the imposition of the below conditions.
1. Finished floor levels are set no lower than 13.86m above Ordnance Datum (AOD) which is the 1% AEP plus 70% climate change design flood level.
  2. Flood mitigation measures are included.
  3. We would be pleased to see that the huts will be limited for occupation only between the months of March and October each year as proposed in the letter dated 14 April 2020.

KCC Ecology -

- 5.05 No objection. Suggests a condition requiring the submission of an enhancement plan to ensure the suggestions made in the Ecological Assessment are implemented.

6. **APPRAISAL**  
**Main Issues**

Policy Context

- 6.01 Local Plan policy SS1 seeks to support small scale employment opportunities in appropriate locations to support the rural economy; and policy SP21 sets out that the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by (inter alia): *Supporting proposals for expansion of existing economic development premises in the countryside, including tourism related development, provided scale and impact of development is appropriate for its countryside location, in accordance with policy DM37.*
- 6.02 Local Plan policy DM37 also supports the expansion of existing businesses in the rural area provided certain criteria are met; and Local Plan policy DM38 allows for holiday caravan sites in the countryside provided they:
- i. Would not result in unacceptable loss in amenity of area. In particular, impact on nearby properties and appearance of development from public roads will be of importance; and
  - ii. Site would be unobtrusively located and well screened by existing or proposed vegetation and would be landscaped with indigenous species.
- 6.03 The proposal is also subject to the normal constraints of development in the countryside under the Maidstone Local Plan (as Laddingford is a washed over settlement without a defined village envelope and for Local Plan purposes is treated as being within the countryside). Local Plan policy SP17 states that new development in the countryside will not be permitted unless it accords with other policies in the Local Plan, and would not result in harm to the character and appearance of the area or in terms of residential amenity. Local Plan policy DM30 states (inter alia) that new development should maintain, or where possible, enhance the local distinctiveness of an area; and ensure that associated traffic levels are acceptable.
- 6.04 Furthermore, Local Plan policy seeks new development to respect the amenities of occupiers of neighbouring properties; and avoid inappropriate development within areas at risk from flooding (LP policy DM1).
- 6.05 The key issues for consideration therefore relate to:
- Visual Impact -including the design of the Shepherds Huts
  - Sustainable Rural Tourism
  - Highway safety and residential amenity impacts
  - Flood Risk
  - Impact on Ecology

Visual Impact including Design

- 6.06 The site is included within the Laddingford Low Weald Character Area as set out in the Maidstone Landscape Character Assessment (July 2013) and Maidstone Landscape Capacity Study: Sensitivity Assessment (Jan 2015). These documents state that Laddingford Low Weald is assessed as being of moderate overall landscape sensitivity and therefore has scope *for change with certain constraints*. It states that housing development should be focused within and immediately adjacent to existing settlements in keeping with existing development whilst other development could be considered to support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.

- 6.07 The former Nursery use is no longer operating from the site and the site is afforded relatively open views from Lees Road. However, the application site only includes the area of the land to the west of the site (that furthest away from Lees Road). Whilst the Shepherds Huts are visible from Lees Road as they are currently stored on the land, they are not highly visible and do not negatively impact on the landscape quality or visual amenities of the locality.
- 6.08 The application seeks the Change of use from horticulture/nursery to leisure/recreation for stationing of mobile Shepherd's Huts as short stay tourist accommodation and ancillary works. Detailed plans and photos of the Shepherds Huts have been provided as part of the application and given their green coloured profiled metal cladding, their limited size (which can be controlled by condition to the size applied for), the specific design that has been applied for i.e. Shepherds Huts, their limited number (the block plan shows 3 Shepherd Huts in situ with hard bases) and their positing within the site, which is approximately 198 metres away from Lees Road and approximately 90 metres away from the PROW to the south of the site, then whilst still visible in the landscape context, they will not appear harmful to the visual qualities of the countryside and will appear as sympathetic temporary chattels in the countryside. Given the requirement to raise the floor levels as requested by the Environment Agency, the Shepherds Huts will appear slightly more prominent in the landscape setting as they will be required to be raised on brick piers to reached the requested floor level. Even with this increased visual prominence, it is not considered that they will appear harm to the visual qualities of the countryside.
- 6.09 The proposals will also be seen against the wooded backdrop of the tree corpse to the western boundary (fronting the River Tiese) and to the wider landscaped boundaries which are outside the current application site. Additional landscaping using indigenous species can be requested by condition to ensure the red line boundaries of the site are clearly defined by new hedgerow planting which will further assimilate the development into this countryside setting.
- 6.10 The proposals would accord with the Maidstone Landscape Capacity Study in so far as this proposal is for a small scale tourism related use on a site with no current commercial activity and supports a rural enterprise without causing harm to the character and appearance of the area (policy SP17), whilst being unobtrusively located and without resulting in an unacceptable loss in the amenity of the area (policy DM38).
- Sustainable Rural Tourism
- 6.11 The NPPF paragraph 83 c) seeks the delivery of sustainable rural tourism and leisure developments which respect the character of the countryside whilst paragraph 84 states that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits opportunities to make the location more sustainable.
- 6.12 The site is located in close proximity to the public houses serving Laddingford, which will be a key attraction for visitors to the site and is within close proximity to Yalding, its nearest larger village some 1.5 miles away with Paddock Wood some 4.5 away and Maidstone, some 9.5 away. Whilst public transport is available passing through the village, this is infrequent. However, most visitors to the site for holiday related purposes would be by car. Having considered the impact on the character and appearance of the countryside to be acceptable, the site is reasonably well related to existing settlements to comply with the requirement of paragraph 83 c) of the NPPF.

Highway Safety

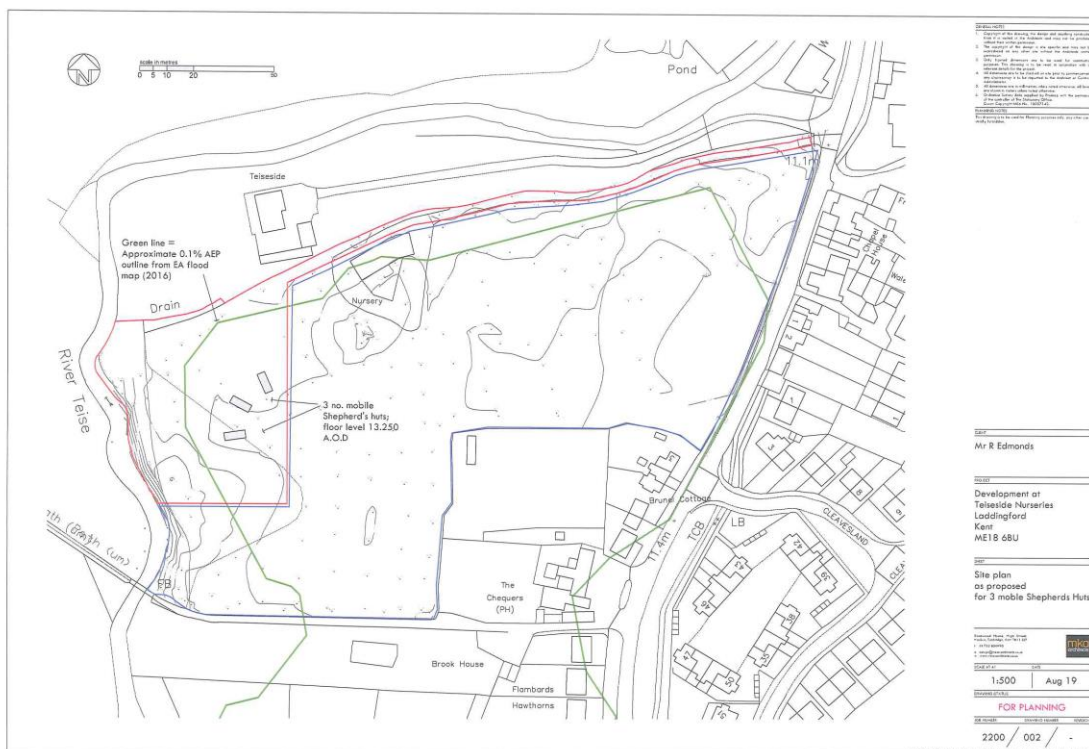
- 6.13 The application site utilises the existing access to the former nurse's which KCC Highways have considered and confirmed that they raise no objection to on highway grounds. Given the limited number of Shepherd's Huts proposed and the expected maximum number of people can be accommodated in each hut (2 persons), then the total potential traffic generation from the 3 huts is very limited and will not have an impact on the local road network. No issues have been raised regarding inadequate sight lines to the existing access.

Residential amenity

- 6.15 The applicant does not live on the application site and travels from outside to attend to the management of the site. The nearest residential property is Teiseside which is located to the north of the application site and is generally surrounded by established boundary planting. A newer hedgerow has been planted to its southern boundary – that closest to the River Tiese.
- 6.16 The location of the Shepherd's Huts has been positioned away from the southern boundary of Teiseside so as to give sufficient separation distance to ensure any noise generated by the occupants of the Huts is limited.
- 6.17 A recently constructed pole barn near the river within the application site has been removed and this was a matter which was raised by one of the commentators listed in paragraph 4.01 above.
- 6.18 When considering the intended use of the site and the separation distances from it and the nearest and other residential properties, the noise generated by the proposal (including vehicle movements to and from the site) are considered to be acceptable in residential amenity terms, and the Environmental Health officer has also raised no objection in terms of noise.
- 6.19 The Environmental Health officer has requested certain conditions to be imposed requesting details of the foul water treatment, size of the foul water system, its location on the site and where the system will discharge into. Such details can be secured by condition.

Flood Risk

- 6.20 The site is shown as being located within the Flood Zones 2 and 3 of the Environment Agency's (E.A) Flood Risk Maps. On this basis both the Sequential and Exception test are required to be passed in order for the development to be acceptable. Following initial concerns raised by the E.A regarding the adequacy of the previously submitted Flood Risk Assessment (FRA), an updated FRA has been submitted during the processing of the application together with a Flood Warning and Evacuation Plan. The Shepherd's Huts have been positioned on the site outside the approximate maximum extent of historical flooding (shown by the green outline below, although it is acknowledged that the green outline does include the access).



- 6.21 In accordance with the NPPF and NPPG sites used for holiday caravans are classified as 'More Vulnerable'. Such development can be acceptable subject to the Sequential and Exception Tests being applied and passed, with both being applicable in this instance due to location within Flood Zone 3 washing over the application site. Furthermore, local planning authorities should also ensure that flood risk is not increased elsewhere with the site specific FRA being used to assist the Local Planning Authority in applying the Sequential test, whether the development will be safe and pass the Exception test and whether the measures proposed to deal the flood risks are effective and appropriate.
- 6.22 It is not the role of the E.A to apply the sequential test, this is the role of the Local Planning Authority assisted by the E.A's advice and the NPPG advises the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.
- 6.23 The NPPG also advises that when applying the Sequential test, a pragmatic approach on the availability of alternative sites should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.
- 6.24 Whilst there is no existing tourism related business at the site, the applicant has made a number of important concessions in the current application which need to be considered when applying the relevant tests. These have been considered by the Environment Agency in their latest response which is the reason why they have removed their objection to the application.

- Finished Floor Levels - Finished floor levels for the Shepherds Huts can be secured at 13.86 AOD by raising each hut to sit on four brick piers. A debris skirt could also then be provided. The use can also be limited to avoid occupation during the winter months when the risk of flooding is greater.
  - Anchoring – The Shepherds huts are equipped to be towed and therefore have a robust framework and anchoring point. It is proposed that the towing point should be attached with wire to a metal eye set in a concrete block that in turn is set into the ground.
  - FRA – The details contained in the updated and revised FRA together with the details outlined in these bullet points will hopefully enable you to remove your objection to the current application.
  - Access routes/Evacuation Routes - This is mostly addressed in the submitted Evacuation Plan. The Shepherds Huts are located on Zone 2 land which is some of the highest land in the village. The option of a emergency access constructed across the nursery land to allow access to the side of the Public House via the existing PROW exists if an emergency were to arise.
- 6.25 It cannot be said that there are no other reasonable available sites in an area of less risk from flooding in the catchment area that the lodges would serve, although it is acknowledged that Flood Zones 2 and 3 does cover quite a significant area in the proximity of the site. However, the E.A now accept that with conditions controlling the matters set out in paragraph 6.24 above, the development would be safe. Acknowledging that the aims of the sequential test are to steer development away from areas of flood risk, seasonal occupancy is proposed by the applicant during the months of March to October to mitigate flood risk, and this is accepted by the E.A. It is reasonable then to conclude on this basis that flood risk from the river is substantially reduced during these months, that a restricted use for the occupancy of the Shepherds Huts between the months of March to October is sequentially preferable to the standard timeframe usually given to holiday site occupancy which may allow year round holiday let use. Based on this assessment, the site could be sequentially acceptable as the high risk has been mitigated for by the restriction of occupancy during the high-risk winter months.
- 6.26 For this reason only and with the ability to limit use of the site and occupation of the Shepherds Huts to the months from March to October which has been agreed by the E.A, it can be concluded that the proposals pass the Sequential test in this specific case.
- 6.27 Following application of the Sequential Test, the Exception Test must be applied. It is a requirement that the proposal would provide wider sustainability benefits to the community that outweigh the flood risk and that the development will be safe for its lifetime, taking account of the vulnerability of its users without increasing flood risk elsewhere.
- 6.28 Given that the proposals are for tourism related users which are supported by Local Plan polices and will contribute to the wider local economy by bringing tourism to the area, it is considered that the proposals will bring wider sustainability benefit to the community and given the removal of the E.A objection, subject to the imposition of certain conditions limiting the use and setting finished floor levels above the design horizon for predicted flooding in the locality, it is considered that the proposals pass the Exception Test.
- 6.29 Therefore, in this specific case, it is concluded that limited use of the site with mitigation measures in place does pass both the sequential and exception tests.
- 6.30 Matters relating to the residual risk, i.e whether suitable emergency measures are in place, the ability to gain suitable egress/ingress to areas of high ground during extreme events and the impact on the emergency services will all be mitigated for

by the submitted Flood Warning and Evacuation Plan and by the limits imposed on the use/occupation of the site which can be secured by planning conditions.

#### Biodiversity Impacts

- 6.31 The application is accompanied by an Ecological Assessment which was submitted during the processing of the application. This concludes that the species poor semi-improved grassland is of relatively low ecological value. The report recommends that the retained grassland be enhanced through sowing/oversowing with a native species-rich grassland seed mix and be subject to a suitable management regime to increase floristic diversity. The retention of longer, rough grassland areas at the margins of the immature woodland will provide habits for reptiles.
- 6.32 Mitigation measures are suggested for the retained immature woodland to the west of the site to improve its ecological value for suitable foraging and navigational opportunities for bats and birds.
- 6.33 Subject to the implementation of the measures as set out in the Ecological Assessment, the proposed development will have no adverse effects on protected species whilst the provision of new native planting, creation of species-rich grassland and provision of new bat and bird boxes (with suitable enhancements which comply with the NPPF's requirement in paragraphs 175 c) to secure net gains for biodiversity. The KCC Ecological Officer also raised no objection to the proposals in ecology terms but does suggest a condition to cover implementation of the mitigation measures as set out in Ecological Assessment.

#### Other Matters

- 6.34 The application confirms that foul sewerage will be via a package treatment plant. No details have been supplied of the package treatment plant and conditions have been requested by the Council's Environmental Health Officer. A suitable condition to cover the matters suggested by the EHO has been included in my recommendation.
- 6.35 There are a number of listed buildings along Lees Road, including the Chequers P.H. These buildings are sufficiently distanced from the application site so as not to have an impact on their setting.
- 6.36 The matters raised by Yalding Parish Council regarding recent flood events at the site entrance have been carefully considered in this report. Whilst the report concludes that the development passes both the Sequential and Exception test, it is true that management of the residual effects rests with Maidstone Borough Council and the emergency plans that are put in place to deal with the effects of flooding in the area. With the limitation on the use of the site, the residual impacts would be minimalised. However, a condition dealing with the Flood Warning and Evacuation Plan would still be imposed to mitigate any potential risk.

#### Public Sector Equality Duty

- 6.37 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

## **7. CONCLUSION**

- 7.01 The proposal would not be obtrusive and would not result in an unacceptable loss in the amenity of the area, in terms of its visual impact with the design of the Shepherd huts being suitably accommodated within the countryside setting. With limited impact on the living conditions of nearby local residents; and the retention of existing landscaping features and the addition of further native planting and landscape improvements, the proposals offer the opportunity for landscape enhancement and management. Furthermore, no objection is raised in terms of

highway safety and biodiversity with flood risk being mitigated by seasonal use only between the months of March to October. A holiday occupancy condition will also be attached to any permission, preventing use of any unit as a permanent encampment. As such, the proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of approval of this application is therefore made on this basis.

8. **RECOMMENDATION** - GRANT planning permission subject to the following conditions:
1. No more than 3 Shepherds Huts within the dimensions, design and color as set out in approved plan numbered 010 and photos submitted of their external appearance shall be stationed on the site at any time.  
Reason: To safeguard the character and appearance of the countryside.
  2. The Shepherd Huts shall be occupied for bona fide holiday purposes only between the months of 1 March to 31 October in any year and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the site shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all the owners/occupiers of each individually occupied Shepherd Hut on the site, and this information shall be made available at all reasonable times upon request to the local planning authority. Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the site, who will keep the register and make it available for inspection, shall also be submitted to the local planning authority(planningenforcement@maidstone.gov.uk) prior to the first occupation of any of the approved Shepherd Huts with the relevant contact details subsequently kept up to date at all times.  
  
Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.
  3. If the use hereby approved ceases, all Shepherd Huts, structures, hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;  
  
Reason: To safeguard the character and appearance of the countryside.
  4. Prior to the first occupation of any Shepherd Hut on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to.  
  
Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Tiese.
  5. Prior to the first occupation of the Shepherd Huts hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:
    - a) Measures to shield and direct light from the light sources so as to prevent light pollution;
    - b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;
    - c) Show where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.



The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

6. Prior to the first occupation of any Shepherd Hut hereby approved, details for a scheme for the enhancement of biodiversity on the site which shall include the provision of bird and bat boxes within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of any Shepherd Hut and all features shall be maintained thereafter.

Reason: In the interests of biodiversity enhancement and as no detailed plans have been submitted showing the location of these features.

7. In addition to condition 6 above, within 3 months of the first occupation of any Shepherd Hut, details of an ecological enhancement plan demonstrating that the enhancements recommended within the Briefing Note – Ecological Assessment dated March 2020 will be implemented in full. The ecological enhancement plan will set out timings for delivery of the enhancements and their long-term management over the lifetime of the development. The works shall be carried out in accordance with the approved details.

Reason: In the interests of achieving a net gain in biodiversity and given that no detailed plans have been submitted as part of the mitigation within the Ecological Assessment.

8. Prior to the first occupation of any Shepherd Hut on the site, details of a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, have been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment (amended 2013) and shall include:
- a) Location, species and size of all new trees and shrubs to be planted;
  - b) Details of a mixed native hedgerow along the new application boundaries of the site to help contain the site and soften views from Lees Road.
  - c) Hedgerow infilling to plug gaps in the existing hedgerow boundaries within the application site.
  - d) The management plan shall include the long term management of the woodland copse located to the west of the site fronting the Rive Teise.
  - e) Measures specified in the Ecological Assessment incorporated into the landscaping details.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside.

10. The development hereby approved shall be carried out in accordance with the approved measures as set out in the Flood Risk Assessment by Evans and Langford LLP dated February 2020 (except where they differ from the requirements set out below) and in accordance with the letter dated 14 April 2020 addressed to Adam Harwood of the Environment Agency relating to the following:
- Finished floor levels of the Shepherd Huts are set no lower than 13.86m above Ordnance Datum (AOD) which is the 1% AEP plus 70% climate change design flood level.
  - Inclusion of Flood Mitigation measures as set out in the approved Floor Risk Assessment.
  - Occupation of the Shepherd Huts for tourism related purposes shall only occur during the months 1 March to 31 October in any year. Outside these times, the Shepherd Huts shall only be stored on the land.
  - The Shepherd Huts shall be anchored to the ground prior to first use in accordance with the details set out in the letter dated 14 April 2020 to the Environment Agency.

Reason: To reduce the risk of flooding to the development and future occupants.

11. The development hereby permitted shall be carried out in accordance with the following approved plans numbered 002, 005, 010 and the photographs showing the design and color of the Shepherd Huts and letter dated 14 April 2020 addressed to Adam Harwood of the Environment Agency, the measures set out in the Ecological Assessment, the measures set out in the Flood Warning and Evacuation Plan and the mitigation measures as contained in the updated Flood Risk Assessment dated Feb 2020. The measures as contained in the Floor Risk Assessment and the Flood Warning and Evacuation Plan (including the provision of a Flood risk Management Plan shall be in place prior to the first occupation of any Shepherd Hut and retained at times while the use is occurring and the Shepherd Huts are stationed on the land.

Reason: To safeguard the character and appearance of the countryside, and to safeguard the enjoyment of their properties by existing and prospective occupiers.

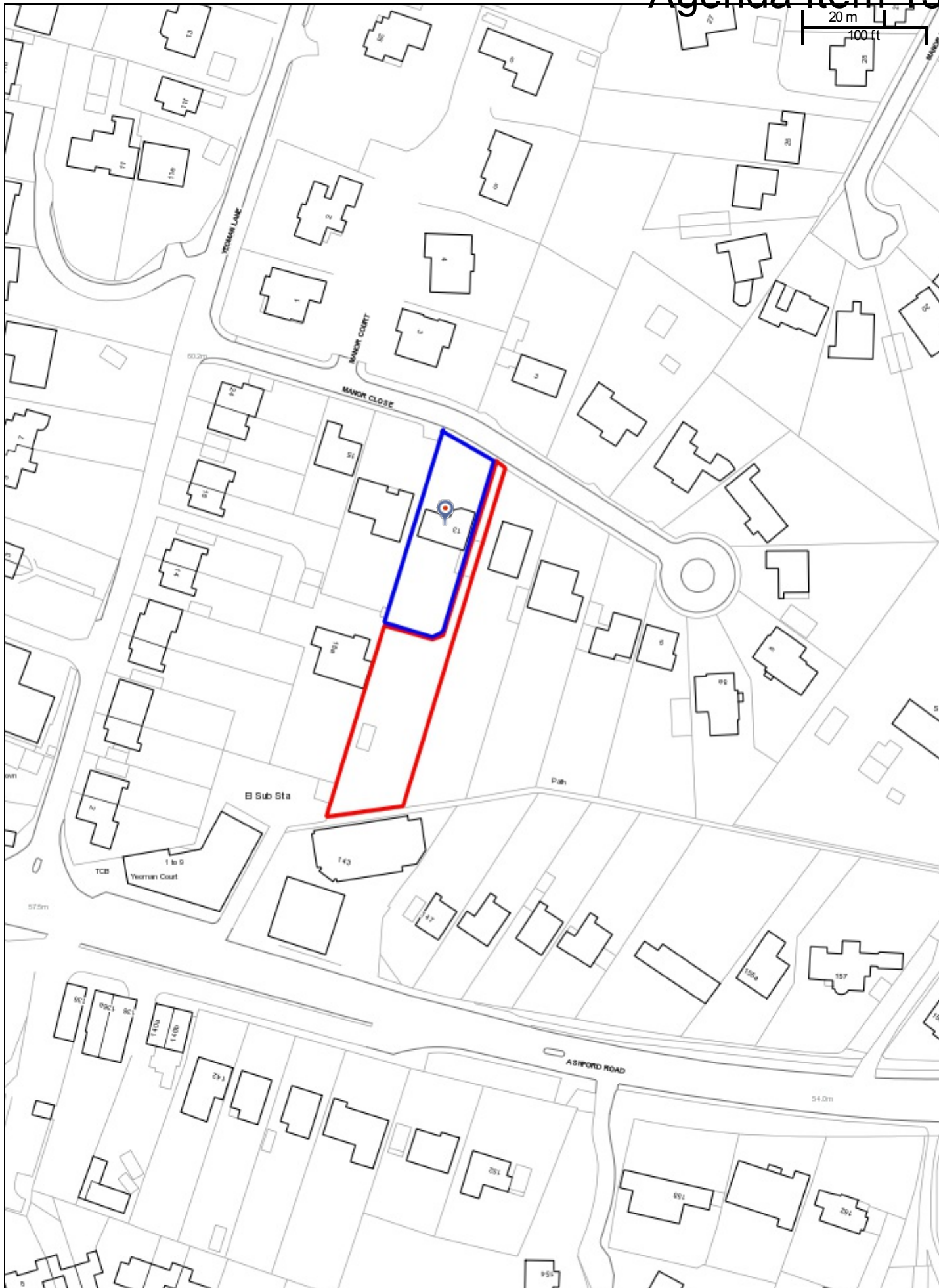
#### INFORMATIVES:

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect.

2. The applicant is advised that a Site License may be required and is advised to contact the Council's Community Protection Team at [CommunityProtection@Maidstone.gov.uk](mailto:CommunityProtection@Maidstone.gov.uk)

Case Officer: James Bailey



20 m  
100 ft

<b>REFERENCE NO -</b> 20/501750/FULL		
<b>APPLICATION PROPOSAL</b> Erection of detached dwelling.		
<b>ADDRESS</b> Land rear of 13 Manor Close Bearsted Maidstone Kent ME14 4BY		
<b>RECOMMENDATION</b> Approve Subject to Conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Tandem development of this nature is only considered to be acceptable where the identified tests relating to character and amenity are satisfied. There are backland development precedents both immediately adjacent and a more recent case opposite the site. As such, the proposal is not out of character. The proposal is of a sensitive scale and the building is sited so that it will not adversely affect the amenity of neighbouring residents. Conditions are proposed to ensure that the impact of vehicles using the proposed driveway, upon the amenity of neighbours, is minimised to acceptable levels.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Both Bearsted Parish Council and Councillor Springett object to the application due to impacts upon neighbouring amenity and wish to see it determined by Planning Committee.		
<b>WARD</b> Bearsted	<b>PARISH/TOWN COUNCIL</b> Bearsted	<b>APPLICANT</b> Mr and Mrs Ellis <b>AGENT</b> Consilium Town Planning Services Ltd
<b>TARGET DECISION DATE</b> 31/07/20		<b>PUBLICITY EXPIRY DATE</b> 26/05/20

### **Relevant Planning History**

The following relate to No.13

18/503311/FULL Demolition of garage, conservatory and side extension and erection of a side and rear extension together with raising the roof height to provide additional accommodation, insertion of dormer windows and changes to fenestration. Provision of additional parking to front. Approved 09.08.2018

19/504924/NMAMD Non Material Amendment - reduction in eaves height to barn ends on the side elevations of planning permission 18/503311/FULL. Approved 30.10.2019

20/500549/NMAMD Non-material amendment - removal of the proposed side garage and rear play room, of planning permission 18/503311/FULL. Approved 09.03.2020

The following refer to land to the rear of No.13.

19/505511/FULL Erection of detached dwelling. Withdrawn

### **Enforcement History:**

20/500281/BOC - Enforcement Enquiry in relation to No13, not the application plot.

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

- 1.01 The application site comprises part of the rear garden, to the south of No.13 Manor Close. The property is currently undergoing extension and refurbishment and is

unoccupied. The proposed housing plot is not subdivided from the host (thus the existing block plan is incorrect in this respect) and comprises areas of lawn, shrub planting and typical garden outbuildings.

- 1.02 There are no protected trees within the site area, but there are trees and shrubs of general amenity value on the site boundaries.
- 1.03 To the south, the site abuts commercial uses fronting the A20, but these are screened by existing vegetation. A public footpath runs to the rear between the commercial uses and the site boundary.
- 1.04 Manor Close is a short, bifurcated cul-de-sac accessed off the A20 via Yeoman Lane. In the main the properties in the eastern arm are single storey, although a number have been refurbished and extended, or have permission to do so, including Nos.13 itself and No.4 opposite, such that there is a variety of dwelling styles.
- 1.05 To the east of the application site lies 18a Yeoman Lane, itself a backland plot, but one that appears to have been constructed in the 1960's. To the west lies the long rear garden of No.12, whilst the rear garden of No.14 is shorter, being truncated by 18a Yeoman Lane.
- 1.06 The rear gardens of the application site and its neighbours slope away to the south, such that the application site lies at a noticeably lower level than the established houses to the north, but at a similar level to No.18a. The rear garden of No.13 is circa 64m in depth from the rear elevation. Circa 17.5 metres of this would be retained for the host, which aligns with that for No.14 next door.
- 1.07 Access to the new plot is via the existing front drive of No.13, which will be shared with the application scheme, with the driveway then running to the rear along the boundary of No.12.

## **2. PROPOSAL**

- 2.01 The application seeks the erection of a two bedroom single storey dwelling, with a shallow pitch roof - no roof accommodation is shown. The property would be accessed by a long driveway running along the eastern boundary of No.13, with the initial section to the front being shared between the two properties.
- 2.02 The access drive requires the partly built garage of No.13 to be removed and would run alongside the boundary of No.12, with it extending along circa 50% of No.12's rear garden, before culminating in a turning area and two parking spaces.
- 2.03 The new bungalow is sited adjacent to and of a similar form and scale to No.18a Yeoman Lane, albeit with a slightly smaller footprint. It has no windows in the side elevations, so will not overlook No.18a. Similarly, there are no proposed windows facing towards the side boundary with No.12.
- 2.04 The spacing distances between the rear façade of No.13 and the new dwelling are circa 24 metres. This separation is very similar to that between the neighbouring No.14 and the infill plot at 18a Yeoman Lane.

## **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017

- SS1 / SP1 Maidstone urban area
- DM1 Principles of good design
- DM9 Residential development

- DM11 Residential garden land
  - DM12 Housing density
  - DM23 Parking standards
- National Planning Policy Framework

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents:**

- 4.01 Representations have been received from four neighbouring households raising the following (summarised) issues; which are considered, where relevant, within the assessment below:
- Pressures upon on-street parking affecting vehicular access to existing dwellings
  - Extra vehicular activity and disturbance
  - Loss of privacy due to overlooking and loss of boundary planting
  - Overshadowing
  - No submission of daylighting assessment
  - Building could be moved further away from No.18a
- 4.02 Members should note that the following comments that have been raised by neighbours are not material planning considerations and cannot be taken into account:
- Local ground conditions impacting on sewer construction
  - Foundation plans should be submitted
  - Works to No.13
  - Rights of light
  - Historic covenants
  - Impact of construction vehicles
  - Party wall agreements

#### **5. CONSULTATIONS**

##### Bearsted Parish Council

- Contrary to Policy DM1 (good design) and DM23 (parking)
- If approval is granted, request conditions regarding adequate car parking and infrastructure is protected

##### Councillor Springett

- Concerned that the site is being overdeveloped
- Loss of garden land is contrary to policy
- Reduction in approved level of off –street parking for No.13 due to loss of garage
- Loss of neighbouring amenity
- Contrary to MBLP policies DM1 - part iv, DM9 - parts iii & iv and DM11 - parts ii & iv
- Should permission be granted, the boundary landscaping with No.12 should be retained.

##### KCC Highways

- No Comments

KCC PRoW

- Adjacent PRoW will be unaffected

## **6. APPRAISAL**

### **Main Issues**

6.01 The key issues for consideration relate to:

- Principle of residential development
- Design, character and appearance
- Access and parking
- Amenity considerations

### **Principle of Residential Development**

6.02 The site lies within the urban area, with access to local services by foot and access to the wider range of services available within Maidstone town centre by local bus routes. It is therefore a broadly sustainable location where the best use should be made of available land and where principle of residential development may be acceptable subject to other policy considerations

6.03 Such a consideration is Policy DM11, which identifies the tests relevant to the assessment of development of domestic garden land. The relevant tests identified are:

- Whether the resulting density would cause harm to the character and appearance of the area
- Adjoining amenity considerations
- Appropriate access can be secured and that vehicular movements do not cause unacceptable disturbance to neighbours.

Subject to these tests, which are assessed below, the principle of development may be acceptable.

### **Design, Character and Appearance**

6.04 By its nature, tandem / backland development can raise a number of concerns. Firstly, it can introduce built development and associated activity into an otherwise peaceful garden area, intervening in the established character of dwellings and gardens. In this instance, the plot lies adjacent to an existing backland plot (18a Yeoman Lane), albeit one that was approved some time ago. Nevertheless, the existence of this plot is a material consideration that must be afforded some weight.

6.05 In addition, more recently (2015) the Council approved a very similar plot subdivision at No.4/4a Manor Close, which is opposite the appeal site; where the form of subdivision and scale of plots is very similar to this application. Members will be aware that consistency in decision making is an expectation.

6.06 The plot size of the proposed dwelling is relatively large. Excluding the access alongside No.13, the plot area for the new house exceeds 800 sq.m and thus represents a net density of less than 13 dph, which is low. Whilst the original garden of No.13 will be significantly reduced, it will match that of No.14 adjacent and so will not be out of character. Excluding the shared access, the plot area for

the retained No.13 will be circa 660 sq.m, which represents a net density of circa 15 dph, again low.

- 6.07 On this basis, it is not considered that an objection could be raised on the grounds that the character of the area would be adversely affected, through the subdivision of the plot.
- 6.08 In terms of scale, the proposed bungalow is very similar to the immediate neighbour at 18a, single storey with a low pitch roof. The footprint is modest and sitting on lower ground, the dwelling will appear subservient in scale and form to Nos.12-14 Manor Close. The materials, comprising brick plinth, rendered walls and tiled roof are appropriate to the location, although detailed finishes will be subject to condition. It is therefore considered that the proposals accord with Policies DM1, DM9 and DM11 in terms of design principles and character.

### **Access and Parking**

- 6.09 Under planning permission 18/503311, approval was granted for the alteration and extension of No.13. The approved works included, inter alia, a garage adjacent to the boundary with No.12, which will not be completed in order to allow access to the application site to be created. Some representations have been received objecting to the reduction in parking for No.13. However, under 20/500549/NMAMD the Council agreed a non-material amendment to the previous permission, to remove the proposed side garage.
- 6.10 The Officer report did not identify the loss of the garage to be material, therefore the Council cannot raise this issue as part of this application. No.13 would be provided with two parking spaces to the front, which accords with policy DM23. Similarly the proposed house would be provided with two spaces in accordance with DM23.
- 6.11 The length of the proposed access that is to be shared between the existing and proposed dwelling is very limited in length and would not lead to an unacceptable conflict between vehicles accessing the two properties.
- 6.12 Due to the tandem nature of the proposed development, the access to the new plot is long and relatively narrow, allowing only one vehicle, with no scope for passing places due to the width. Such an arrangement is not ideal, but is relatively commonplace and having regard to the small size of the proposed dwelling, it is not considered that the resulting number of vehicles would lead to conditions detrimental to highway safety. However, potential amenity considerations are assessed below.

### **Residential Amenity**

- 6.13 Policies DM1, 9 and 11 require consideration to be given to the amenity of existing and future occupiers having regard to considerations such as natural light, privacy/overlooking and noise / disturbance.
- 6.14 Having regard to the relative low density of the proposed plot, it is considered that a good level of external amenity space will be secured for future occupiers. Similarly, whilst the original large garden of No.13 will be reduced significantly to accommodate the new dwelling, a garden depth of circa 17.5m is similar to the neighbour and greater than may be realised on many new-build developments. The separation between the rear elevation of No.13 and the new dwelling is 24m, which exceeds the general rule of thumb of 21m. However, a condition is proposed requiring details of the boundary treatment between the two. The separation between the proposed bungalow and Nos. 12 and 14 are even greater and therefore equally acceptable.



- 6.15 Having regard to the low height of the proposed scheme and the fact that it is set at a lower ground level than Nos. 12-14, it is not considered that it would appear overbearing when viewed from them. Equally, its low height and adequate separation would ensure that there would be no adverse impact upon their natural light, despite it lying to the south.
- 6.16 The relationship to No.18 is different, in that the two plots lie adjacent. The proposal has been sited alongside No.18a in order that it does not project beyond either its northern or southern building line. There are no windows within the proposal facing towards No.18. As such the privacy of No.18a would not be adversely affected. No.18a does have one bedroom window which faces towards the application site boundary, plus a bathroom window that looks northwards along the application boundary. The latter is not a room that would be protected under natural light considerations. With regard to the bedroom, whilst this window faces the boundary and the proposed new dwelling, due to the arrangement of No.18a itself and the low height of the proposal, it is not considered that an unacceptable level of natural light would be caused.
- 6.17 With regard to No.12, further consideration of the introduction of the new access alongside the site boundary is necessary. Such features have the potential to increase noise and disturbance from vehicle movements, headlamps etc. As identified above, the access runs alongside circa 50% of No.12's rear boundary. The existing boundary is marked by shrubs to the front, a new fence adjacent to No. 12 and various depths of boundary planting to the rear, which serve to screen the proposed access route. Subject to the retention or replacement of existing planting / screening, it is not considered that No.12 would experience nuisance from headlamps and due to the slow speed along this access, noise impacts should be limited.
- 6.18 A condition is proposed requiring further details of the boundary screening and protection of landscaping prior to the commencement of development.
- 6.19 A number of other conditions are proposed on matters such as landscaping, removal of permitted development rights etc that are considered necessary to make the development acceptable.

#### **Other Matters**

- 6.20 Whilst objectors and Councillor Springett offered a site meeting, due to the current Covid restrictions this was not pursued. Nevertheless, from the information submitted, neighbour representations and the Officer site visit, it is considered that an acceptable assessment has been possible of the issues raised by neighbours, including the relationship of the proposed building to neighbouring properties.
- 6.21 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.22 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

## **7. CONCLUSION**

- 7.01 Tandem backland development often brings challenges in terms of the relationship of the proposed built development and access arrangements to neighbouring properties. In this instance, due to its siting and low scale, the proposed development would not adversely impact upon the amenity of existing neighbours, whilst conditions can be used to ensure that this situation remains. Acceptable living conditions would be achieved for occupiers of the scheme.
- 7.02 Due to the historical development adjacent and the more recent scheme opposite, the principle of backland development has been established and in this instance, the character of the area would not be harmed.
- 7.03 On balance, subject to the conditions set out below, it is recommended that planning permission be granted.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;  
  
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:  
  
19-42A – Proposed Topographical Plan / Survey  
BDS-1546-P100 Rev A– Existing / Proposed Block Plan Showing Retained Landscaping  
BDS-1546-P101 – Coloured Proposed Block Plan  
BDS-1546-P102 – Proposed Plans and Elevations  
  
Reason: To clarify which plans have been approved.
- 3) The development hereby approved shall not commence until a written scheme for the access arrangements has been submitted to and approved by the local planning authority. The submission shall provide details for both any temporary construction access and the permanent access, with particular regard to the protection of trees both within the site and neighbouring properties, including the root protection areas of trees in accordance with the principles set out in the current edition of BS 5837 and other current best practice guidance. The scheme shall also include details of surface treatment and drainage. The permanent access arrangement shall be in place prior to the first occupation of the dwelling.  
  
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 4) The dwelling hereby approved shall not be occupied until a minimum of one electric vehicle charging point has been installed and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with the NPPF.

- 5) The development hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the building by means such as swift bricks, bat tube or bricks and measures to accommodate solitary bees. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class B (roof alteration or enlargement) to that Order shall be carried out without the permission of the local planning authority;

Reason: To ensure that works are not undertaken to this backland plot without the prior approval of the local planning authority that may prejudice the privacy of neighbours.

- 7) The development hereby approved shall not commence above slab level until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

- 8) The development hereby approved shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter. The scheme shall specifically demonstrate that adequate levels of privacy are achievable between the new dwelling and existing neighbours and include details of acoustic and light management along the boundary with No.12.

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

- 9) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the west facing wall(s) of the building hereby permitted;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.

- 10) No gates shall be installed within the vehicular access to the building hereby approved;

Reason: In the interests of highway safety and the amenity of neighbours.

- 11) All existing trees and hedges that are shown to be retained on approved Block Plan BDS-1546-P100 Revision A shall be retained, except if the Local Planning Authority gives prior written consent to any variation. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with the Local Planning Authority.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

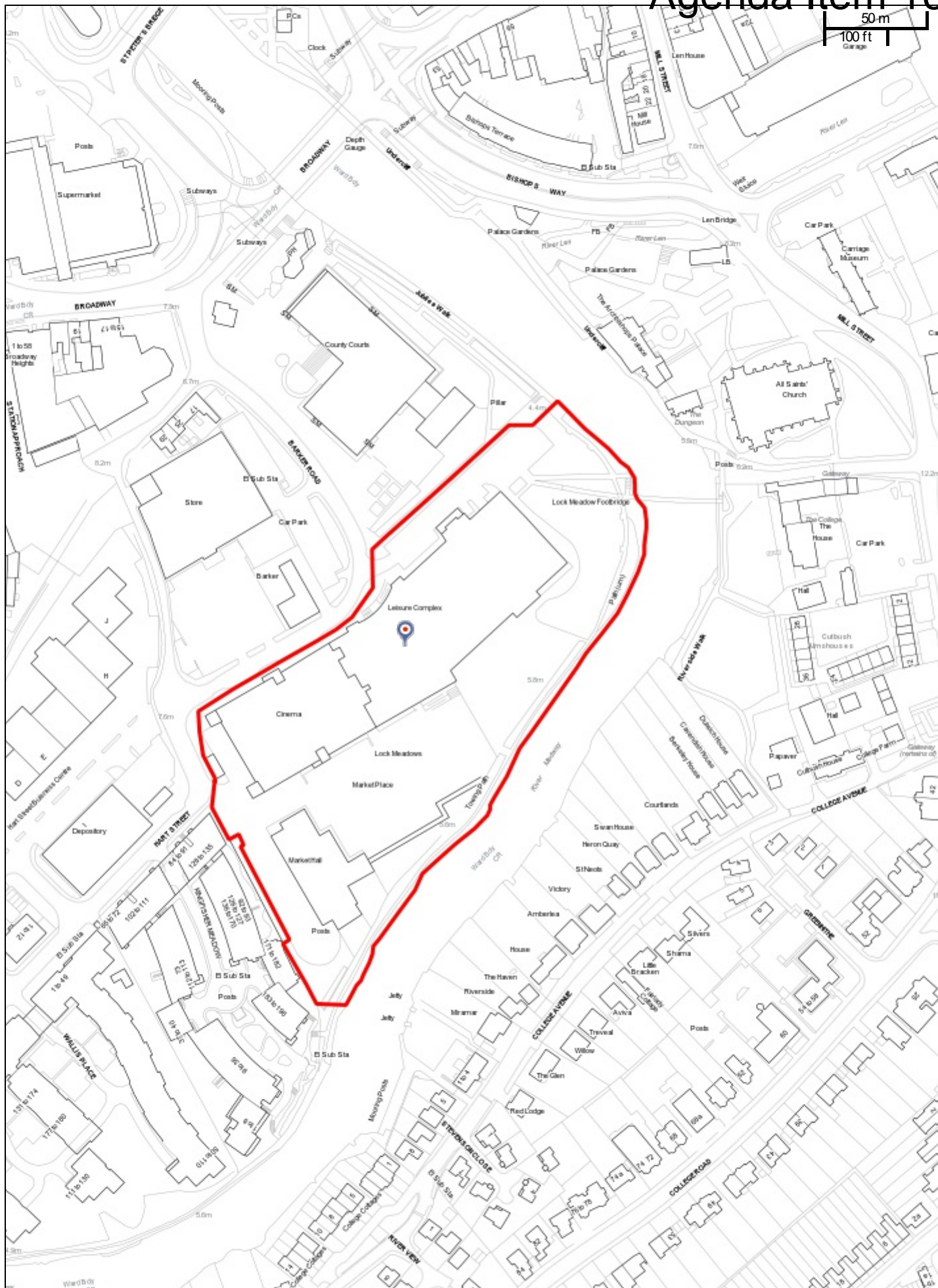
- 12) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: In the interests of landscape, visual impact and neighbours amenity and to ensure a satisfactory appearance to the development

- 13) The development hereby approved shall not commence above slab level until, details of satisfactory facilities for the storage and collection of refuse on the site have been submitted to and approved in writing by the local planning authority and the approved facilities shall be provided before the first occupation of the building(s) or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity.

Case Officer: Austin Mackie



50m  
100ft  
Garage

**20/502286/FULL Lockmeadow Leisure Complex**  
Scale: 1:2500  
Printed on: 13/7/2020 at 13:41 PM by SummerF

<b>REFERENCE NO - 20/502286/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
External alterations to the existing Lockmeadow Leisure Centre, including removal of gated car park entrance, cladding of existing circular columns in PPC aluminium rectangular sections, re-painting of existing guttering and high level fascias, replacement of low level railings with flat bar sections, and removal of existing southern cattle market structure and car park railings.		
<b>ADDRESS</b> Lockmeadow Leisure Complex Barker Road Maidstone ME16 8LW		
<b>RECOMMENDATION – APPROVE SUBJECT TO CONDITIONS</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>The development causes no harm and permission is therefore recommended subject to conditions.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
The applicant is Maidstone Borough Council		
<b>WARD</b>	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Maidstone Borough Council
Fant		<b>AGENT</b> Jones Hargreaves
<b>TARGET DECISION DATE</b>		<b>PUBLICITY EXPIRY DATE</b>
01/09/20		09/07/20

### **Relevant Planning History**

96/0537 – Full application for new market buildings, surface and semi basement car park for 670 cars, a multi-screen cinema, bowls centre, night club, restaurants, unit for bingo only or health and fitness and children’s play centre, market square, town square and town park - Approved

04/0608 - Installation of 'The Stag' sculpture between the leisure centre and the Lockmeadow footbridge, as shown on dwg No. 1430/1 received on 31.03.04., and amended by dwg nos 1430/2/1a and 3/a received on 19.05.04 - Approved

04/2024 - An application for advertisement consent for the installation of 5 No internally illuminated advertisement poster display panels to be erected on light columns within car park as shown on 1 un-numbered 1:1250 scaled location plan, and dwg nos. S-2000210-01 dwg received 27.10.04 - Approved

16/505628/FULL - Installation of a new facade to the existing leisure complex (replacement of existing), the enclosure of an existing terrace to create 180sqm of new floorspace and the installation of one internally illuminated fascia sign - Approved

16/505629/ADV - Advertisement Consent for 1 x internally illuminated fascia sign  
Approved Decision Date: 18.08.2016

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 The application site is the Lockmeadow entertainment complex located within the defined town centre boundary of Maidstone. The Lockmeadow development was approved and implemented under planning application reference MA/96/0537.
- 1.02 The site is located in close proximity to Maidstone West Railway Station in an area with a varied mix of uses, including light industrial, retail, civic, commercial and residential. The southern and eastern boundaries of the site are adjacent to the River Medway and the River Medway Towpath.
- 1.03 The site and main pedestrian entrance to the complex face to the north onto Barker Street. The main car park entrance is to the west of the site with access to the building from the rear southern elevation.

## **2.0 PROPOSAL**

- 2.01 Maidstone Borough Council has taken on the leasehold for Lockmeadow and is seeking to improve the appearance of the building and facilities to make the complex a key destination for leisure activities in the town centre. The application seeks to update the appearance of the building with the use of cladding over circular columns and curved profiles above car park openings, removal of gated car park entrance, removal of cow shed structure to the south of the car park and new external lighting.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017: SP4, DM1, DM4, DM8, DM29  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

## **4.0 LOCAL REPRESENTATIONS**

### **Local Residents:**

- 4.01 3 representations received from local residents raising the following (summarised) issues:
  - Removal of the gated car park entrance resulting in anti-social behaviour by car drivers and overnight parking by heavy goods vehicles
  - Request that trees along the southern boundary remain as these were planted to reduce noise
  - Welcome visual improvements to the building

## **5.0 CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

- 5.01 Kent County Council Highways – No comment
- 5.02 KCC Flood Risk – No comment
- 5.03 Kent Police – Important that any proposed alterations do not compromise the security of the parking areas as such areas can provide opportunities for crime and anti-social behaviour. Entrance gates should be retained in the interests of crime prevention, however if the gates are to be removed then swing arm barrier gates and height restriction barriers should be installed.

- 5.04 KCC PROW – PROW KMX30 goes around the eastern section of the site and should not affect this application.
- 5.05 MBC Environmental Health – Concern with the removal of the entrance gate, but no objection to the overall proposal subject to a condition requiring the installation of electric vehicle charging points.
- 5.06 Natural England – No comment

## **6.0 APPRAISAL**

### **Main Issues**

- 6.01 The key issues for consideration relate to:
- Principle of Development
  - Visual Impact
  - Local Amenity and Security
  - Other Matters

### **Principle of Development**

- 6.02 The proposal is to update the external appearance of the existing Lockmeadow leisure complex that is located within the town centre of Maidstone. The leisure complex was constructed in the late 1990's and has undergone minor alteration in recent years including a new main entrance to the front elevation facing on to Barker Street. The new leaseholder wishes to improve the external appearance of the existing building and its visibility through updating dated features of the building, such as the columns and to tie in recent improvements to the front entrance to the building (approved under application reference 16/505628/FULL) in terms of design and colour.
- 6.03 Policy SP4 of the Local Plan sets out the vision for the town centre and seeks to provide a variety of well-integrated attractions for all ages including leisure, tourism, cultural facilities and improved access for all. In addition, policy DM29 outlines that proposals for leisure in the town centre will be permitted subject to the proposal not impacting on local amenity and that the proposal retains an 'active frontage'.
- 6.04 The principle of the proposal to enhance the leisure complex is considered to be acceptable and in accordance with Local Plan policies SP4 and DM29 subject to the discussion of the material considerations below, namely visual impact and local amenity.

### **Visual Impact**

- 6.05 In respect of design, Local Plan policy DM1 (principles of good design) states that proposals should provide a high quality design which responds to areas of heritage, townscape and landscape value or which uplift an area of poor environmental quality.
- 6.06 The application site is not listed and it is not within a Conservation Area. All Saints Conservation Area is located to the east of the River Medway 80m to the east of the application site. The applicant is proposing external alterations to modernise the appearance of the building with the following main elements:



- The existing blue circular columns are to be over clad in PPC aluminum rectangular sections.
- New lighting to column bases
- Curved profile above car park openings to be over clad with PPC aluminum
- Painting of existing guttering
- Existing railings of car park openings to be replaced with flat bars

6.07 It is considered that the minor external changes outlined above would improve the appearance of the existing building. The proposed alterations are complementary to the overall style and design of the existing building and respect and respond positively to the existing buildings, streetscape and wider context. The application building is prominent within views and it is considered that the proposed external alterations are of a suitable high quality design uplifting the building and area, would not cause harm to the Conservation Area and is in accordance with policy DM1 and DM4 of the Local Plan.

#### **Local Amenity and Security**

- 6.08 Objections have been received from 3 residents and concern has been raised by Kent Police and Environmental Health to the removal of the entrance gates to the car park. Policy DM1 of the Local Plan states that proposals should create a safe and secure environment and incorporate adequate security measures and features to deter crime, fear of crime, disorder and anti-social behaviour.
- 6.09 The demolition of buildings constitutes 'building operations' under section 55(1A) of the 1990 Act and therefore comes within the definition of 'development'. However, the demolition of most types of gates, fences and walls are permitted development of the Second Schedule to the General Permitted Development Order, part 11, Class C which allows for the demolition of the whole or any part of any gates, fences, walls etc. The application site is not listed, or a conservation area, and the gates and walls could be removed without the need for planning permission.
- 6.10 Notwithstanding the above, the applicant has provided an impact assessment of the proposed changes to the security of the site, including the car park, which outlines that the site is currently covered by 52 CCTV cameras, and employs security for the site 24 hours a day. The applicant also states that at present the gates to the car park are not closed at night due to the cinema not having specific shut down times and there being an informal arrangements with local residents which allows approximately 30 cars to park on site overnight without charge. With regard to the demolition of the cow shed structure, this does not appear to serve any useful purpose and its removal would result in increased visibility and security of the River Medway Towpath to the south. In addition, permission would not be required for its removal.
- 6.11 Therefore as the security gates and cow shed structure can be removed under permitted development rights and having regard to the night time use of the car park by local residents, combined with the onsite security that is currently provided, no objection is raised to the removal of the gates and fences or cow shed structure.

#### **Other Matters**

- 6.12 The applicant is proposing to include uplighting to the exterior of the building to illuminate the building's elevations. Lighting can be an important factor of good design and appropriate types and levels of lighting can contribute positively towards a sense of place. It is recognised that carefully designed external lighting can enhance the night time economy and have benefits for security and the viability of recreational facilities. Policy DM8 of the Local Plan sets out that proposals for external lighting will be permitted where (inter alia) it is demonstrated that the minimum amount of lighting necessary to achieve its purpose is proposed; the design and specification of the lighting would minimise glare and light spillage and that the lighting scheme would not be visually detrimental to its immediate or wider setting. Therefore the principle of external lighting is considered to be acceptable and in accordance with policy DM8, however a condition is recommended requiring the specific details of lighting, including lux levels, hours of operation and light spillage to be submitted for approval by the Council prior to the installation of any lighting on the external elevations of the building.
- 6.13 The Environmental Health Team has been consulted and has no objection to the proposal subject to a condition requiring the installation of electric car charging points. The proposal is for minor external changes rather than new floorspace and the proposal would not affect the number of parking spaces available or the use on site. It is therefore considered that a condition requiring electric car charging points would not meet the tests set out in NPPF paragraph 55, specifically with regard to being relevant to the development to be permitted.
- 6.14 One resident has raised concern with the loss of trees along the southern boundary adjacent to the River Medway as this landscaped buffer provides an acoustic barrier to nearby residential properties. The applicant has confirmed that no trees will be lost as part of this application.
- 6.15 The application documents include a number of details with regard to additional signage at the sites, however the applicant is aware that the proposed advertising/signage would require a separate advertisement consent application. Should planning permission be granted an informative would be included to remind the applicant of the need for an advertisement consent.
- 6.16 The application site is located in flood zones 2 and 3, however the proposal would not add additional floorspace, or additional parking spaces and no objection is raised in terms of flood risk. KCC Flood Risk team raise no objection to this proposal.
- 6.17 In accordance with NPPF paragraph 170 the applicant has agreed that the proposal would provide for biodiversity net gain. A condition is included that requires specific details of these biodiversity enhancement measures to be submitted for approval.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.18 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

#### **7.0 RECOMMENDATION**

GRANT planning permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No. AP(0)001 – Block Plan

Drawing No. AP(0)005 – Existing Elevations

Drawing No. AP(0)006 – Existing Elevations

Drawing No. AP(0)007 – Existing Elevations

Drawing No. AP(0)009 – Existing Elevations, Market Hall

Drawing No. AP(0)010 – Proposed Elevations

Drawing No. AP(0)011 – Proposed Elevations

Drawing No. AP(0)012 – Proposed Elevations

Drawing No. AP(0)014 – Proposed Elevations, Market Hall

Drawing No. AP(0)015 – Proposed Elevations, Market Hall

Drawing No. AP(0)020 – Proposed Block Plan

Drawing No. AP(0)100 – Site Location Plan

Design and Access Statement – Received 28/05/2020

Reason: To clarify which plans have been approved.

3. No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination, predicted lighting contours and hours of use, have been first submitted to, and approved in writing by, the Local Planning Authority. Any external lighting that is installed shall accord with the details so approved.

Reason: To safeguard visual amenity.

4. The materials to be used in the development hereby approved shall be as indicated on the approved plans unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

5. Prior to the final completion of the works hereby permitted, details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity by means such as bird boxes, bee bricks and bat boxes. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

### **INFORMATIVES**

1. The applicant is reminded that the proposed advertisement /signage would require a separate advertisement consent application.

Case Officer: Adam Reynolds



## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 23<sup>rd</sup> July 2020**

### **APPEAL DECISIONS:**

- 1. 19/504275/OUT**      **Outline Application (access and layout to be determined) for the erection of four dwellings.**

**APPEAL:** DISMISSED

Land Adjacent To West View  
Maidstone Road  
Staplehurst  
Tonbridge  
Kent  
TN12 0RE

(Delegated)

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