

# PLANNING COMMITTEE MEETING

Date: Thursday 26 November 2020  
Time: 6.00 p.m.  
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, English (Chairman), Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Powell, 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 Items withdrawn from the Agenda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 - 3 December 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 22 October 2020 1 - 11
11. Presentation of Petitions (if any)
12. Deferred Items 12 - 14

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**Issued on Wednesday 18 November 2020**  
**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

13. Pilgrims Retreat Steering Group - Appointment of Conservative Group Political Group Spokesperson	
14. Pilgrims Retreat, Hogbarn Lane, Harrietsham, Kent	15 - 22
15. 20/502770/FULL - Holman House, Station Road, Staplehurst, Tonbridge, Kent	23 - 50
16. 19/500271/FULL - Oakhurst, Stilebridge Lane, Marden, Tonbridge, Kent	51 - 108
17. 20/500778/FULL - Land South Of Sheephurst Lane, Marden, Tonbridge, Kent	109 - 134
18. 20/504370/OUT - Land Rear Of Redic House, Warmlake Road, Sutton Valence, Kent	135 - 145
19. 20/503417/FULL - Land Rear Of 335 Queens Road, Maidstone, Kent	146 - 160
20. 20/502277/FULL - Greenacre, Church Hill, Boughton Monchelsea, Kent	161 - 176
21. 20/504742/FULL - 14 Faraday Road, Penenden Heath, Maidstone, Kent	177 - 182
22. 20/502133/FULL - Oaklands, Lenham Road, Headcorn, Kent	183 - 209
23. 20/503956/HEDGE - Land South of Marden Road - Staplehurst, Marden Road, Staplehurst, Kent	210 - 217
24. 20/504434/TPOA - Land Near 87 Lombardy Drive, Maidstone, Kent	218 - 223
25. Appeal Decisions	224 - 227

## **PLEASE NOTE**

**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 SPEAKING 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 Wednesday 25 November 2020. 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).**

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## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

#### **MINUTES OF THE REMOTE MEETING HELD ON** **22 OCTOBER 2020**

**Present:** Councillor English (Chairman) and  
Councillors Adkinson, Brindle, Chappell-Tay, Eves,  
Harwood, Kimmance, Munford, Parfitt-Reid, Powell,  
Spooner, Vizzard and Wilby

**Also Present:** Councillors Mrs Gooch, Harper and  
Purle

380. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

381. **NOTIFICATION OF SUBSTITUTE MEMBERS**

There were no Substitute Members.

382. **NOTIFICATION OF VISITING MEMBERS**

Councillors Mrs Gooch, Harper and Purle had given notice of their wish to speak on the report of the Head of Planning and Development relating to application 20/501773/FULL (Land Off Oakapple Lane, Barming, Maidstone, Kent), and were present at the meeting.

383. **ITEMS WITHDRAWN FROM THE AGENDA**

**20/502004/FULL - RETROSPECTIVE APPLICATION FOR CREATION OF  
DECKED AREA (RESUBMISSION OF 18/505575/FULL) - WEBBE COTTAGE,  
THE STREET, DETLING, MAIDSTONE, KENT**

It was noted that this application had been withdrawn by the applicant.

384. **URGENT ITEMS**

The Chairman said that, in his opinion, the update reports of the Head of Planning and Development and the updates to be included in the Officer presentations should be taken as urgent items as they contained further information relating to applications to be considered at the meeting. The appointment of Independent Maidstone Political Group Spokesperson should also be taken as an urgent item in view of the length of time until the next meeting of the Committee.



### 385. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers at this stage.

See Minute 392 below.

### 386. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

Item 14.	20/501773/FULL - Land Off Oakapple Lane, Barming, Maidstone, Kent	Councillors Adkinson, Brindle, Chappell-Tay, English, Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Powell, Spooner, Vizzard and Wilby
Item 15.	20/501428/FULL - The Site Of Previous Maple Leaf Garage, Ashford Road, Hollingbourne, Maidstone, Kent	Councillors Brindle, Chappell-Tay, English, Eves, Kimmance, Munford, Parfitt-Reid, Powell, Spooner, Vizzard and Wilby
Item 16.	20/501240/FULL - Gibbs Hill Farm, Grigg Lane, Headcorn, Kent	Councillors Adkinson, Brindle, Chappell-Tay, English, Eves, Kimmance, Munford, Parfitt-Reid, Powell, Spooner, Vizzard and Wilby
Item 17.	20/502916/FULL - Chegworth Mill Farm, Chegworth Road, Harrietsham, Maidstone, Kent	Councillors Brindle, Chappell-Tay, English, Eves, Kimmance, Munford, Parfitt-Reid, Powell, Spooner, Vizzard and Wilby
Item 18.	(A) 20/503259/SUB & (B) 20/504316/SUB - Land South Of Forstal Lane, Coxheath, Kent	Councillors Chappell-Tay, English, Eves, Kimmance, Munford, Powell, Vizzard and Wilby
Item 19.	20/503109/FULL - Land To West Of 70 Church Street, Boughton Monchelsea, Maidstone, Kent	Councillors Adkinson, Brindle, Chappell-Tay, English, Eves, Kimmance, Munford, Parfitt-Reid, Powell, Spooner, Vizzard and Wilby
Item 20.	20/502748/FULL - Petsfield, Eastwood Road, Grafty Green, Maidstone, Kent	Councillors Adkinson, Brindle, Chappell-Tay, English, Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Powell, Spooner, Vizzard and Wilby
Item 21.	20/503801/FULL - 10 Thomas Rider Way, Boughton Monchelsea, Maidstone, Kent	Councillors Chappell-Tay, English, Eves, Kimmance, Munford, Powell, Spooner, Vizzard and Wilby
Item 22.	20/502004/FULL - Webbe Cottage, The Street, Detling, Maidstone, Kent	Councillors Brindle, Chappell-Tay, English, Eves, Kimmance, Munford, Parfitt-Reid, Powell, Spooner, Vizzard and Wilby
Item 23.	20/503105/FULL - 13 Blythe Road, Maidstone, Kent	Councillors Adkinson, Brindle, Harwood, Kimmance, Parfitt-Reid, and Vizzard

387. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

388. MINUTES OF THE MEETING HELD ON 24 SEPTEMBER 2020 ADJOURNED TO 1 OCTOBER 2020

**RESOLVED:** That the Minutes of the meeting held on 24 September 2020 adjourned to 1 October 2020 be approved as a correct record and signed.

389. APPOINTMENT OF CONSERVATIVE AND INDEPENDENT MAIDSTONE POLITICAL GROUP SPOKESPERSONS

**RESOLVED:** That the following Members be appointed as Spokespersons for their respective Political Groups for the remainder of the Municipal Year:

Councillor Parfitt-Reid	Conservative
Councillor Powell	Independent Maidstone

390. PRESENTATION OF PETITIONS

There were no petitions.

391. DEFERRED ITEMS

19/505816/SUB - SUBMISSION OF DETAILS PURSUANT TO CONDITION 5 (MATERIALS), CONDITION 7 (WOODLAND MANAGEMENT PLAN), CONDITION 8 (PROPOSED BOUNDARY TREATMENT), CONDITION 10 (ECOLOGY), CONDITION 11 (CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN : BIODIVERSITY) AND CONDITION 17 (BIRD BOXES) IN RELATION TO PLANNING APPLICATION 15/503359/OUT AND APPEAL REFERENCE APP/U2235/W/15/3132364 (FOR RESIDENTIAL DEVELOPMENT (APPROX 89 DWELLINGS) PLUS OPEN SPACE, BIOMASS PLANT AND ACCESS ROAD (PLUS EMERGENCY ACCESS) - LORDSWOOD URBAN EXTENSION, GLEAMING WOOD DRIVE, LORDSWOOD, KENT

20/502277/FULL - SITING OF 1 NO. MOBILE HOME, CREATION OF 2 NO. PARKING SPACES AND RELOCATION OF FENCE - GREENACRE, CHURCH HILL, BOUGHTON MONCHELSEA, MAIDSTONE, KENT

20/502133/FULL - SITING OF 1 NO. ADDITIONAL MOBILE HOME AND 1 NO. ADDITIONAL TOURER (RETROSPECTIVE) - OAKLANDS, LENHAM ROAD, HEADCORN, KENT

20/502770/FULL - ERECTION OF SINGLE STOREY SIDE EXTENSION, PART SINGLE STOREY PART TWO STOREY REAR EXTENSION, NEW UPPER FLOOR, TOGETHER WITH EXTERNAL ALTERATIONS AND CHANGE OF USE OF COMMERCIAL TO RESIDENTIAL TO FORM 10 NO. RESIDENTIAL UNITS - HOLMAN HOUSE, STATION ROAD, STAPLEHURST, TONBRIDGE, KENT

The Development Manager advised Members that he had nothing further to report in respect of these applications at present other than the Officers hoped to be in a position to report application 20/502770/FULL (Holman House, Station Road, Staplehurst, Tonbridge, Kent) back to the next meeting of the Committee.

392. 20/501773/FULL - ERECTION OF 187 DWELLINGS, TOGETHER WITH ASSOCIATED WORKS FOR ACCESS, PARKING, INFRASTRUCTURE, OPEN SPACE, EARTHWORKS, SURFACE WATER DRAINAGE SYSTEMS AND LANDSCAPING - LAND OFF OAKAPPLE LANE, BARMING, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

In presenting the application, the Principal Planning Officer advised the Committee that since the agenda for the meeting was published, representations had been received from local residents, the Maidstone Cycle Forum and the NHS Trust, but they did not raise any new material issues.

Mr Jones, an objector, addressed the Committee by video link on behalf of the Give Peas a Chance Group.

Councillor Mrs Gooch (Ward Member) read out a statement on behalf of Councillor Manser of Barming Parish Council.

The Chairman read out a statement on behalf of Mrs Wilford, agent for the applicant.

Councillors Mrs Gooch, Harper and Purle (Visiting Members) addressed the meeting.

Councillor Vizzard said that he was a Member of Barming Parish Council but he had not taken part in the Parish Council's discussions on this application and intended to speak and vote when it was considered.

**RESOLVED:** That consideration of this application be deferred to enable the Officers to investigate:

- Increased open space to meet policies OS1(1) and H1(4) to provide the required amount of natural/semi-natural open space (1.5ha) together with usable space (on-site) for future occupants (but not a play area) which may result in a reduction in the number of houses.
- Increased landscaping in front of the houses on Street 2 and changes to the layout along the south boundary to provide more space to the properties on Broomshaw Road and Redewood Road.
- Increased EV charging points or electric charging ready (if not actual EV charging points) on properties and the provision of renewable energy for apartments and/or affordable housing.

- Integration of dedicated shared walking and cycle routes from southwest to northeast and northwest to southeast across the site.
- Provision of more biodiversity enhancements (integral habitat niches for wildlife, wildlife friendly drainage, removal of non-native planting/increased native planting with non-native Spanish chestnut to be replaced with beech, wild cherry or large-leaved lime).
- Whether all reptiles have been moved to Mote Park and if not look at the feasibility of using other suitable locations nearer to the site.
- Whether S106 contributions can be made to Fountain Lane junction or whether a separate motion for CIL monies to be allocated to this junction is appropriate.
- The source of heating and an informative to use electric heating not gas.

Voting:        13 – For        0 – Against        0 – Abstentions

393. 20/501240/FULL - CREATION OF 17 NO. TWO, THREE, FOUR AND FIVE BEDROOM DWELLINGS WITH ASSOCIATED ROADS, CAR PARKING AND LANDSCAPING - GIBBS HILL FARM, GRIGG LANE, HEADCORN, KENT

The Committee considered the report of the Head of Planning and Development.

**RESOLVED:** That subject to

A. The prior completion of a legal agreement in such terms as the Head of Legal Partnership may advise to provide for the Heads of Terms set out in the report; and

B. The conditions and informatives set out in the report with:

The amendment/addition of conditions to require Solar PV panels on the affordable units and wildlife friendly gullies and gaps under fencing;

The amendment of condition 5 (Landscaping Scheme) to specify that the landscaping scheme shall exclude the planting of Sycamore trees;

The deletion of the word "small" from condition 5 (Landscaping Scheme); and

An additional informative regarding the possibility of a wheelchair friendly access to the village centre (ongoing discussions with the Parish Council regarding a crossing),

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle or amend any necessary Heads

of Terms in line with the matters set out in the recommendation and as resolved by the Planning Committee and to finalise the wording of the amended/additional conditions and the additional informative.

Voting:        13 – For        0 – Against        0 – Abstentions.

394. 20/502748/FULL - PART RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE FROM GRAZING TO RESIDENTIAL FOR GYPSY FAMILY AND STATIONING OF 3 NO. MOBILE HOMES WITH ASSOCIATED PARKING AND THE INSTALLATION OF 2 NEW CESSPOOLS - PETSFIELD, EASTWOOD ROAD, GRAFTY GREEN, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

In presenting the application, the Development Manager advised the Committee that since the publication of the agenda an additional representation had been received raising similar matters to those contained in the objections summarised in the report.

The Chairman read out statements on behalf of Mr Cutbill, an objector, Councillor Galton of Boughton Malherbe Parish Council and Councillor Kenward of Ulcombe Parish Council.

**RESOLVED:**

1. That permission be granted subject to the conditions set out in the report with an additional condition specifying a sequential approach to the submission and implementation of a Site Development Scheme relating principally to landscaping and requiring the infilling of gaps to the hedges/trees along the eastern boundary. The planting scheme shall comprise native species with protection measures to ensure that any trees/plants are not eaten by horses.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional condition and to amend any other conditions as a consequence.

Voting:        10 – For        1 – Against        1 – Abstention

Note:

Councillor Powell was not present due to connectivity issues.

Councillor Parfitt-Reid abstained from the voting as she had missed some of the debate due to connectivity issues.

395. 20/503801/FULL - REPLACEMENT AND RAISING OF ROOF HEIGHT TO CREATE A LOFT CONVERSION, INCLUDING FRONT AND REAR DORMERS AND ERECTION OF A SINGLE STOREY REAR EXTENSION. CREATION OF AN ADDITIONAL TWO PARKING BAYS TO THE FRONT - 10 THOMAS RIDER WAY, BOUGHTON MONCHELSEA, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

It was noted that the Parish Council had withdrawn its request for the application to be determined by the Committee.

**RESOLVED:** That permission be granted subject to the conditions set out in the report.

Voting:        12 – For        0 – Against        0 – Abstentions

Note: Councillor Powell was not present for this item due to connectivity issues.

396. 20/503109/FULL - ERECTION OF 24 NO. NEW C2 EXTRA CARE RETIREMENT HOMES, CLUB HOUSE, BIN STORES AND LANDSCAPE SCHEME WITH ASSOCIATED WORKS INCLUDING ROADWAYS, PARKING, CYCLES STORES, GAZEBO AND MAINTENANCE STORE - LAND TO WEST OF 70 CHURCH STREET, BOUGHTON MONCHELSEA, MAIDSTONE, KENT

The Committee considered the report and the urgent update report of the Head of Planning and Development.

In presenting the application, the Principal Planning Officer advised the Committee that the developer had submitted an alternative layout showing the clubhouse more centrally located within the site. The developer still believed the original location to be preferable, but both options remained on the table for consideration.

The representative of the Head of Legal Partnership read out statements on behalf of Boughton Monchelsea Parish Council and Mr Chapman, for the applicant.

**RESOLVED:** That subject to:

- A. The prior completion of a legal agreement in such terms as the Head of Legal Partnership may advise to secure the Heads of Terms set out in the report with (a) the amendment of the second Heads of Terms to specify that the off-site open space contribution shall be spent at Salts Farm or other natural/semi-natural areas of accessible public open space within 3 km (rather than 1 km) of the development and (b) the amendment of the fourth Heads of Terms to specify that occupation of the units shall be by persons of 55 years of age and over; AND
- B. The conditions and informatives set out in the report with:
  - (a) An additional condition requiring the submission of a construction management plan; and
  - (b) The amendment of condition 12 (Landscaping Scheme) to specify that the landscaping scheme shall exclude the planting of Sycamore trees,

the Head of Planning and Development be given delegated powers to grant permission on the basis of the alternative location for the clubhouse and to be able to settle or amend any necessary Heads of Terms in line with the matters set out in the recommendation and as resolved by the Planning Committee and to finalise the wording of all amended and additional conditions as appropriate.

Voting:        10 – For        0 – Against        1 – Abstention

Note:

Councillor Harwood left the meeting during consideration of this application (8.25 p.m.).

Councillor Powell was not present due to connectivity issues.

Councillor Kimmance abstained from the voting as he had missed some of the debate due to connectivity issues.

397. 20/502916/FULL - SECTION 73A APPLICATION FOR RETROSPECTIVE PLANNING PERMISSION FOR USE OF LAND AS A GLAMPING SITE, COMPRISING 3 NO. SEASONAL TENTS WITH ASSOCIATED SHOWER FACILITIES AND PARKING - CHEGWORTH MILL FARM, CHEGWORTH ROAD, HARRIETSHAM, KENT

The Committee considered the report of the Head of Planning and Development.

The Chairman read out statements on behalf of Councillor Titchener of Ulcombe Parish Council and Mr Harley, agent for the applicant.

**RESOLVED:**

1. That permission be granted subject to the conditions and informative set out in the report with:

The amendment of condition 3 (Biodiversity Enhancements) to require the provision of educational information packs for guests;

The amendment of condition 5 (Tree/Hedgerow Protection Measures) to stipulate that non-plastic guards should be used for trees and hedgerows;

The amendment of condition 8 (Site Management Plan) to require the submission of details of a lighting scheme and to specify that there should be no artificial lighting within the site other than discreet lighting above the amenity blocks;

The amendment of condition 9 (Music Noise) to require that no amplified, live, streamed or recorded music shall be played between

the hours of 8.00 p.m. to 8.00 a.m. due to the sensitive location of the site; and

The further amendment of condition 8 (Site Management Plan) to ensure that the requirements in relation to artificial lighting and music noise are included in the management plan and also in the guidance to be provided to guests.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended conditions and to amend any other conditions as a consequence.

Voting:        10 – For        0 – Against        1 – Abstention

Note: Councillor Powell was not present due to connectivity issues.

398. (A) 20/503259/SUB & (B) 20/504316/SUB - LAND SOUTH OF FORSTAL LANE, COXHEATH, KENT

(A) 20/503259/SUB - SUBMISSION OF ALTERNATIVE EAVES DETAILS PURSUANT TO CONDITION 3 OF APPLICATION 18/505417/REM (PART REVISION OF 19/502295/SUB)

(B) 20/504316/SUB - SUBMISSION OF DETAILS PURSUANT TO CONDITION 16 (PART 4) (CONTAMINATION CLOSURE REPORT) IN RELATION TO PLANNING PERMISSION 17/502072/OUT

The Committee considered the report of the Head of Planning and Development.

**Application 20/503259/SUB**

**RESOLVED:** That the submitted details be approved.

Voting:        11 – For        0 – Against        0 – Abstentions

**Application 20/504316/SUB**

**RESOLVED:** That the submitted details be approved.

Voting:        11 – For        0 – Against        0 – Abstentions

Note: Councillor Parfitt-Reid left the meeting after consideration of this application and Councillor Powell re-joined the meeting (9.11 p.m.).

399. 20/503105/FULL - ERECTION OF A SINGLE STOREY SIDE AND REAR EXTENSION, INCLUDING LOFT CONVERSION - 13 BLYTHE ROAD, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.



The Chairman read out a statement on behalf of Mrs Durling, an objector.

In the absence of a representative of a residents' association/amenity group, the Chairman read out a statement on behalf of Mr Marriott who also objected to the application.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members considered that the proposed extensions, with particular reference to the single storey rear extension, by reason of its height, depth and proximity to the boundary would have an unneighbourly impact on the residential amenity of the adjoining occupiers of number 15 Blythe Road due to the extension appearing overbearing, unduly prominent and resulting in a loss of outlook to the rear facing principal room contrary to policies DM1 and DM9 of the Maidstone Borough Local Plan 2017 and the Residential Extensions Supplementary Planning Document.

**RESOLVED:** That permission be refused for the following reason:

The proposed extensions, with particular reference to the single storey rear extension, by reason of its height, depth and proximity to the boundary would have an unneighbourly impact on the residential amenity of the adjoining occupiers of number 15 Blythe Road due to the extension appearing overbearing, unduly prominent and resulting in a loss of outlook to the rear facing principal room contrary to policies DM1 and DM9 of the Maidstone Borough Local Plan 2017 and the Residential Extensions Supplementary Planning Document.

Voting:        11 – For        0 – Against        0 – Abstentions

400. 20/501428/FULL - ERECTION OF 2 NO. TWO STOREY OFFICE BUILDINGS WITH ASSOCIATED CAR PARK, LANDSCAPING AND FENCING - THE SITE OF PREVIOUS MAPLE LEAF GARAGE, ASHFORD ROAD, HOLLINGBOURNE, KENT

The Committee considered the report and the urgent update report of the Head of Planning and Development.

In presenting the application, the Major Projects Manager advised the Committee that:

- Following publication of the agenda, the applicant had provided the information that would have been required by condition 11 which was an increase in the number of disabled and electric vehicle charging bays, the provision of motor cycle bays and shelters for the cycle parking. Condition 11 was, therefore, no longer required and condition 1 would be amended to refer to the updated drawing number. KCC Highways was satisfied with the entrance design and had asked for clarification on sight lines. It was recommended that a new condition 11 be added requiring approval of an access safety

audit and sight lines prior to any of the buildings exceeding damp proof course level.

- KCC had now agreed that the layby fronting the site can be removed and replaced with meadow planting along the verge as proposed by the applicant. This would be secured under a S278 agreement.

The Chairman read out a statement on behalf of Councillor O'Meara of Hollingbourne Parish Council.

**RESOLVED:**

1. That permission be granted subject to the conditions and informatives set out in the report, as amended by the urgent update report and by the Major Projects Manager at the meeting, with the proviso that delegated powers be given to the Head of Planning and Development to investigate further the management of the verge with a view to an agreement being reached between KCC and the applicant and this being incorporated into the ecological strategy to be approved by the Local Planning Authority.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended conditions arising from the presentation of the application and the discussions regarding the management of the verge, and to amend any other conditions as a consequence.

Voting:      11 – For      0 – Against      0 – Abstentions

401. 20/502004/FULL - RETROSPECTIVE APPLICATION FOR CREATION OF DECKED AREA (RESUBMISSION OF 18/505575/FULL) - WEBBE COTTAGE, THE STREET, DETLING, MAIDSTONE, KENT

See Minute 383 above.

402. APPEAL DECISIONS

The Committee considered the amended report of the Head of Planning and Development setting out details of appeal decisions received since the last meeting.

Members thanked the Officers for their ongoing success at appeal.

**RESOLVED:** That the report be noted.

403. DURATION OF MEETING

6.00 p.m. to 9.50 p.m.

# Agenda Item 12

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

**26 NOVEMBER 2020**

#### **REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT**

##### **DEFERRED ITEMS**

The following applications stand deferred from previous meetings of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

<b>APPLICATION</b>	<b>DATE DEFERRED</b>
<p><u>19/505816/SUB - SUBMISSION OF DETAILS PURSUANT TO CONDITION 5 (MATERIALS), CONDITION 7 (WOODLAND MANAGEMENT PLAN), CONDITION 8 (PROPOSED BOUNDARY TREATMENT), CONDITION 10 (ECOLOGY), CONDITION 11 (CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN : BIODIVERSITY) AND CONDITION 17 (BIRD BOXES) IN RELATION TO PLANNING APPLICATION 15/503359/OUT AND APPEAL REFERENCE APP/U2235/W/15/3132364 (FOR RESIDENTIAL DEVELOPMENT (APPROX 89 DWELLINGS) PLUS OPEN SPACE, BIOMASS PLANT AND ACCESS ROAD (PLUS EMERGENCY ACCESS) - LORDSWOOD URBAN EXTENSION, GLEAMING WOOD DRIVE, LORDSWOOD, KENT</u></p> <p>Deferred to enable the Officers to seek to secure:</p> <p>A more detailed and improved Woodland Management Plan taking into account the suggestions made by Boxley Parish Council in its representations to the Committee and including not just the woodland but also the spatial edges and brushwood areas;</p> <p>More information relating to the funding arrangements being adequate to deliver the Woodland Management Plan cross-referencing the obligations in the unilateral undertaking;</p> <p>More dormouse bridges and an underpass for wildlife;</p> <p>Insect bricks in end walls adjacent to the public highway/public footpaths and bug hotels in the natural areas;</p>	<p>20 August 2020</p>

<p>Wildlife friendly boundary treatments including gaps for hedgehogs;</p> <p>Deadwood piles to provide wildlife habitats;</p> <p>More bird/bat boxes in standard trees at a reasonable height; and</p> <p>No Sycamore trees within planting schemes.</p>	
<p><u>20/501773/FULL - ERECTION OF 187 DWELLINGS, TOGETHER WITH ASSOCIATED WORKS FOR ACCESS, PARKING, INFRASTRUCTURE, OPEN SPACE, EARTHWORKS, SURFACE WATER DRAINAGE SYSTEMS AND LANDSCAPING - LAND OFF OAKAPPLE LANE, BARMING, MAIDSTONE, KENT</u></p> <p>Deferred to enable the Officers to investigate:</p> <ul style="list-style-type: none"> <li>Increased open space to meet policies OS1(1) and H1(4) to provide the required amount of natural/semi-natural open space (1.5ha) together with usable space (on-site) for future occupants (but not a play area) which may result in a reduction in the number of houses.</li> <li>Increased landscaping in front of the houses on Street 2 and changes to the layout along the south boundary to provide more space to the properties on Broomshaw Road and Redewood Road.</li> <li>Increased EV charging points or electric charging ready (if not actual EV charging points) on properties and the provision of renewable energy for apartments and/or affordable housing.</li> <li>Integration of dedicated shared walking and cycle routes from southwest to northeast and northwest to southeast across the site.</li> <li>Provision of more biodiversity enhancements (integral habitat niches for wildlife, wildlife friendly drainage, removal of non-native planting/increased native planting with non-native Spanish chestnut to be replaced with beech, wild cherry or large-leaved lime).</li> <li>Whether all reptiles have been moved to Mote Park and if not look at the feasibility of using other suitable locations nearer to the site.</li> </ul>	<p>22 October 2020</p>

<ul style="list-style-type: none"> <li>• Whether S106 contributions can be made to Fountain Lane junction or whether a separate motion for CIL monies to be allocated to this junction is appropriate.</li> <li>• The source of heating and an informative to use electric heating not gas.</li> </ul>	
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## PLANNING COMMITTEE

26 November 2020

**Request from Steering Committee that Planning Committee agree a further 3-month time extension (from the 9 months already agreed) for submission of an alternative application for land at Pilgrims Retreat, Hogbarn Lane, Harriestsham.**

<b>Final Decision-Maker</b>	Planning Committee
<b>Lead Head of Service</b>	William Cornall – Director of Regeneration and Place Rob Jarman – Head of Planning and Development
<b>Lead Officer and Report Author</b>	James Bailey – Development Manager on behalf of the Steering Group appointed by Planning Committee.
<b>Classification</b>	Public
<b>Wards affected</b>	Harrietsham and Lenham

### Executive Summary

Members of the Steering Group have requested that a recommendation be made to the Planning Committee to extend the time period by a further 3 months from that already resolved by Planning Committee to enable an alternative planning application within the terms set out in consultation with the Steering Group to be submitted. This would extend the period for submission of an alternative application from 9 to 12 months, with the latter expiring on 27 February 2021. This would hold in abeyance enforcement action at Pilgrims Retreat for a further 3 months unless a planning application is submitted on or before 27 February 2021 within the terms set out in consultation with the Steering Group. The main reason for this extension request is due to the time taken to submit the Steering Group's initial negotiating position to the applicant on 24 June 2020. A failure to submit the application on or before 27 February 2021 will result in enforcement action being taken in accordance with this Committee's Resolution of 27 February 2002.

### Purpose of Report

*For Decision*

### This report makes the following recommendations to this Committee:

Agree a further 3-month extension to the 9-month period which allows for the submission of a further alternative application within the terms set out in consultation with the Steering Group. This would require an alternative application

to be submitted on or before 27 February 2021.

<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Planning Committee	26 November 2020

**Request from Steering Committee that Planning Committee agree a further 3 month time extension (from the 9 months already agreed) for submission of an alternative application for land at Pilgrims Retreat, Hogbarn Lane, Harriestsham.**

## **1. CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	<p><i>The four Strategic Plan objectives are:</i></p> <ul style="list-style-type: none"> <li><i>Embracing Growth and Enabling Infrastructure</i></li> <li><i>Safe, Clean and Green</i></li> <li><i>Homes and Communities</i></li> <li><i>A Thriving Place</i></li> </ul> <p><i>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's ability to continue to negotiate with the site owners to reach an acceptable negotiating position.</i></p>	Rob Jarman
<b>Cross Cutting Objectives</b>	<p><i>The four cross-cutting objectives are:</i></p> <ul style="list-style-type: none"> <li><i>Heritage is Respected</i></li> <li><i>Health Inequalities are Addressed and Reduced</i></li> <li><i>Deprivation and Social Mobility is Improved</i></li> <li><i>Biodiversity and Environmental Sustainability is respected</i></li> </ul> <p><i>The report recommendation supports the achievement of the Biodiversity and Environmental cross cutting objectives by seeking to continue discussions with the site owner to seek an acceptable mitigated solution to the issues at Pilgrims Retreat.</i></p>	Rob Jarman
<b>Risk Management</b>	Already covered in the risk section	James Bailey
<b>Financial</b>	<ul style="list-style-type: none"> <li>If an acceptable negotiating position is achieved, which results in a positive outcome in terms of a permission for the site, there would be no need to serve the enforcement</li> </ul>	Section 151 Officer & Finance Team



	notices on the site.	
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Rob Jarman
<b>Legal</b>	<ul style="list-style-type: none"> <li>Enforcement action is a discretionary function of the local planning authority. Extending the time limit to enable further discussions to take place prior to the enforcement notices being served to accommodate a further planning application to regularise the site will still allow the local planning authority to meet the requirements of the Town and Country Planning Act 1990 (as amended).</li> <li>Acting on the recommendations is within the Council's powers as set out in the constitution.</li> </ul>	Susan Mauger and Russell Fitzpatrick (MKLS (Planning))
<b>Privacy and Data Protection</b>	<ul style="list-style-type: none"> <li>Accepting the recommendations will increase the volume of data held by the Council. We will hold that data in line with our retention schedules.</li> </ul>	Policy and Information Team
<b>Equalities</b>	<p>We recognise that the decision Planning Committee made to issue Enforcement Notices on Pilgrims Retreat if an amended application has not been submitted would have an impact under S149 of the Equalities Act and Article 8 and Art 1 of the First Protocol of the Human Rights Act 1998. This request for an extension of time to this timeframe gives the applicant further time to submit an application to see if an acceptable planning application can be submitted.</p>	James Bailey
<b>Public Health</b>	<p>We recognise the original recommendations may have varying impacts on the health of individuals within Pilgrims Retreat and the surrounding population. Displacement of individuals is likely to cause them distress. An extension of time to delay the issuing of the notices and seek an acceptable planning submission is likely to be beneficial to the residents. It is also recognised that the site is not served by public transport and therefore access by existing residents, many of whom are elderly, to core facilities and services is only obtained by car without the ability to mitigate against the impacts of permanent residential</p>	Public Health Officer

	homes with community infrastructure or affordable housing.	
<b>Crime and Disorder</b>	The recommendations are not considered to have a negative impact on Crime and Disorder. However, the Community Protection Team have been consulted in the event that such matters arise.	John Littlemore
<b>Housing</b>	We recognise the original recommendations may have an impact on the Housing Team in terms of providing housing advice in the early stages and the possibility of providing more in-depth advice should any resident become threatened with homelessness. An extension to this timeframe enables further discussions to take place and increases the likelihood of an acceptable application being submitted that may reduce the risk of homelessness.	John Littlemore
<b>Licensing</b>	The Council has issued a Caravan Site License for 198 caravans comprising 18 permanent residential mobile homes; 9 holiday caravans/mobile homes of the same type as the permanent residential ones but only to be used for holiday purposes; and; 171 static holiday caravans/mobile homes for holiday use only. This licence is valid, however it no longer reflects the number of caravans permitted on the site and therefore the site is being operated in breach of the site license. An extension to the time period for serving the enforcement notices whilst seeking an acceptable planning solution will have any impact on the License.	John Littlemore

## 2. INTRODUCTION AND BACKGROUND

2.1 At the meeting held on 27 February 2020, a report was presented to the committee seeking authority to serve Enforcement Notices at Pilgrims Retreat, Hogbarn Lane, Harriestsham. A copy of the report can be viewed [here](#) (see item 19).

2.2 At that meeting members resolved:

1. *That delegated authority be given to the Head of Planning and Development in consultation with a Steering Group comprising the Chairman, Vice-Chairman and Political Group Spokespersons of the Planning Committee (to include Councillor Chappell-Tay as the Spokesperson for the Conservative Group) and the two Ward Members to establish terms of reference and a negotiating position*

*and to engage with the applicant regarding the submission of an alternative planning application within the terms set out in consultation with the Steering Group within a maximum timeframe of nine months.*

2. *That if the application is not submitted within the terms set out in consultation with the Steering Group and within this timeframe, or if negotiations fail, then the Head of Planning and Development be given delegated authority to proceed with Option 1 as set out in the report which is to serve two Enforcement Notices (with separate red line boundaries) at Pilgrims Retreat, Hogbarn Lane, Harrietsham, Kent with the aim of achieving the following:*

- *Reduction in the number of caravans on site to 198 - Compliance time 24 months.*
- *Removal of all caravans, materials, rubbish etc. from the site as a result of the above – Compliance time 30 months.*
- *Cease the permanent residential use of 180 of the 198 caravans that remain on site - Compliance time 48 months.*
- *Restore the southern part of the site to accord with the layout plan as approved under 13/1435 (attached at Appendix B to the report) and remove all walls, domestic paraphernalia, retaining walls, hard surfacing and internal roadways etc. outside the developed areas defined on the plan – Compliance time 48 months.*
- *Restore the site in accordance with a specified landscape strategy – Compliance time 48 months.*

Voting: 13 – For 0 – Against 0 – Abstentions

- 2.3 A copy of the minutes for that meeting is available [here](#) (see item 213).
- 2.4 The resolution required an alternative application to be submitted by 27 November 2020.
- 2.5 The Steering Group was set up and its terms of reference established, however the country went into lockdown soon after the member resolution cited above with the Covid-19 pandemic.
- 2.6 The first virtual meeting of the Steering Group took place on the 30 April with a follow-on meeting held on the 13 May 2020. A first response was sent to applicant on the 24 June 2020.
- 2.7 Since that time there have been numerous virtual meetings of the Steering Group with responses being sent by the group and responses being received from the applicant and relayed back to the Steering Group.
- 2.8 Progress has been made on the negotiating position, however in its latest letter dated 8 October 2020, amongst other matters raised, the applicant's agent requested an extension to the 9-month time limit imposed on the timeframe for submission of an alternative application, without which, authority was granted to serve enforcement notices in the terms set out in 2.2 above.

- 2.8 At the last meeting of the Steering Group where the above referenced letter was discussed, it was agreed that due to the time it had taken for an response from the Steering Group to set out its initial negotiating position (24 June 2020) to the applicant, that a request should be made to the Planning Committee for a short extension of the time limit (**no more than 3 months**) to enable the progress made on the negotiating position to be included within a revised application.
- 2.9 It is not the purpose of this report to set out the current negotiated position of the Steering Group, as this matter has been delegated to the Steering Group. The purpose of this report is to set out the Steering Group's request to Planning Committee to agree a further 3 month extension to the time period i.e until 27 February 2021 to allow the applicant to submit an alternative application "*within the terms set out in consultation with the Steering Group*" without the requirement to serve enforcement notices post 27 November 2020 (this is the date that Part 2 of the resolution cited in paragraph 2.2 applies).
- 

### **3. AVAILABLE OPTIONS**

- 3.1 This report does not seek to put forward suggestions for reconsideration of the resolution made by Planning Committee on 27 February 2020 but presents a request by members of the Steering Group to allow a further 3 months for the applicant to submit an alternative application prior to Part 2 of the resolution as set out in paragraph 2.2 above taking effect.

**Option 1** – Agree a further 3-month extension to the 9-month period which allows for the submission of a further alternative application within the terms set out in consultation with the Steering Group. This would require an alternative application to be submitted on or before 27 February 2021 and to take the enforcement action authorised by this Committee at its meeting on 27 February 2020 in the event that the planning application is not submitted.

**Option 2** – Do not agree a further extension of time to the current 9-month period which expires on 27 November 2020 and to proceed with taking the enforcement action authorised by this Committee at its meeting on 27 February 2020.

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Members of the Steering Group have agreed that a request be put forward to the Planning Committee seeking an extension of the current 9 month time period by 3 months to allow an alternative planning application to be considered by the committee within the terms set out in consultation with the Steering Group. The main reason for this being the time taken to provide an initial response to the applicant on the Steering Group's negotiating position.

- 4.2 The effect of this would be to hold in abeyance any potential enforcement action at Pilgrims Retreat by 3 months, pending which if an application is submitted which follows the terms set out as the Steering Group's negotiated position, then no further enforcement action would be considered until the outcome of the alternative application is known.
- 4.3 If Option 1 is not agreed, then the time for submitting the alternative planning application expires on 27 November 2020 and the enforcement action authorised by this Committee at its meeting on 27 February 2020 will be taken. At the time of writing this report, no application has been submitted.
- 4.4 Members of the Steering Group therefore recommend Option 1 is the best option of realising an alternative application within the terms set out in consultation with the Steering Group.
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## **5. RISK**

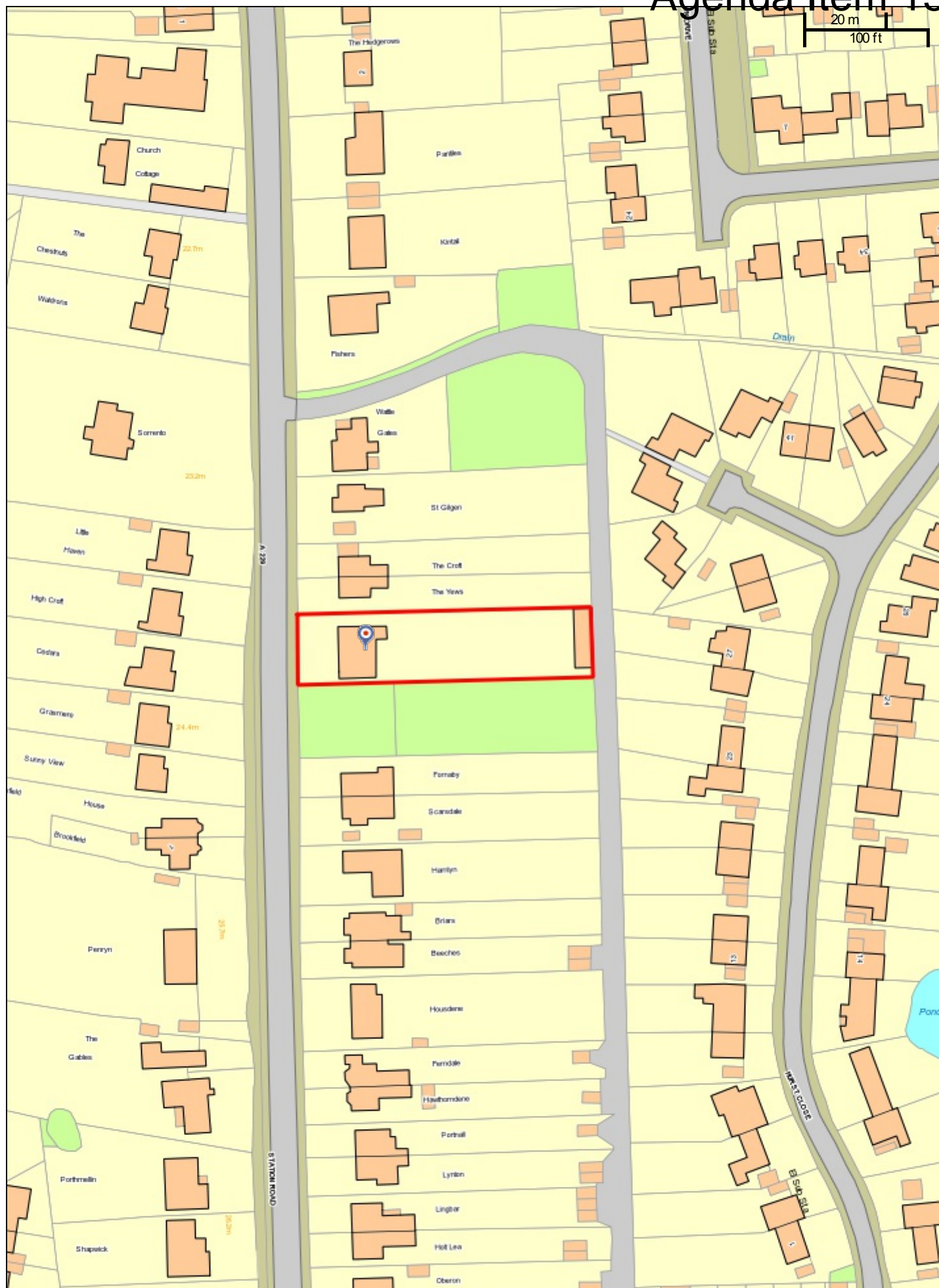
- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
- 

## **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 If Option 1 is approved, the Steering Group will continue negotiations with the applicant regarding its negotiating position for a short period of time pending the hopeful submission of an alternative application.
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## **7. REPORT APPENDICES**

- 7.1 No appendices have been attached to this report as hyperlinks have been provided to the necessary documents.
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20/502770/FULL - Holman House, Station Road, Staplehurst, TN12 0QQ

Scale: 1:1250

Printed on: 15/9/2020 at 10:12 AM by JoannaW

<b>REFERENCE NO -</b> 20/502770/FULL		
<b>APPLICATION PROPOSAL</b> Erection of single storey side extension, part single storey part two storey rear extension, new upper floor, together with external alterations and change of use of commercial to residential to form 10 No. residential units.		
<b>ADDRESS</b> Holman House, Station Road, Staplehurst, TN12 0QQ.		
<b>RECOMMENDATION</b> Grant permission subject to updated conditions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal represents sustainable development within the built up area. Whilst a net increase over the previous approval for 7 units, it is considered that the proposal represents good quality design and will provide acceptable living conditions for future occupiers and will not adversely impact on the amenity of neighbours. There are no highways, or other technical or environmental objections.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of Staplehurst Parish Council and Ward Member request.		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Arrant Land Ltd <b>AGENT</b> Blink Architecture
<b>TARGET DECISION DATE</b> 05/10/20		<b>PUBLICITY EXPIRY DATE</b> 30/07/20
<b>UPDATE FOLLOWING DEFERRAL</b> This application was deferred at the Planning Committee meeting on 1 <sup>st</sup> October in order to enable Officers to seek details of the following: <ul style="list-style-type: none"> <li>• Electric vehicle charging points and renewable energy generation including Solar PV.</li> <li>• Biodiversity enhancements including retention of the hedge.</li> <li>• The acoustic fence installation.</li> <li>• Turning area and parking facilities, including cycle parking.</li> <li>• Bin storage.</li> <li>• The design treatment of the windows to the rear of the development.</li> <li>• A revised internal layout to address room sizes and space standards guidelines.</li> <li>• The suitability of units for elderly/disabled residents.</li> </ul> This update should be read in conjunction with the 1 <sup>st</sup> October report, which is attached at Annex 1.		

## 1. Applicant Responses/ Officer Comments

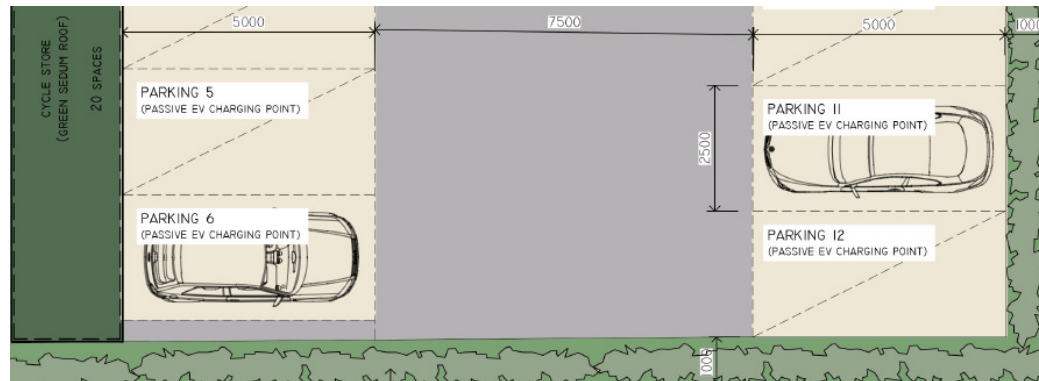
- 1.01 In response to Members questions, as set out in the above grounds for deferral, the Applicant has submitted a number of responses, which are explained below, together with Officer comments.

### Electric vehicle charging and renewable energy generation / Solar PV

- 1.02 Paragraph 6.38 of the original report (Appendix 1) confirmed the Applicant's agreement to the provision of EV charging points and the installation of PV. Suggested conditions 4 and 5 would have required details to be submitted.



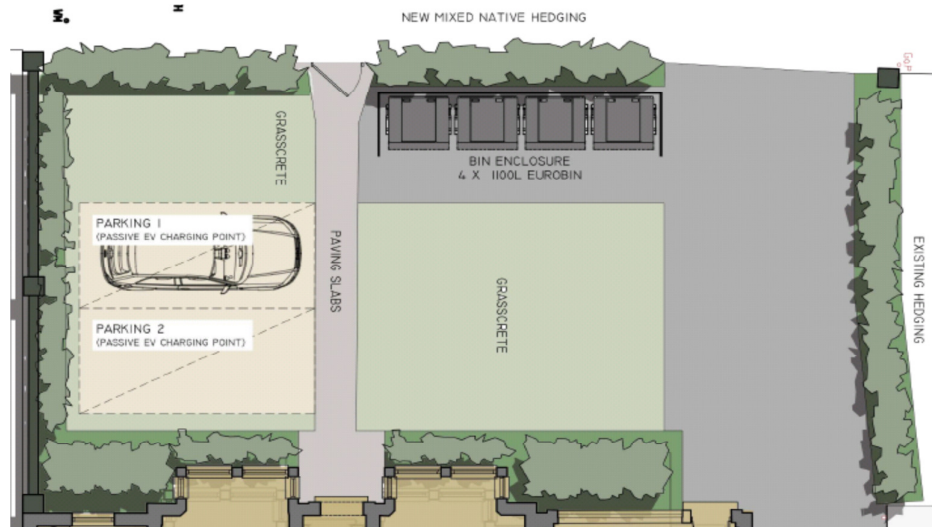
- 1.03 The applicant has subsequently confirmed that all ten of the proposed parking bays (including visitor bays) will be installed with passive EV charging capability and these are all now annotated on the plans, as demonstrated below.



- 1.04 Officers consider the passive provision to all bays is preferable as this would allow all residents in time to install charging devices with no associated infrastructure costs as and when the need arises. However, we would suggest the additional obligation that two charging posts are installed in the initial instance in order to provide immediate capacity and a visual presence. Condition 5 below is modified from the original report to require that these are installed prior to occupation.
- 1.05 With regard to renewables, the Applicant has confirmed that a PV array will be located on the roof of the rear wing. Amended condition 4 will secure its specification, installation, retention and maintenance.

#### **Biodiversity enhancements including retention of the hedge**

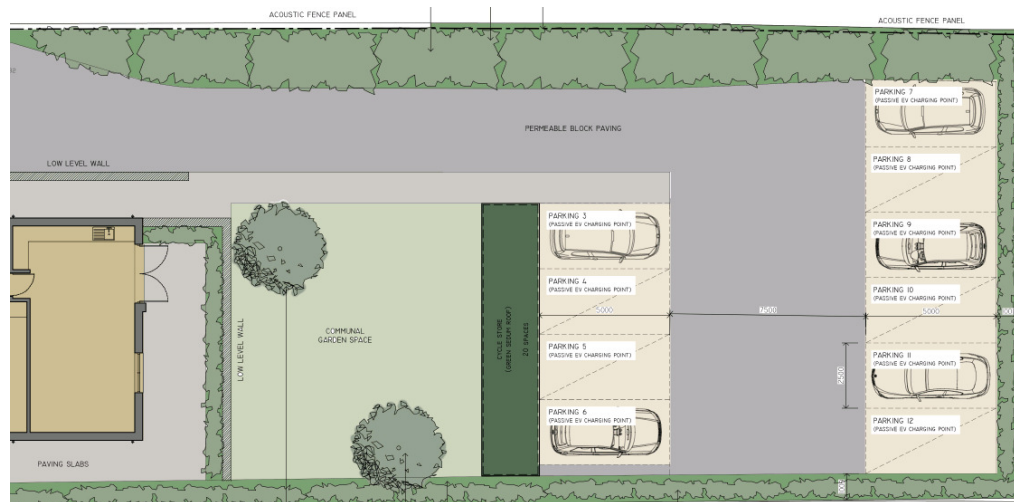
- 1.06 With regard to the existing front hedge, the Applicant confirms that the existing hedge is predominantly non-native and in poor quality, offering very limited habitat potential; but, that, in lieu of the previously proposed wall, it will be replaced where necessary with native hedgerow on three sides of the front forecourt. The side hedgerow along the driveway will be retained and enhanced where necessary.



- 1.07 Officers consider this an appropriate response to existing conditions which will result in a material net improvement to the site frontage.



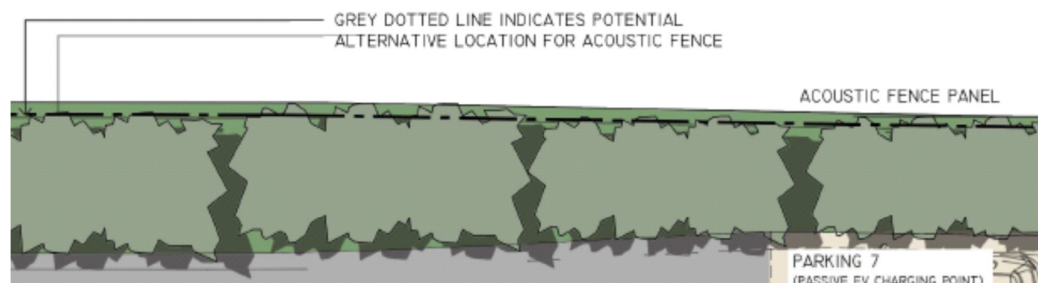
- 1.08 To the rear of the site, adjacent to The Yews, a new hedgerow is proposed. This will vary in depth between 1.8 and 2.5 metres and is circa 38metres in length.



- 1.09 A narrower hedgerow margin, circa 1m in depth will extend around the remainder of the site and extends to circa 60metres in length. The landscape officer has recommended species for the margins, which will include native planting, supplemented by wildlife friendly ornamentals / evergreens such as Cornus Kelsey (dogwood), Skimmia (Rubella) and Danae (Poet's Laurel). Within the communal garden two native trees are proposed to be Sorbus Aria (common whitebeam) and Prunus Avium Plena (native cherry).
- 1.10 Bird, bee and bat habitats are proposed, both within the site margins and on the building fabric and as per the original report, will be secured by condition No. 7.
- 1.11 Officers consider that the clarified details of the planting scheme demonstrate that an appropriate level of biodiversity opportunity can be achieved, which will represent a significant uplift when compared to the both the existing site and the previously approved scheme.

#### Acoustic fence installation.

- 1.12 The immediate Neighbour raised concerns regarding the acoustic fence that is proposed along the boundary, indicating that on their deeds this appears as their fence. Whilst boundary issues are a private matter, as the installation of an acoustic fence is necessary in order to mitigate the impact of the scheme, it is important to ensure that this can be implemented should the Neighbour wish to retain their existing boundary fence. The Applicant has annotated the layout plan (P06B) to show that an acoustic fence could be installed inside the line of the existing boundary fence without compromising either the access arrangements or proposed landscaping.



- 1.13 Officers note that the dimension for fence posts for a typical acoustic system is similar to a domestic fence, at 120mm, and therefore consider that an acoustic fence could be inserted inside the existing fence line should the neighbour wish to see it retained and that the required mitigation could therefore be secured.

**Turning area and parking facilities, including cycle parking.**

- 1.14 With regard to vehicle turning, the dimensions and layout of the access and car parking arrangements; these are essentially as per the approved scheme and KCC Highways raise no objection. The width of the access is as already approved and KCC has not requested any modification.
- 1.15 The parking bays are 5m X 2.5m in size, therefore above the minimum requirements. In addition, the bays are spaced 7.5metres apart, which is significantly in excess of the minimum 6m requirement. Officers are satisfied that this additional spacing allows vehicles to manoeuvre without requiring excessive movements or generating unnecessary disturbance.
- 1.16 To further enhance the non combustion vehicle options, the Applicant has also increased the level of secure cycle bay provision up to two spaces per apartment. A sedum covered secure cycle store will be located within the communal garden.
- 1.17 Whilst not a matter raised by Members, two parking bays, one each to the front and rear (Nos 1 and 3 respectively) have been located such that, if necessary at a future date, they can be marked out as 3.3m wide 'accessible' bays.

**Bin storage**

- 1.18 Objectors raised concerns regarding the potential for refuse bins to obstruct the pavement. The proposed refuse storage arrangements are shown on the image under paragraph 1.06 above Plan P06B). As a communal development, it is not necessary for residents to place bins out for collection, however, they do have to be accessible for operatives. They are sited immediately adjacent to the access and well within the carry distances stipulated by the Council's refuse team. As such, it is not necessary for them to be placed on either the footway or driveway and as such, pedestrian movements will not be hindered.

**The design treatment of the windows to the rear of the development.**

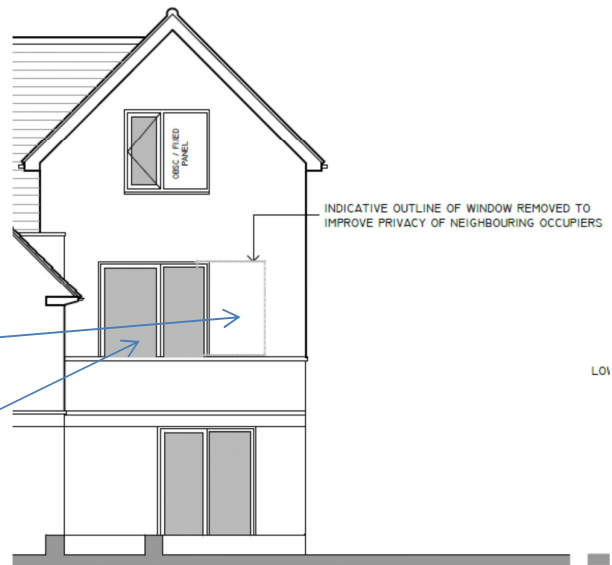
- 1.19 The Applicant has provided further information in response to this point, including an updated window scheme. Firstly, the Applicant has annotated the level of the parapet wall on the link block. This is denoted by the drawn line on this photo supplied by the neighbour. The Applicant highlights that the effect of the parapet wall is to screen windows increasingly as they cross the elevation.
- 1.20 It is understood that the closest window shown in the photograph served a bedroom when previously occupied; whilst in the permission for 7 units, this would become a living room.



- 1.21 Whilst re-planning the internal layout to improve consistency of flat sizes, the Applicant has proposed that this room be switched from a living room to a bedroom, thus reducing the propensity for an occupier to look out.

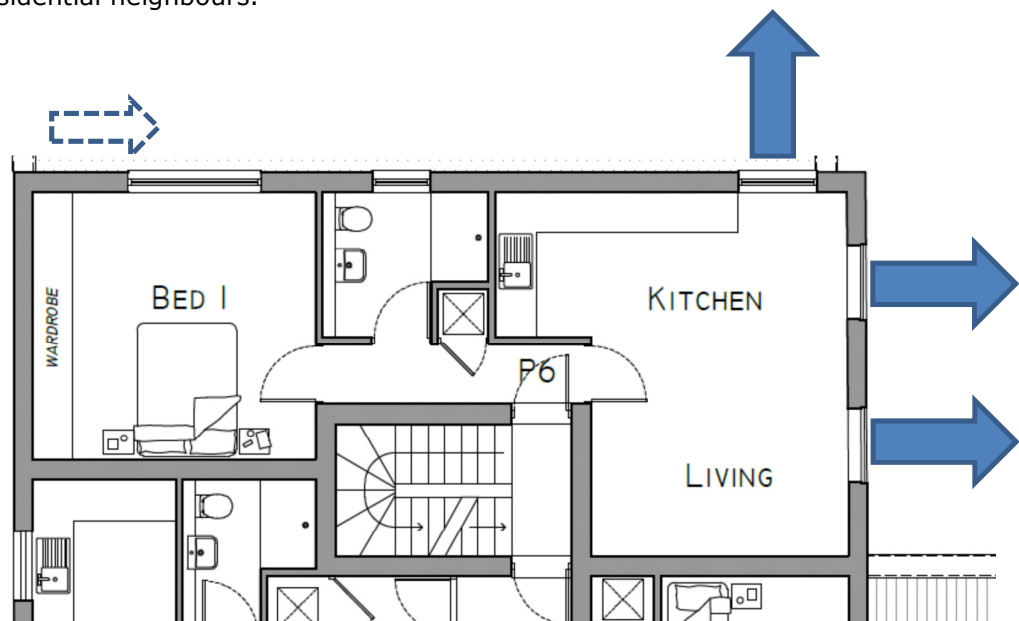
- 1.22 In addition, the Applicant now proposes that the closest first floor window be removed.....

.... and that, what is now a bedroom window, be relocated further away from the boundary.



- 1.23 In Officers view this window would not lead to direct overlooking of the neighbour as its view is down its own garden. In addition, having regard to the fact that; in the previously approved permission there are two living room windows in this part of the elevation, and as the function of this room reverts to a bedroom with what is now a single window moved further away than currently exists; Officers consider that this latest update represents a material benefit when compared to either the existing situation or the approved fallback.

- 1.24 The principal living room windows to this apartment now look away from the residential neighbours.



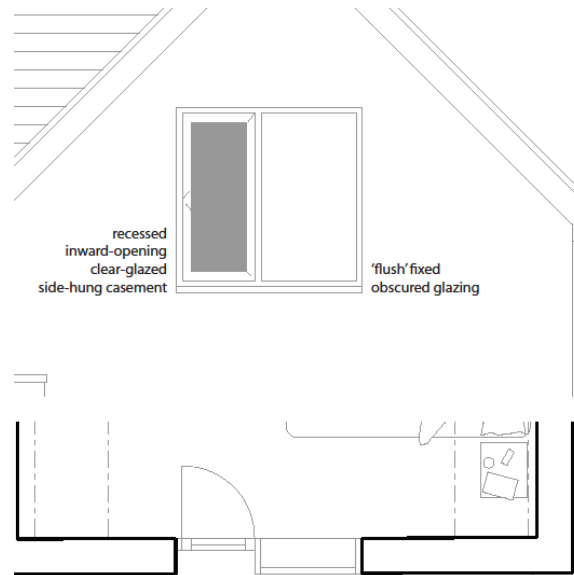
1.25 The Applicant has also proposed an amendment to the new second floor rear window. Again the internal layout is 'flipped' so that this room changes from living room/kitchen to a bedroom, thus, again the propensity for outlook is reduced.

1.26 That part of the window closest to the neighbour will be a fixed obscure pane; whilst the clear glazed opening part will be recessed, thus ensuring no unacceptable loss of privacy would occur.

1.27 Officers do not consider that this new window would result in any loss of privacy.

1.28 Whilst not an question raised in the minutes, as it was mentioned by a visiting Member, it is clarified that the flat roof of the link block is not to be used as a terrace and a new condition is proposed to prevent its use.

1.29 Finally on the issue of privacy, to correct the original Officer presentation, the two existing side windows in the existing northern elevation are currently obscure glazed, but there are no planning restrictions preventing clear glazing from being installed. The Applicant has agreed to a condition requiring obscure glazing to be permanently retained.



### **A revised internal layout to address room sizes and space standards guidelines.**

1.30 As identified at the previous committee, national space standards are not a statutory requirement. Nevertheless, the applicant has, without altering the number of units or character of mix of accommodation, amended to the internal configuration to improve efficiency and to ensure that, as requested by Members, the scheme now fully complies with the national space standards. As updated the scheme will provide:

		<u>Oct Cmte</u>	<u>As Revised</u>	<u>National Space Std</u>	
Plot 1	1bed 2person	52m <sup>2</sup>	64m <sup>2</sup>	50m <sup>2</sup>	+14
Plot 2	2B4P	85m <sup>2</sup>	77m <sup>2</sup>	70m <sup>2</sup>	+7
Plot 3	1B2P	48m <sup>2</sup>	50m <sup>2</sup>	50m <sup>2</sup>	
Plot 4	2B4P	75m <sup>2</sup>	76m <sup>2</sup>	70m <sup>2</sup>	+6
Plot 5	1B2P	47m <sup>2</sup>	53m <sup>2</sup>	50m <sup>2</sup>	+3
Plot 6	1B2P	46m <sup>2</sup>	52m <sup>2</sup>	50 m <sup>2</sup>	+2
Plot 7	1B2P	48m <sup>2</sup>	37m <sup>2</sup> (1B1P)	37-39 m <sup>2</sup>	
Plot 8	1B2P	69m <sup>2</sup>	60m <sup>2</sup>	50 m <sup>2</sup>	+10
Plot 9	2B4P	62m <sup>2</sup>	66m <sup>2</sup> (2B3P)	61 m <sup>2</sup>	+5
Plot 10	2B4P	85m <sup>2</sup>	85m <sup>2</sup>	<u>70m<sup>2</sup></u>	<u>+15</u>
				Net Overall	+62 sq.m

- 1.31 Whilst the previous scheme had a number of oversized units the revised internal layout is considered to provide a more equitable balance between the units. Whilst national space standards are not currently a statutory requirement, Officers consider that the table above demonstrates that future residents will receive acceptable standards of internal amenity.

**The suitability of units for elderly/disabled residents.**

- 1.32 Members requested clarification on the Applicant's assertion that the scheme would provide accommodation suitable for the elderly or disabled.
- 1.33 The scheme provides four units at ground floor level, 2 No. 1-bed and 2 No. 2-bed; each with access at grade. Two of the units have large external terraces and one a balcony sized terrace.
- 1.34 In 2019 The Government issued guidance on how LPA's should plan for the needs of an ageing population and people with disabilities. The NPPG clarifies that disability is not simply physical:

*People have a disability if they have a physical or mental impairment, and that impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. These persons include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs.*

- 1.35 Detailed standards are provided by building control (Part M) rather than planning policy. The standards allow for three types of accessible dwellings:
1. Visitable
  2. Accessible and adaptable
  3. Wheelchair useable
- 1.36 For *visitable* accommodation, there are requirements such as; level approaches, step free access, low thresholds, communal clear openings of 775mm internal corridors of 750-900mm. All four units would meet these requirements
- 1.37 For *accessible and adaptable* units there are additional requirements, for example, that parking bays can be widened to 3.3m, entrance door widths of 850mm, 1200mm clear worktop space to kitchens, max window cil heights of 850mm, 750mm bedroom circulation areas. With two parking spaces capable of being widened, at least two units would be capable of meeting this standard, whilst all four ground floor units appear to be capable of meeting the internal requirements.
- 1.38 For the *wheelchair useable* standard additional requirements include: communal openings of at least 850mm, 1200mm to both sides of parking bay, 1500 turning circle in lobbies, wider internal corridors of 900-1050mm, living dining kitchen space of 25-29 sq.m, additional kitchen worktop lengths, 1200 turning areas within rooms, main bedroom minimum 13.5sq.m with 1,000mm circulation space. The ground floor units appear to meet these requirements to varying degrees, but as the parking bays cannot be adapted to provide 1200mm each side without reducing the overall number of bays, a full assessment has not been undertaken.
- 1.39 Whilst this Council has yet to consider whether to adopt the Government's Optional Technical Standards for accessible housing, based upon the above assessment, and the fact that there are 4 ground floor units with level step free access suitable for elderly occupiers and that at least two (20% of the overall scheme) could meet

*accessible and adaptable* requirements, then Officers consider that should Members wish to do so, it would be appropriate to afford some weight to this.

## **PUBLIC SECTOR EQUALITY DUTY**

- 1.40 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.

## **2. CONCLUSION**

- 2.01 Officers remain of the view that this is a good quality design that will provide good quality accommodation for future residents that will add to the overall mix of accommodation available within Staplehurst.
- 2.02 Careful consideration has been given to the amenity of neighbours and with the responses now proposed by the Application, it is considered that the scheme offers the opportunity to improve its impact when compared to the previously approved scheme and would not result in any unacceptable impacts upon any neighbouring amenity in accordance with policy DM1
- 2.03 Having regard to the above, it is recommended that planning permission be granted subject to the conditions listed below. Members should note that the following conditions have been updated from the original report:

C2&6 Updated plan numbers  
C3 Updated window references  
C4 Updated PV condition  
C5 Updated EV charging condition  
C11 Amended as refuse details now provided  
C14 New condition preventing use of flat roof as terrace.

## **3. 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/drawings: PO4B Floor / roof plans, PO5B Elevations, PO6B Site plan, A054 Second Floor Window Detail.  
Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.
- 3 Before the development hereby permitted is first occupied:
  - the first floor window openings on the northern elevation of the existing building
  - the new windows in the rear annex at first floor level (as shown on drawing number P05B) and
  - the northern part of the second floor window as shown on approved plans P04B and p05B)

shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such:

Reason: To safeguard the privacy of neighbours.

- 4 No development above slab level on the extensions hereby permitted shall take place until details of the photovoltaic array, as shown on Plan 04B, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter.

Reason: To ensure an energy efficient form of development. Details are required prior to commencements as these methods may impact or influence the overall appearance of the development.

- 5 Prior to the first occupation of the development hereby approved the passive electric vehicle charging connection points shall be installed to each parking space, together with two pre-installed charging posts and shall thereafter be retained and maintained in accordance with the approved details. Such details shall allow future residents access to the supply without requiring excavation or other building works.

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

- 6 The development hereby approved shall not commence above slab level until, written details 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.

- 7 Notwithstanding the details as shown on drawing number P06B the development shall not be occupied until details of hard and soft landscape works which shall include the use of permeable paving upon the access and hard standing parking areas have been submitted to and approved in writing by the Local Planning Authority.

The landscaping scheme shall include details of native species planting and habitat for birds, bees and bats, both within the landscaping and as part of the building fabric.

The approved landscaping shall be planted in the first available planting season. If any part of the approved native planting becomes dead, dying or diseased within 5 years of planting it shall be replaced with a similar species of a size to be agreed in writing with the Local Planning Authority and shall be retained at all times in accordance with the terms of this condition.

The approved hardstanding shall be carried out in accordance with the approved details before first occupation of the apartment and retained thereafter;

Reason: To ensure satisfactory appearance to the development and in the interest of sustainable water drainage.

- 8 No development shall take place until details of on site parking and turning for all construction traffic have been submitted to and approved in writing by the local planning authority. The details shall be implemented before construction commences and retained until the completion of the construction.

Reason: To ensure adequate on site parking and turning provision is made for construction traffic In the interest of highway safety and the free flow of traffic.

- 9 Prior to the occupation of the apartments, details of an acoustic fencing along the northern boundary of the site to protect the neighbouring site against transmission of airborne sound shall be submitted to and approved in writing by the local planning authority and the approved scheme shall be completed before first occupation of any dwelling and shall be maintained thereafter.  
Reason: To mitigate the effects of potential noise nuisance.
- 10 Any external lighting shall be in accordance with details that have been previously been submitted to and approved in writing by the local planning authority prior to the first occupation of the development. Development shall be carried out in accordance with the approved details and retained as such thereafter.  
Reason: In the interests of visual amenity.
- 11 The refuse storage facilities shown on Plan 06B shall be provided before the first occupation of the building and maintained thereafter;  
Reason: To ensure that adequate refuse provision and collection access is maintained.
- 12 No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the north or east facing wall(s) of the building hereby permitted;  
Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.
- 13 The approved details of the parking/turning areas shall be completed before the commencement of the use of the 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 to them;  
Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.
- 14 The flat roof above the link block as shown on Plan P04B shall not be accessed other than for the purposes of repair and maintenance and shall not be used at any time as a terrace, balcony or amenity area.  
Reason: To protect the privacy of neighbours.

### **INFORMATIVES**

- 1) In the interest of ensuring sufficient foul capacity is provided to the development, prior to the commencement of development, an application shall be made to the statutory undertaker under s106 of the Water Industry Act 1991 requesting a connection to the public sewer.
- 2) The applicant is advised that in order to avoid nuisance to neighbours they should seek to only use plant and machinery used for demolition and construction between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
- 3) The applicant is advised that in order to avoid nuisance to neighbours they should only seek to allow vehicles to arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.



<b>REFERENCE NO -</b> 20/502770/FULL		
<b>APPLICATION PROPOSAL</b> Erection of single storey side extension, part single storey part two storey rear extension, new upper floor, together with external alterations and change of use of commercial to residential to form 10 No. residential units.		
<b>ADDRESS</b> Holman House, Station Road, Staplehurst, TN12 0QQ.		
<b>RECOMMENDATION</b> Grant Subject to Conditions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal represents sustainable development within the built up area. Whilst a net increase over the previous approval for 7 units, it is considered that the proposal represents good quality design and will provide acceptable living conditions for future occupiers and will not adversely impact on the amenity of neighbours. There are no highways, or other technical or environmental objections.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of Staplehurst Parish Council and Ward Member request.		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Arrant Land Ltd <b>AGENT</b> Blink Architecture
<b>TARGET DECISION DATE</b> 05/10/20		<b>PUBLICITY EXPIRY DATE</b> 30/07/20

### Relevant Planning History

The following summarises the relevant planning history relating to the property's previous use and the more recent development proposals.

#### Previous Use

96/0704 - Single storey rear extension. Approved 08.07.1996

97/1552 - Change of use of the building from a mixed retailing (A1) and residential uses to mixed office (B1) and residential uses together with the erection of a two and single storey rear extension. Approved 06.02.1998

05/0519 - Erection of a rear conservatory. Approved 04.05.2005

#### Latest Proposals

17/504258/FULL - Change of use and conversion of vacant business premises (offices B1) to residential (dwellinghouse C3) Approved 07.11.2017

18/501928/FULL - Conversion of existing commercial/residential building together with single storey side extension and single storey rear extension, to provide 7no. residential apartments. Approved 28.09.2018 19/503229/SUB - Submission of details pursuant to conditions; 6 Parking layout, 10 Construction site parking, & 13 Landscaping scheme. Approved 31.07.2018

20/501321/FULL - Erection of a second floor extension and rear first floor extension, including alterations to fenestration, to provide 3No. additional apartments and amendments to external landscaping and parking. Invalid 19.06.2020. (Officer Note – 20/501321/FULL was treated as invalid due to the incorrect description and format of development and has been re-submitted as the present application.)

## **MAIN REPORT**

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

1.01 The application site comprises a two storey detached building that has historically been in mixed, commercial (bakery, retail and most recently offices) and residential uses. Access is taken directly off Station Road to an existing driveway that serves an established area of hardstanding and former garages / storage to the rear. The established access runs alongside the boundary with The Yews to the north, which has a garage between the main house and the boundary. Both aerial and historic maps show that this access has existed for some considerable time.

1.02 Staplehurst Free Church lies immediately to the south of the application site and is a large modern building extending along the majority of the rear boundary of the application site and with a large car park to the front. Otherwise the immediate surroundings are principally residential. (photo shows rear garden of application site)



1.03 Along the rear boundary, a wide access path separates the site from the rear boundaries of properties in Hurst Close. A short distance to the north of the application site, a backland dwelling, The Roost, takes access of the northern, wider section of the rear access. The application scheme does not propose any access to this path.

1.04 The existing building is of no heritage or townscape significance and there are no heritage assets or protected trees within or adjacent to the application site; the closest listed building being Sorrento (GII), some 70m north east, on the western, opposite side of Station Road.

### **2. PROPOSALS**

2.01 In 2018 planning permission was granted for a scheme to provide 7 units. The latest proposals involve the change of use from mixed commercial/residential to purely residential, in the form of 10 No. apartments, together with alterations to the building which include:

- part single / part two storey rear extension
- single storey side extension
- new second floor
- associated external alterations

2.02 To the front, there will be two visitor spaces, a drop-off area of permeable surfacing and refuse storage, which will be set behind a 1.5m new front boundary wall and new hedge planting. To the rear the existing access leads to resident parking which follows the broad layout of the approved scheme, albeit the 9 spaces previously approved will be increased to 10.

2.03 In addition to a communal garden of 107 sq.m, three of the ground floor apartments have external terraces, the largest of which is substantial at 50 sq.m.

- 2.04 Adjacent to the neighbour to the north an acoustic fence will be constructed, with a planting bed extending up to 2.5m in depth. A wildflower border will extend along the southern and eastern boundaries.
- 2.05 In terms of the unit mix and size standards, compared to the 2018 permitted scheme and set against national space standards, the scheme will provide....

				National Space Std	
Plot 1	1 bed	52m2	(same as previously approved)	50m2	+2
Plot 2	2 bed	85m2	(amended from 87m2)	70 m2	+15
Plot 3	1 bed	48m2	(same as previously approved)	50m2	-2
Plot 4	2 bed	75m2	(amended from 61m2)	70 m2	+5
Plot 5	1 bed	47m2	(same as previously approved)	50m2	-3
Plot 6	1 bed	46m2	(same as previously approved)	50m2	+4
Plot 7	1 bed	48m2	(same as previously approved)	50m2	-2
Plot 8	1 bed	69m2	(additional unit)	50 m2	+19
Plot 9	2 bed	62m2	(additional unit)	61 m2	-1
Plot 10	2 bed	85m2	(additional unit)	<u>70 m2</u>	<u>+15</u>
				Net	+52 sq.m

- 2.06 Whilst four of the units fall slightly below the national space standards, these units are unchanged from the previous 2018 approval. Notably the three new units each exceed space standards.
- 2.07 In terms of design, whilst the 2018 scheme principally retained the existing front elevational character, the latest proposals remodel the building such that it is more in keeping with other properties nearby. The applicant has submitted the following illustrative CGI image. Note that the Free Church is not visible in this view due to its significant setback from the street frontage.

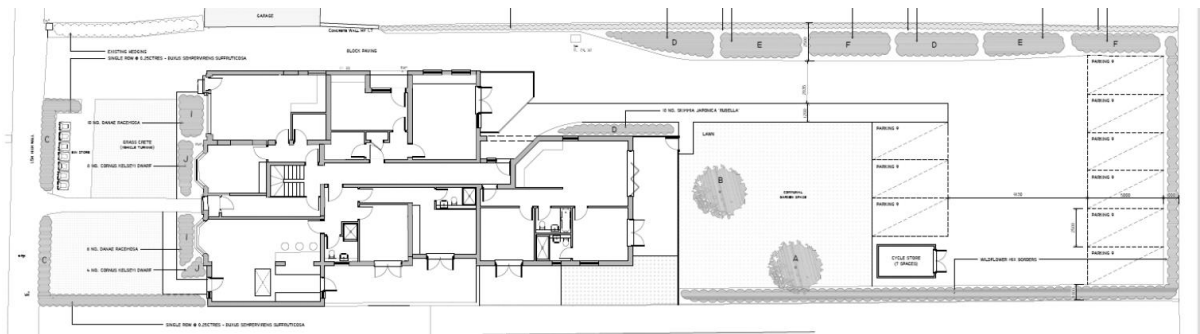


2.08 To assist Members in assessing the latest 2020 application against the previous 2018 approval, the proposed site layout and relevant elevations follow, set alongside the previously approved scheme.

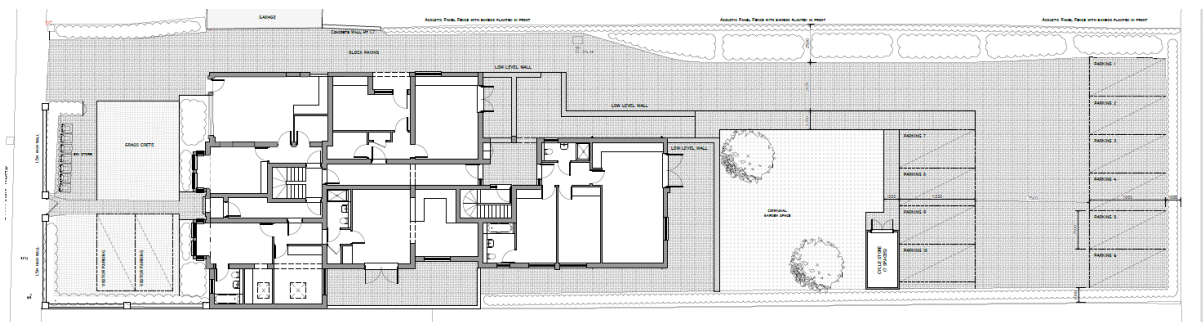
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## Site Layout (NTS)

### 2018 Permission



### 2020 Application



## Street Scene

### 2018



### 2020



Front Elevation



PROPOSED FRONT ELEVATION  
1:100

2018

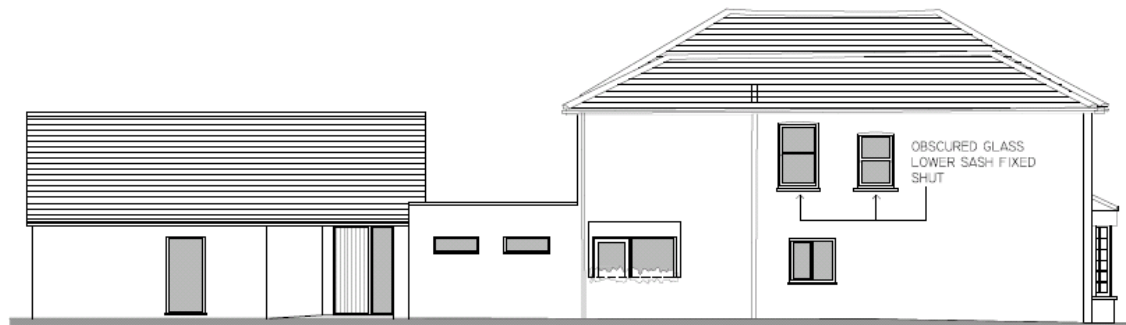


PROPOSED FRONT ELEVATION  
1:100

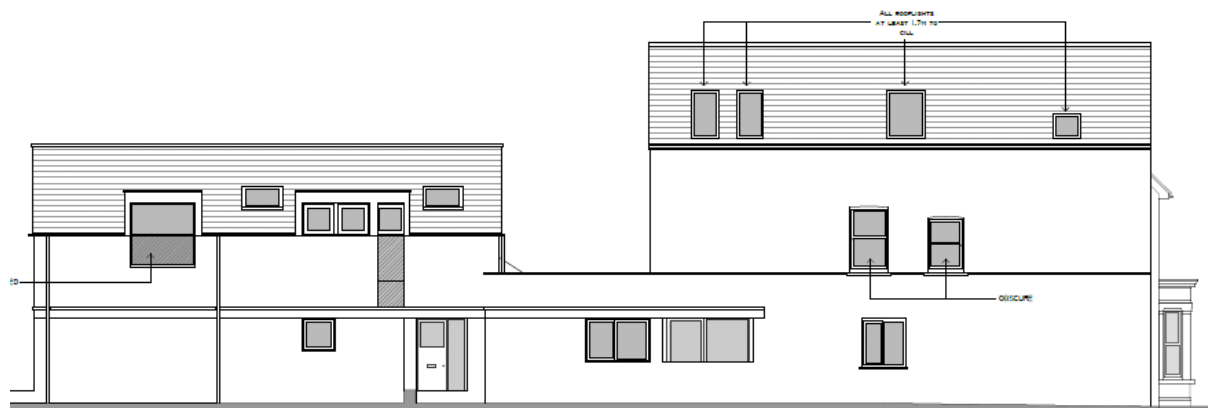
2020

### Side Elevation Facing The Yews

2018



2020



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

#### Maidstone Borough Local Plan 2017

- SS1 Spatial Strategy
- SP5/SP10 Staplehurst RSC
- SP18/DM4 Heritage
- DM1 Good Design
- DM5 Brownfield Land
- DM9 Residential Development
- DM23 Car Parking
- DM21/DM23 Traffic and parking Considerations

#### Staplehurst Neighbourhood Plan 2016(20)

- Vision 1 – Maintaining and enhancing the rural character of Staplehurst
- Vision 2 & H3 – Contributing to mixed communities
- Vision 4 – Using land efficiently
- Vision 5 – Respecting the built environment
- Vision 6, PW4, H1– Contextual design

National Planning Policy Framework (NPPF) / National Planning Practice Guidance (NPPG)

- Insert para references
- Sustainable development
- Efficient use of land
- Mixed communities
- Planning positively

#### 4. LOCAL REPRESENTATIONS

**Local Residents:**



4.01 Representations have been received from 8 local residents raising the following (summarised) issues, which are considered within the 'assessment' section below.

- Out of character with village
- Inadequate parking and access
- Increased traffic and parking
- Risk to pedestrians
- Loss of amenity through noise
- Poor design
- Overlooking and loss of privacy
- Overshadowing
- Inadequate amenity for future occupiers

4.02 In addition the neighbouring Staplehurst Free Church has objected on the grounds of:

- Over-intensification of the site
- Parking from church users will limit access visibility

4.03 The following matters were raised by residents, but are not material planning considerations and therefore cannot be taken into account in the determination of this application.



- Impact on shared drain
- Potential presence of wells
- The application is for financial gain
- Application submitted during lockdown
- Repeat planning submissions
- The fact that objections to the previous invalid application were removed from website

## **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)

### Staplehurst Parish Council

- 5.01 Overdevelopment, harm to character of street, out of character with predominant family home nature of area, inadequate parking and access, noise impact from driveways on neighbours, lack of biodiversity gain, inadequate waste provision, loss of neighbouring amenity

### Kent Police

- 5.02 Advice engagement with Secure by Design principles

### Southern Water

- 5.03 Recommend seeking advice re building on or close to sewers. (SW note sewer runs under tarmac access and parking)

### MBC Environmental Health

- 5.04 No objection. Seek EV charging and conditions to manage internal noise levels.

### KCC Highways

- 5.05 No objection on highways grounds (access and parking) subject to a construction site management condition.

## **6. APPRAISAL**

### **Main Issues**

- 6.01 The key issues for consideration relate to:

- The Principle of Development
- Character and Appearance
- Residential Amenity
- Traffic and Parking

### **The Principle of Development**

- 6.02 The principle of development, that is, the use of the site to accommodate an apartment-led scheme, was established within the 2018 permission; which was considered under the same policy framework as the current application.
- 6.03 The site is sustainably located, midway between the station area and emerging retail facilities to the north and the village 'heart' to the south.

- 6.04 The principle of optimising brownfield land complies with the NPPF and the development plan, subject to other considerations such as transport and amenity.
- 6.05 Whilst the Parish Council refer to the area being predominantly family homes, in terms of the principle of providing smaller dwelling types, both the NPPF and the development plan seek to provide a range of housing types to meet needs. Policy H3 of the Neighbourhood Plan (SNP) seeks to ensure the mix of new housing responds to local needs and local demands in terms of prices, sizes and tenures and in doing so to provide a range of appropriate tenures and sizes of new properties to meet local needs and demands. In doing so the SNP recognises the need to provide for smaller units, for example, to be built within walking distance of the station. The SNP continues to state that such housing types may be suitable for young professionals who have grown up in Staplehurst, who now need regular access to London but wish to live in affordable accommodation within their home village.
- 6.06 Similarly, Policy SP19/1 of the MBLP seeks a range of housing sizes and types to meet the varied needs of the population. It is therefore considered that the provision of 1 and 2-bed apartments would respond positively to the objectives of both the MBLP and the SNP.
- 6.07 With a net gain of 9 units and a total floorspace below the 1,000 sq.m threshold, the scheme is not required to provide affordable housing under Policy SP20. Nevertheless, a range of small units will provide market homes at the lower end of the local price ranges.

### **Character and Appearance**

- 6.08 As identified above, the existing building is not considered to be of such merit that it justifies retention in an unaltered form. Whilst the 2018 permission focussed upon the retention of the existing character, this latest proposal would adopt a different form, but one that, as illustrated in the street scene and CGI above, reflects local character and in the view of Officers is of a more attractive appearance in terms of the streetscape than the previous approval, ie, that compared to the 2018 approval, it is an improvement to the street scene and character of the area.
- 6.09 Whilst the building's height is increased, the additional floor is accommodated within a traditional roofscape in a manner not dissimilar to a number of existing properties in the vicinity, buildings which contribute to the quality of the Station Road Character Area as identified in the SNP
- 6.10 At 5.2 the SNP states that 'new housing should be influenced by the traditional character and style of the village, referencing the local context through high quality materials and styles appropriate to the place'. HOUSING THEME (Policy Code H) of the SNP seeks to *"..... ensure that new housing designs are high quality and respond appropriately to the Kentish context"*, whilst SNP POLICY H1 states that *" the design of new housing developments should be principally informed by the traditional form, layout, character and style of the village's vernacular architecture"* and that *"....new housing development must be shaped and influenced by the traditional character and style of the village"*.
- 6.11 In terms of the street scene and the character of the area, it is considered that the proposed design responds positively to the qualitative requirements of Local Plan Policy DM1 and the objectives of the Neighbourhood Plan, which is centred around new development referencing local context and demonstrating the use of high quality materials and styles appropriate to the place.'

- 6.12 Compared to the 2018 permission, the massing of the rear annex of the development is increased, with a greater depth and increased height. Glimpses of the rear annex will be visible across the car park of the adjacent Church, however, this element will not be prominent and in the context of the significant rear depth of the church and backland development to the north it is not considered that it would adversely affect the character of the street scene.
- 6.13 In summary, it is considered that the latest proposals represent a contextually-led approach and will have a positive impact upon the character of the area.

### **Residential Amenity**

- 6.14 In terms of future occupiers of the development, it is considered that, overall, a good quality of amenity would be achieved. Whilst some of the already approved units fall slightly below national internal spaces standards as they are treated as 2-person units, the new units and others within the development exceed the standard, some by a considerable margin. The rear ground floor units have some dedicated external amenity and the rear garden is considered to be of a good useable size.
- 6.15 With regard to the impacts upon neighbouring amenity, the principle considerations are :
- Overlooking and privacy
  - Noise and disturbance
  - Loss of natural light or overshadowing
- 6.16 The locations of concerned neighbours are shown on the plan at paragraph 4 above. The properties to the rear in 25 and 27 Hurst Close are some distance from the new build elements. The main rear wall is circa 80m from their own rear elevation and the closest part of the proposed annex circa 64m. At this distance it is not considered that any harmful overlooking would occur. The principle of the rear parking court was established in the 2018 approval and the provision of one additional parking space, from 9 to 10, is not considered to be likely to lead to any material increased impact in terms of noise and disruption.
- 6.17 Members should also note that the rear area was and could be used for vehicle movements associated with the historic commercial use.
- 6.18 One neighbour immediately facing across Station Road and one circa 100m to the north east object. Having regard to the positive impact upon the street scene, I do not consider that their visual amenity would be harmed. Due to the separation distance across Station Road I do not consider that any loss of light would be experienced.
- 6.19 Whilst the scheme will provide three additional parking spaces compared to that approved, having regard to the intervening traffic conditions on Station Road, I do not consider that the additional movements would result in undue noise or disturbance.
- 6.20 We then turn to assess the impact upon The Yews, which borders the site to the north. This is a two storey house with accommodation in the roof. The house is set off the boundary by the width of a single garage.
- 6.21 The existing relationship between the properties is shown below. The Yews has a number of windows facing to the rear and across towards the application site. It has a patio area to the rear of the garage and the garden beyond. The application

building has a number of existing windows facing towards The Yews, the use of which are not under planning control.

North Facing Elevation of Application Site

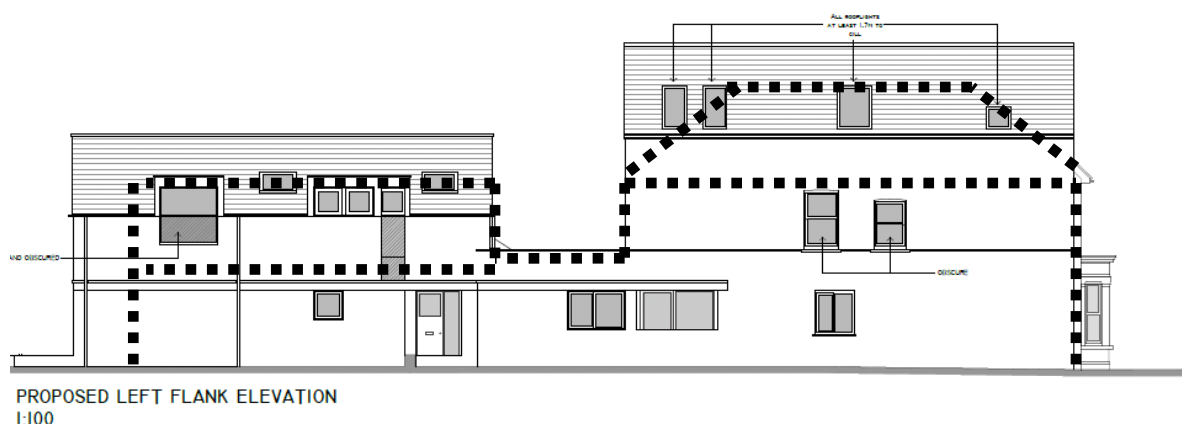


The Site



The Yews

- 6.22 Firstly, in considering the change in the rear site layout, the principal change is the addition of one further parking space and the associated increase in vehicle movements and pedestrians. The access driveway remains as per that approved by Committee in 2018, together with the proposed acoustic fence and landscape buffer adjacent to the rear garden of The Yews. It is not considered that an increase in vehicular activity from 9 to 10 cars would represent a level of disruption that would justify refusal of the latest scheme.
- 6.23 The two visitor parking spaces to the front are also a net addition when compared to the 2018 scheme, however, the front of the property already has parking for two vehicles associated with the previous use. Front garden parking is characteristic of the area and having regard to the existing noise levels from passing traffic and the established access to the rear, it is not considered that the use of these two visitor spaces would lead to a loss of amenity.
- 6.24 It is noted that the EHO raises no objection in terms of potential disturbance from traffic or pedestrian activity.
- 6.25 We then turn to consider the potential impact of the proposed massing, to which there are two considerations; the increased height and mass of the main house and the increased height and depth of the rear 'annex'.
- 6.26 The diagram below shows the flank elevation as now proposed, with the 'approximate' outline of the previously approved scheme shown dashed.



- 6.27 In terms of the main house the eaves increase in height from circa 5.5 metres to 7 metres and the ridge from 8.25 to 9.75 metres, both circa 1.5 metres. The front and rear building lines are unchanged as this represents the existing building footprint. The Yews does not have any windows in the gable facing the main house, but does have a second floor dormer and ground floor patio. Due to the height of the dormers they will benefit from natural light from above and around the proposal, so I consider that the increased bulk will not result in a material loss of natural light to windows to habitable rooms.
- 6.28 The rear part of the neighbour's patio will inevitably experience an increased sense of enclosure and a reduction in light as a result of the increased massing, however, the patio forms part of a large garden over which it enjoys views and as such, any impacts on this area would not be so significant as to justify refusal.
- 6.29 Concerns have been raised over the increase in size of the rear annex, the depth of which is increased by 2 metres (previously approved 14.5m), with the height increased at eaves to 4.5 metres (approved 2.5m) and ridge height of 7 metres (approved 5.5m).
- 6.30 The annex is set off the boundary by circa 7.5 metres and at its closest, circa 16 metres from the neighbour's nearest habitable room window. As such it falls well below the 45 degree angle and would not lead to any material loss of natural light.
- 6.31 Whilst there is an increase in mass in both of the proposed new build elements, it is not of a scale that would result in an overbearing impact and whilst the application property extends to the rear, the outlook of The Yews is clearly principally down its own garden. Members should note that the Free Church extends 40 metres to the rear of its residential neighbours and so the principle of some built elements to the rear is established by this and the 2018 approval.
- 6.32 Finally, turning to potential overlooking. On the main flank of the building, two first floor windows currently have unrestricted glazing and can look towards The Yews. These will be obscured as part of this scheme, resulting in a net benefit. The new rooflights at second floor will have a cil level of not less than 1.7metres and due to their angle, will not permit views down to the neighbours garden.
- 6.33 In terms of the annex, two rooflights will serve a bathroom and provide roof level lighting with no risk of overlooking. Small dormers will provide additional lighting to the kitchen and bedroom, but will again be obscured up to a height that prevents overlooking. Members should note that the main living area and larger bedroom are designed to face away from the neighbour. It is therefore considered that there would be no loss of privacy to The Yews.

- 6.34 On the basis that I consider there would be no adverse impact to the immediate neighbour, nor do I consider that the other neighbours further to the north would be adversely affected.

### **Traffic and Parking**

- 6.35 Kent County Council Highways have commented on the application and do not raise any objection to access or parking arrangements. As detailed above, this is an established driveway that has served a mixed use property. The net increase of three spaces and the associated movements do not generate impacts sufficient to object in terms of highway safety.
- 6.36 This section of Station Road is heavily trafficked, particularly during peak hours, but residential driveways accessing directly onto the Road is a common feature amongst the majority of properties. The scheme is designed to allow cars to enter and leave in forward gear. As with neighbours, service vehicles would serve from the road.
- 6.37 It is noted that the adjacent Church has 19 parking spaces and no objection was raised on highways grounds. It is not considered that the juxtaposition of the Church and this scheme would result in adverse conditions.

### **Other Matters**

- 6.38 The applicant has agreed to conditions requiring EV Charging, plus bird bat and bee habitats. Officers also consider that as the rear annex is relatively discreet, it is appropriate to seek PV installation and this is again covered by condition.
- 6.39 As previously identified there are no heritage assets or protected trees within or adjacent to the application site. The closest listed building is Sorrento (GII), some 70m north east, on the western, opposite side of Station Road. There is no material visual relationship between the two and in the context of the limited scale of change in appearance, it is not considered that the application site affects the setting of the listed building.
- 6.40 A number of residents have raised concerns regarding the submission of several schemes over time and the apparent removal of objections from the website. Officers advise that the previous application 20/501321/FULL was treated as invalid and re-submitted in the present form at the request of the Council as the previous application could not be determined in the form submitted. As the application was returned as invalid (not withdrawn), it was removed from the website together with all documents (and any comments made prior to this).
- 6.41 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**

- 6.42 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 Having regard to the above, it is recommended that planning permission be granted subject to the conditions listed below.

## **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/drawings: PO4 Floor / roof plans, PO5 Elevations, PO6 Site plan.  
  
Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.
- 3 Before the development hereby permitted is first occupied, the first floor windows opening on the northern elevation of the existing building and the new windows in the rear annex at first floor level (as shown on drawing number P05) shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such:  
  
Reason: To safeguard the privacy of existing and prospective occupiers.
- 4 No development above slab level on the extensions hereby permitted shall take place until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter.  
  
Reason: To ensure an energy efficient form of development. Details are required prior to commencements as these methods may impact or influence the overall appearance of the development.
- 5 The development hereby approved shall not commence above slab level until details of a scheme for the provision of accessible electric vehicle charging points, including a programme for their installation, maintenance and management, shall be submitted to and approved in writing by the local planning authority. The electric vehicle charging points as approved shall be installed prior to occupation of the

building 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 in accordance with the NPPF.

- 6 The development hereby approved shall not commence above slab level until, written details 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.

- 7 Notwithstanding the details as shown on drawing number P06 the development shall not be occupied until details of hard and soft landscape works which shall include the use of permeable paving upon the access and hardstanding parking areas have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of native species planting and habitat for birds, bees and bats. The approved landscaping shall be planted in the first available planting season. If any part of the approved native planting becomes dead, dying or diseased within 5 years of planting it shall be replaced with a similar species of a size to be agreed in writing with the Local Planning Authority and shall be retained at all times in accordance with the terms of this condition. The approved hardstanding shall be carried out in accordance with the approved details before first occupation of the apartment and retained thereafter;

Reason: To ensure satisfactory appearance to the development and in the interest of sustainable water drainage.

- 8 No development shall take place until details of on site parking and turning for all construction traffic have been submitted to and approved in writing by the local planning authority. The details shall be implemented before construction commences and retained until the completion of the construction.

Reason: To ensure adequate on site parking and turning provision is made for construction traffic In the interest of highway safety and the free flow of traffic.

- 9 Prior to the occupation of the apartments, details of an acoustic fencing along the northern boundary of the site to protect the neighbouring site against transmission of airborne sound shall be submitted to and approved in writing by the local planning authority and the approved scheme shall be completed before first occupation of any dwelling and shall be maintained thereafter.

Reason: To mitigate the effects of potential noise nuisance.

- 10 Any external lighting shall be in accordance with details that have been previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason: To protect the night-time rural environment in the interest of visual amenity.

Reason: In the interests of visual amenity.

- 11 The development hereby approved shall not commence above slab level until, details of satisfactory facilities for the storage 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.

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

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

- 12 The approved details of the parking/turning areas shall be completed before the commencement of the use of the 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 to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

## **INFORMATIVES**

- 1) In the interest of ensuring sufficient foul capacity is provided to the development, prior to the commencement of development, an application shall be made to the statutory undertaker under s106 of the Water Industry Act 1991 requesting a connection to the public sewer.
- 2) The applicant is advised that in order to avoid nuisance to neighbours they should seek to only use plant and machinery used for demolition and construction between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
- 3) The applicant is advised that in order to avoid nuisance to neighbours they should only seek to allow vehicles to arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Case Officer: Austin Mackie



<b>REFERENCE NO:</b> 19/500271/FULL		
<b>APPLICATION PROPOSAL:</b> Change of use of land for stationing of 18 holiday caravans with associated works including laying of hardstanding and bin store.		
<b>ADDRESS:</b> Oakhurst, Stilebridge Lane, Marden, TN12 9BA		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<p><b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> At 5<sup>th</sup> Dec 2019 committee, Members of the Planning Committee resolved to grant permission for this application, finding it to be acceptable in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; and viability of business, subject to appropriate conditions/informatives.</p> <p>At 5<sup>th</sup> Dec 2019 committee, Members of committee also found the proposal to be acceptable in terms of its potential landscape impact. However this finding was based, in part, on advice that was subsequently found to be unlawful that the Committee could not require appropriate design details of the lodges to be provided nor exercise planning control over their design, either by deciding whether or not to grant permission, or by the imposition of conditions on any permission.</p> <p>Responding to this error of law, this report now addresses the scale and design of the caravans and the acceptability of these, and it is advised that a suitable condition can be imposed to secure details so as to properly exercise planning control at this planning application stage, notwithstanding the operation of the Caravan Sites and Control of Development Act 1960. With these details secured, this must be considered alongside the previously proposed layout, comprehensive landscaping scheme, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points), which Members previously found acceptable.</p> <p>With everything considered, and in accordance with the relevant provisions of the Development Plan and NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that it is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> On 15 <sup>th</sup> July 2020, the High Court: <i>R (Patricia Shave) v Maidstone Borough Council v Mr and Mrs P Body [2020] EWHC 1895 (Admin)</i> , quashed the planning permission that was issued on 13 <sup>th</sup> December 2019. This application needs to be reconsidered by the Members of Planning Committee, as outlined in the report below.		
<b>WARD:</b> Marden & Yalding	<b>PARISH COUNCIL:</b> Marden	<b>APPLICANT:</b> Mr & Mrs P Body <b>AGENT:</b> Graham Simpkin
<b>TARGET DECISION DATE:</b> 30/11/20		<b>PUBLICITY EXPIRY DATE:</b> 05/11/20

Attached to this Committee report are the following appendices:

<b>APPENDIX A:</b>	Planning Committee report for 5 <sup>th</sup> December 2019
<b>APPENDIX B:</b>	Urgent update for 5 <sup>th</sup> December 2019 Planning Committee
<b>APPENDIX C:</b>	Planning Committee report for 30 <sup>th</sup> May 2019
<b>APPENDIX D:</b>	Urgent update for 30 <sup>th</sup> May 2019 Planning Committee
<b>APPENDIX E:</b>	Planning Committee Minutes for both Committees referenced

## MAIN REPORT

### 1.0 BACKGROUND INFORMATION

- 1.01 This planning application was first presented to Planning Committee on 30<sup>th</sup> May 2019 and at this Committee, Members resolved to defer the application for the reasons as set out in APPENDIX E (published Minutes).

1.02 The applicant subsequently submitted the following information:

- Amended site location plan reducing the area of the planning unit
- Amended layout plan showing proposed caravans and associated works kept to the western (roadside) half of the site. Layout has reduced number of caravans to 18 instead of 20; and it shows an extension of new planting along the southern and northern boundaries
- Written statement responding to certain issues raised by Members
- Visual Impact Assessment (VIA)
- Business Plan
- Updated Surface Water Drainage Strategy

1.03 The application was then reported back to Planning Committee on 5<sup>th</sup> December 2019 and Members resolved to grant planning permission and the decision was issued on 13<sup>th</sup> December 2019.

1.04 On 15<sup>th</sup> July 2020, the High Court Judgement: *R (Patricia Shave) v Maidstone Borough Council v Mr and Mrs P Body [2020] EWHC 1895 (Admin)*, quashed this decision. Paragraph 66 of the High Court decision states:

*The claim is allowed but only on the single legal error I have identified as to the power of the planning authority to control design. I reject all the other grounds advanced. The upshot is that the grant of planning permission dated 13<sup>th</sup> Dec 2019 must be quashed.*

1.05 The 'single legal error', is in terms of design and is discussed in paragraphs 39-55 of the High Court decision. Of particular note:

Para 44 - *It is plain that there was some concern within the Planning Committee about the details of the design. At the meeting on 30 May 2019 the members resolved to defer their consideration of the application, so that details not only of the "actual layout" but also of the "scale and design parameters" could be obtained. The only information on that subject which was provided in the officer's report to the committee's meeting on 5 December 2019 was summarised in paragraphs 3.05 and 3.06 (quoted in paragraph 17 above). The members were told:-*

- (i) Maximum size of each lodge, reflecting the definition in s.13 of Caravan Sites Act 1968;*
- (ii) That it was not justified for the planning authority to seek more details of the lodges because planning permission was only required for the change of use of the land to station or accommodate the lodges for holiday purposes; and*
- (iii) That planning permission would be required for any additions to the lodges as defined in (i) above, for example, decking or verandas.*

Paras 45 & 46 - *Points (i) and (iii) had previously been set out in paragraph 2.02 of the officer's report to the committee meeting on 30 May 2019 and so plainly would have been taken into account by them when they asked for future information on design. In any event, strictly speaking point (iii) was irrelevant to the application which was before the members, the scope of which was defined by point (i). It was the design of the development the subject of the application about which the members sought more information. It was therefore solely point (ii) which sought to explain why that information was not being provided. In effect, the committee was told that it could not control design beyond the dimensions given in paragraph 3.05 of the officer's report when determining the planning application for the proposed change of use.*

Para 48 - *I have reached the firm conclusion that point (ii) involved an error of law. The nature of the planning application before the council did not prevent the authority from exercising further planning control over the design of the proposed holiday lodges.*

Para 55 - *Accordingly, it was an error of law for the Committee to be advised that the planning authority could not require appropriate design details to be provided, and so could not exercise planning controls in relation to the design of the lodges, by deciding whether or not to grant permission or by the imposition of conditions on any permission.*

## **2.0 UP TO DATE POSITION OF APPLICATION**

- 2.01 In light of the decision being quashed by the High Court, Members are now required to reconsider the application afresh, the legal error about the design of the lodges having been corrected. This report will therefore address this issue of design, and Members should be made aware that there is now proposed the ability to control the design of the caravans in planning terms. The report will also assess the previous reasons for deferral (in May 2019) and all other relevant planning matters.
- 2.02 For clarity, the relevant plans/documents for this proposal are:
- Drawing ref: 2763 01 Rev A (received 14.10.19) showing reduced area of planning unit
  - Drawing ref: 04 Rev A (received 12.10.20) showing reduced area of planning unit
  - Drawing ref: 05 Rev F (received 12.10.20) showing layout of 18 caravans and extension of new planting along southern and northern boundaries
  - Written agent statements responding to certain issues (Sept 2019 & Sept 2020)
  - Visual Impact Assessment (received 23.10.19)
  - Business Plan (received 24.09.19)
  - Updated Surface Water Drainage Strategy (ref: 4957\_3731 SWDS – Oct 2019)
  - Flood Risk Assessment (ref: 3731 FRA – June 2018)
  - Ambient Environmental Assessment letter dated 13/02/19
  - Design & Access Statement (dated: Jan 2019)
  - Ecological Scoping Survey (March 2018)
  - Reptile Survey and Bat Tree Assessment Report (Oct 2018)
  - Great Crested Newt Risk Assessment (June 2018)
- 2.03 The agent has confirmed the plans are accurate and reflect the location of the existing (retained) access, as well as making clear as to the extent of the site outline. Furthermore, the agent's response to the High Court decision states that the applicant provided references to the intended design of lodges in para 4.4 of D&A Statement, specifically the use of weatherboarding with wood stained finish; and they believe the decision is clear that the design of the lodges can be controlled by condition. The applicant has no objection to placing further control on the design of lodges by seeking details prior to the commencement of works.

## **3.0 PERMITTED DEVELOPMENT RIGHTS**

- 3.01 Paragraph 61 of the High Court decision states:

*The Claimant complains that paragraph 6.01\* of the report to the Committee meeting on 30 May 2019 advised members that the site had permitted development rights for use as a camping site for up to 28 days in any year. It is pointed out by the Claimant that this right does not apply to the use of land as a caravan site. But the short answer is that the report did not suggest otherwise. It is impossible to say that the report was misleading, let alone significantly misleading in some way which was material to the decision. Ms. Olley was entirely right not to place any emphasis on this point.*

*\*This is an error - the paragraph being referred to is 6.05 of 30<sup>th</sup> May committee report*

## **4.0 CONSULTATION RESPONSES**

- 4.01 A summary of the original consultation responses can be found in APPENDIX C to this report. The following is a summary of the responses received after this application was deferred in May 2019 and those received following public re-consultation on 15<sup>th</sup> October 2020. Responses will be discussed in more detail further on in this report where considered necessary.

	<b>RESPONSES RECEIVED AFTER DEFERRAL IN MAY 2019</b>	<b>RESPONSES RECEIVED AFTER OCT 2020 RECONSULTATION</b>
<b>Local residents</b>	<p>10 received raising concerns over:</p> <ul style="list-style-type: none"> <li>- Impact upon character of area</li> <li>- Flood risk</li> <li>- Surface water/foul sewage disposal</li> <li>- Inaccuracy of submitted plans</li> <li>- Validity of submitted Business Plan</li> <li>- Location not appropriate for proposed use/no demand for tourist use here</li> <li>- Potential development to east half of site</li> <li>- Site to be used as permanent residential</li> <li>- Highway safety/traffic generation</li> <li>- Biodiversity impacts</li> </ul>	<p>15 received raising concerns over:</p> <ul style="list-style-type: none"> <li>- Site not used by touring caravans</li> <li>- Highway safety/traffic generation</li> <li>- Flood risk/foul water disposal</li> <li>- Visual/landscape harm (inc. design)</li> <li>- No requirement for development</li> <li>- Impact on residential amenity</li> <li>- Site to be used as permanent residential</li> <li>- Unsustainable development</li> <li>- Biodiversity impacts</li> <li>- No employment benefit</li> <li>- Should be refused due to HC decision</li> <li>- Inaccurate plans</li> <li>- Impact: Ancient Woodland &amp; SSSI</li> </ul>

	<b>RESPONSES RECEIVED AFTER DEFERRAL IN MAY 2019</b>	<b>RESPONSES RECEIVED AFTER OCT 2020 RECONSULTATION</b>
<b>Cllr Burton</b>	No further comments received.	No further comments received.
<b>Marden Parish Council</b>	<p>Wish for application to be refused as:</p> <ul style="list-style-type: none"> <li>- Residents expressed concern relating to water run-off/flooding risk</li> <li>- Site in flood zone ½, on narrow country lane known to flood</li> <li>- Business Plan does not appear robust to support application</li> <li>- Development contrary to DM38</li> </ul>	<p>Wish for application to be refused as:</p> <ul style="list-style-type: none"> <li>- Local residents express concern relating to water run-off and flooding risk – Site is in flood zone 2.</li> <li>- Site entrance on narrow country lane and known to flood.</li> <li>- Business Plan not robust to support development – contrary to Policy DM38.</li> </ul>
<b>KCC Highways</b>	Has no further comment to make.	Resident concerns over perceived use of site is acknowledged. However, we must assume existing worst case scenario, and feasibly site could be at maximum capacity under its license tomorrow and that would be perfectly permissible. We could not realistically sustain objection on anecdotal evidence of site being rarely used. In any case, holiday lets typically generate fewer vehicle movements than dwellings, and I would not expect proposal to generate significant number of car movements that could be considered to have severe or detrimental impact on highway safety on Stilebridge Lane or junctions that serve it. On balance I do not believe we have any further cause to object.
<b>Env Agency</b>	Has no further comment to make.	Has no further comment to make.
<b>Env Protect Team</b>	Has no further comment to make.	Continue to raise no objection.
<b>KCC SUDS</b>	Raise no objection subject to previously recommended conditions.	Has no further comment to make.
<b>Landscape Officer</b>	Raise no objection.	Original comments remain unchanged. In terms of JR, issues relating to design matters are not something normally commented on except in relation to visual/landscape character. In that context, I can only reiterate that extensive, large scale or visually intrusive

		development would be inappropriate; development should respect local vernacular in scale, density & materials; & cited specific landscape character attributes should be conserved/enhanced.
<b>Biodiversity Officer</b>	Advises sufficient info has been provided to determine application.	Previous response remains relevant and has no further comment to make.
<b>Natural England</b>	Continues to raise no objection.	Continues to raise no objection.
<b>Agriculture Advisor</b>	Has no further comment to make.	No further comments received.
<b>Southern Water</b>	Previous comments remain unchanged and valid – No objection raised.	Previous comments remain unchanged and valid – No objection raised.
<b>Kent Police</b>	Extended planting zone & new native hedgerow will offer additional defensive planting once established – Previous comments remained valid.	Has no additional comment to make.
<b>Upper Medway Internal Drainage Board</b>		No representations received.
<b>Scottish Gas</b>		No representations received.
<b>UK Power Networks</b>		Raise no objection.

## 5.0 LANDSCAPE IMPACT, LAYOUT, SCALE AND DESIGN

### Landscape impact

- 5.01 In this respect, paragraphs 6.07 to 6.11 of the committee report presented on 30<sup>th</sup> May 2019 remains relevant and states:

6.07 - *Within the Maidstone Landscape Capacity Study: Sensitivity Assessment, the proposal site is in the Staplehurst Low Weald landscape character area (44) that is considered to be sensitive to change. This assessment also states that development in this area could support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.*

6.08 - *It is accepted that the proposal would change the character of what is an open field. However, the site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed.*

6.09 - *To further safeguard the character and appearance of the countryside, a suitable condition will also be imposed to secure the retention of the existing hedgerows along the southern and western boundaries of the site; for the retention of the existing trees within the site, as shown on the submitted plan; for further native planting within the 15m buffer zone to the ancient woodland; and for a mixed native hedge to be planted along the northern boundary of the site.*

6.10 - *In accordance with the Maidstone Landscape Capacity Study, the proposal would conserve the existing Oak trees on the site; the landscaping scheme would seek new Oak tree planting; and existing hedgerows would be retained. External lighting could also be appropriately controlled by way of condition.*

6.11 - *It is therefore considered that the proposal would not appear prominent or visually intrusive in a landscape that is sensitive to change, and would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.*

- 5.02 The submitted Visual Impact Assessment (VIA) concludes that the proposal would have a minimal impact on the landscape from public vantage points, and this conclusion is agreed with. The Landscape Officer is also satisfied that the VIA is an appropriate level study for this proposal. Whilst some of the landscape details in the VIA are not up to date, as it is not intended to be a full LVIA and only an assessment of public viewpoints, the Landscape Officer considers it to be an acceptable submission on this basis.
- 5.03 Furthermore, the Landscape Officer commented on the amended plans in November 2019 that: *Proposed soft landscaping is an improvement on original scheme with introduction of landscaped & extended native buffer to Ancient Woodland & new native hedgerow planting.* The proposed landscaping remains unchanged and will be secured by way of condition. In addition, the amended layout further safeguards the visual amenity of the countryside, by keeping the static caravans and associated built works away from the rearmost part of the site, where the land level does rise; by reducing the number of caravans; and by showing a more comprehensive landscaping scheme (as explained above) to further mitigate the visual impact of the development.

#### Layout

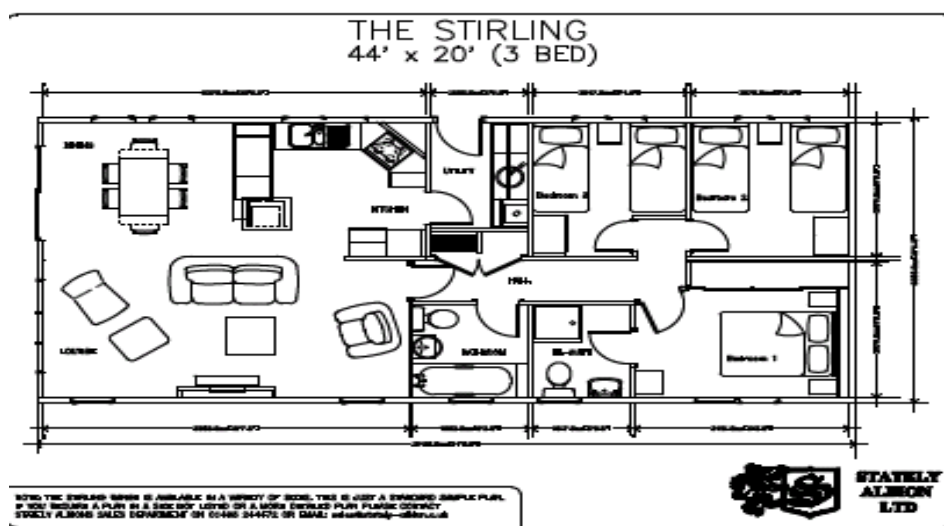
- 5.04 The submitted plans show the proposed layout, including the location of the 18 static caravans (and not 20 caravans as previously proposed); the hardstanding/parking; the bin store location; retained and new landscaping; and where external lighting will be positioned. The application site has also been reduced in size (from 2ha to 1.18ha), with the paddock area to the east no longer part of the proposal.
- 5.05 To be clear, any future development outside the red outline would require planning permission. The proposed layout would now restrict development to the front of the site, preventing the sprawl of development across the site and retaining a sense of openness at the rear. The level of hardstanding has been restricted to the access road and the caravan bases, with all parking areas being of grasscrete to further soften the appearance of the development. The layout also provides a significant buffer from the proposal to the Ancient Woodland beyond (over 65m away). For these reasons, the layout is considered to be acceptable.
- 5.06 No details of a lighting strategy have been submitted. However, the agent has confirmed the location of the external lighting and stated that it would be of low level lighting bollards (125mm high). The Environmental Protection Team and the Biodiversity Officer continue to raise no objection on this matter, and there is no reasonable justification to refuse the application on this basis. As previously recommended, and to safeguard the character and appearance of the countryside, as well as to mitigate against the potential adverse effects on bats, specific details of external lighting can be appropriately controlled by way of condition.

#### Scale and design parameters

- 5.07 It remains the case that the static caravans proposed will be within the lawful definition of a caravan as set out under Section 29 of the Caravan Sites and Control of Development Act 1960. For reference, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall internal head height being 3.05m.



- 5.08 The sole reason why the previous decision was quashed was because Members were previously advised it was not justified for the local planning authority to seek more design details of the caravans because planning permission was only required for the change of use of the land to station or accommodate them for holiday purposes. The High Court decision found that this advice amounted to an error of law and the Committee should not have been advised that they could not require design details or exercise planning control over the design of proposed caravans.
- 5.09 This single error of law will now be considered. The applicant has chosen not to submit specific design details of each caravan at this stage, as such details are unknown to them. Indeed, for example five of the caravans will be sold to private owners who will reasonably want to select their own caravans. Notwithstanding this, the agent has submitted an **indicative** caravan layout (relating to a 3-bed 'Stirling Lodge' (measuring 13.4m x 6.1m); and a 3D drawing of a 2-bed 'Stirling Lodge' (measuring 11.5m x 6.1m), to give an idea of the design, scale and appearance of the caravans. This detail is shown below. Furthermore, in general terms the agent has confirmed that all caravans will be clad in weatherboarding with a wood stained finish. This choice of external finish is considered to be traditional and subdued, and in keeping with the rural context of the site; and with the benefit of existing and proposed planting, the caravans would blend into the landscape and would not appear so visually incongruous or dominant from any public vantage point as to warrant refusal.



- 5.10 To safeguard the scale and appearance of the caravans, in terms of securing the weatherboarding cladding (and appropriate finish), an appropriate condition will be imposed; and this is agreeable to the applicant. This is considered to be an acceptable approach, and in line with the High Court decision where it states:

*Para 53 - Mr. Atkinson referred to Esdell Caravan Parks Limited v Hemel Hempstead Rural District Council [1966] 1 QB 895 for the analysis by the Court of Appeal of the overlapping nature of the controls available under planning legislation and the 1960 Act. But there is no authority, nor is there anything in the legislation, to support the proposition that design (other than overall dimensions) cannot be taken into account and controlled when determining an application for planning permission to allow land to be used for the stationing of "caravans", whether by refusing it **or by granting it subject to the imposition of conditions on the permission.***

*Para 55 - Accordingly, it was an error of law for the Committee to be advised that the planning authority could not require appropriate design details to be provided, and so could not exercise planning controls in relation to the design of the lodges, by deciding whether or not to grant permission **or by the imposition of conditions on any permission.***

#### Summary

- 5.11 The Landscape Officer reiterates that extensive, large scale, or visually intrusive development would be inappropriate here; that development should respect local vernacular in scale, density & materials; and that cited specific landscape character attributes should be conserved/enhanced.

- 5.12 It is understood how many caravans there will be on the site; where they will be located; and what scale they will be. It is also known that the caravans will be clad in weatherboard with a timber stain, and that this appearance can be secured by way of an appropriate condition and retained for the lifetime of the development. Furthermore, the recommended landscaping condition will ensure the retention of the existing hedgerows along the western and southern boundaries of site; the planting of new trees (including Oak); the retention of existing trees (including Oak); and the planting of new mixed native hedgerows. The proposal also conserves the existing field pattern. This would be in accordance with the Council's Landscape Character Area guidelines for the Staplehurst Low Weald Area (44), which advises (inter alia):

- New development should respect local vernacular in scale, density and materials
- Conserve abundance of oak as dominant species, and plant new oaks within pasture
- Conserve & enhance hedgerows, ensuring they are correctly managed and gaps replanted
- Conserve & enhance small scale field pattern and sense of enclosure
- Encourage native hedgerows around commercial developments

- 5.13 For the reasoning set out in the 30<sup>th</sup> May 2019 committee report along with the additional considerations as stated above, the layout, scale and design of the proposal is considered to respect the local vernacular of the area; the positive attributes of this landscape character area would be conserved and enhanced; and it remains the view that the proposal would not appear cramped, prominent or visually intrusive. As such, it is considered that the proposal would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

## **6.0 OTHER MATTERS STILL RELEVANT**

### Further details of landscaping and ecological enhancements

- 6.01 As set out in the committee report for 30<sup>th</sup> May 2019 committee, the Biodiversity Officer has advised that sufficient information has been provided to determine the planning application; and they continue to raise no objection to the proposal in biodiversity terms (subject to appropriate conditions as previously recommended in

terms of external lighting, precautionary measures for reptiles and Great Crested Newts, and ecological enhancements).

- 6.02 As well as the already proposed additional planting along the 15m buffer to the Ancient Woodland, the proposal has now removed the eastern part of the site from the application, and it has extended the area of new planting along the southern boundary of the site. The now removed paddock to the east of the site, and this new planting will be managed by appropriate timber post and rail fencing to deter public access in this area. This not only goes above and beyond what is required to protect the adjacent Ancient Woodland, but creates a wildlife corridor around the boundary that also extend westwards to provide a habitat link to the pond and ditch network on the road frontage. With the planted buffer zone along the eastern and southern boundaries, the retained front boundary hedge, and the new native hedge along the northern boundary, the connectivity around the whole site for wildlife is a significant enhancement. The proposal also continues to include the retention of the mature Oak trees close to the southern boundary, and the recommended landscaping condition will help secure their retention. The Landscape Officer is also of the view that the proposed soft landscaping is an improvement on the original scheme.

Viability of proposal

- 6.03 Whilst relevant policy and guidance does not require applicants to set out the future commercial viability of such a proposal, key points taken from the submitted Business Plan are as follows:
- 5 caravans will be sold to private owners in order to recoup capital spend
  - 13 caravans will be owned and operated as hire fleet by site owner
  - Caravans to be sold on 50yr leasehold for which there will be annual service charges of £3,000 per caravan (to cover maintenance and management)
  - Layout will be in accordance with fire regulations and site licencing
  - In terms of marketing and managing, site owners will be assisted by Hoseasons
  - Visit Britain believes tourism sector will grow at annual rate of 3.8% through to 2025
  - Holiday parks had strong years of trading given improvements in wider economy
- 6.04 Furthermore, in terms of the local market, the Business Plan argues that within Kent there is an obvious demand for tourist facilities. The proposal site is in proximity to Tunbridge Wells, Tonbridge and Maidstone that all have their own draw; the site is also close enough for visitors to explore the High Weald AONB and the Kent Downs AONB if they so wish; and there is also a wide range of outdoor leisure activities in the locality, such as golf courses; public rights of way; fishing; horse riding facilities etc. The Business Plan also understands there to be limited sites in close proximity to the proposal site that offers high quality self-catering accommodation. The Business Plan then calculates development potential over a 3yr period, and this predicts a capital return on development in 2yrs, with the annual rental income for the site being circa. £375,000 once established by year 3. There is no clear evidence to dispute the findings of the Business Plan and it is considered unreasonable to object to the proposal on these grounds, particularly when applicants are not required in policy terms to set out the future viability of such tourist uses in the countryside.
- 6.05 It should be stressed again that Local Plan policy seeks to support small scale employment opportunities to help the rural economy (be it for individuals or larger businesses where other staff are employed), including holiday caravan sites (subject to certain criteria); and the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by supporting the expansion of existing tourism related businesses in the countryside.

Sustainability in terms of location

6.06 Paragraph 3.16 of the 5<sup>th</sup> December 2019 Committee report stated:

*The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business 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. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do.*

6.07 The view remains that the proposal is not objectionable on location grounds; and for reference, the submitted criticisms of this matter was rejected by The Honourable Mr Justice Holgate and relevant references to the High Court decision are set out:

*Paras 34 - The fact that one councillor happened to say during the committee's debate "we haven't looked at the sustainability of this site" would appear to be referable to that person's view on the discussion on that topic which had so far taken place during the meeting. It certainly could not be taken as an indication of any lack of understanding on the part of members about the principles of sustainable development. Nor could it be treated as a valid criticism of the officer's reports, because paragraph 3.16 of the report to the meeting on 5 December 2019 did address sustainability:-*

*"The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business 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. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do."*

*Para 35 and 36 - Paragraph 40 of the Claimant's skeleton complains that the officers misled members of the committee into thinking that a permanent development could be "sited anywhere in the countryside, whereas policy expects such sites to be adjacent to or well related to a sustainable settlement." That is a most unfair reading of the officer's report. It did not do any such thing. It adequately and fairly summarised the broad effect of the NPPF, including the reference to development sometimes being located "beyond existing settlements", something which the criticism in paragraph 40 of the Claimant's skeleton overlooks. There was no legal requirement for the report to refer also to the types of development which is encouraged in the last sentence of paragraph 84 of the NPPF, "where suitable opportunities exist." Unfortunately, this and other complaints raised typify the excessively legalistic criticism of officer's reports which is deprecated in many of the authorities. Furthermore paragraph 3.16 should not be read in isolation, but in the context of the further information which on 30 May 2019 the committee resolved to seek and which was subsequently provided. Such matters were summarised in paragraph 3.14 of the officer's report to the meeting on 5 December 2019. Sustainability takes into account the nature of the development proposed.*

*Paras 37 - There is no merit at all in the complaint that the officer's report was inconsistent with the officer's delegated decision to refuse permission on 6 December 2019 for an application at Romany Stables at another location off Stilebridge Lane for permission to expand a traveller site, on the basis that that location was not sustainable. In her oral submissions Ms. Olley said that she was not trying to rely on the consistency principle in North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137, yet that is precisely what paragraph 40 of her skeleton alleged. If that was not the point, it is difficult to see what other legal error could have been pursued. The short point is that the Romany Stable proposal was for a form of permanent residential occupation and the report stated that the location would have been treated as being sufficiently sustainable if the intended occupants had had "gypsy and traveller status", but it was determined that they did not. This was not a comparable set of circumstances engaging the consistency principle.*

*Para 38 - For all these reasons the complaints in relation to the treatment of sustainability must be rejected.*

Highway safety

- 6.08 The submission has confirmed the layout of the static caravans, and has seen a reduction in the number of static caravans on the site to 18 from that originally submitted. The Highways Authority has reviewed the new information, considered what is possible in terms of permitted development rights, and continues to raise no objection on highway safety grounds, subject to the retention of the shown turning area and the imposition of their previously recommended conditions.

- 6.09 It should be noted here that paragraph 65 of the High Court decision states:

*Although, it forms no part of the challenge, or indeed my decision, I have also noted paragraph 6.13 of the officer's report to the meeting on 5 December 2019. The highways authority considered that a significant factor in favour of the proposal was that it was for lodges in situ and so there would no longer be touring caravans going to and from the site. This reflects a point relied upon by the developer in the Design Access and Planning Statement. The highway authority envisaged that a condition would be imposed to ensure that the "caravans" to be stationed on site would exclude the "touring" variety and be restricted to lodges. So far as I can see that was not reflected in the permission granted and so the quashing of the decision will enable the control of that aspect to be considered as well.*

- 6.10 At Planning Committee on 5<sup>th</sup> December 2019, it was resolved to delete such a condition given the reduction of the red line boundary to the application site. On reflection, restricting touring caravans on the site is considered to be in the interests of highway safety.

Environmental Impact Assessment (EIA) development

- 6.11 The proposal falls within Schedule 2 of the EIA Regulations 2017. As previously confirmed, a Screening Opinion has been adopted on behalf of Maidstone Borough Council on 3<sup>rd</sup> December 2019 and an EIA is not required for the development. The submitted criticisms surrounding this issue were rejected by The Honourable Mr Justice Holgate and relevant references in the High Court decision are set out:

*Para 23 - On 3 December 2019 duly authorised officers issued a screening opinion that the harm from the proposal "is considered to be localised and... therefore... the development is not so significant or wide ranging as to warrant an ES". Ms. Olley confirmed that the Claimant does not challenge the legality of that opinion or suggest that there has been any breach of the 2017 Regulations. The fact that the negative screening opinion was not issued until 3 December 2019 does not give rise to any error of law.*

*Para 24 - Ms. Olley drew attention to paragraph 6.27 of the officer's report in May 2019, which stated that "the proposal is not Environmental Impact Assessment development." She pointed out that no screening opinion had been issued at that stage, but accepted that that statement in the officer's report did not vitiate MBC's decisions in December 2019 to grant planning permission. The key point is that the requirements of the 2017 Regulations for a lawful screening decision to be made were satisfied by 3 December 2019, before the decision to grant planning permission was taken and the decision notice issued.*

*Paras 25 - Ms. Olley pointed to the "urgent update" provided to the Planning Committee for its meeting on 5 December 2019 which stated that a negative screening opinion had been adopted on behalf of MBC. She pointed out that the Council's pre-action protocol response dated 6 January 2020 had incorrectly said that the screening opinion had been put before members, whereas in fact they had been told nothing more than that a negative screening opinion had been issued. But Ms. Olley accepted that there was no legal requirement for the members to be given any details about the screening opinion. This was a delegated decision for officers to take and, as the Claimant accepted, that decision is not open to legal criticism. The error in the letter of 6 January 2020 is unfortunate, but, as Ms. Olley accepts, does not render the grant of permission unlawful. Ultimately, she made, as I understood it, a generalised assertion that there had been a public law error because of the manner in which this aspect had been reported to members. In my judgment it is impossible to say that the members were misled in any relevant, let alone any significant way which could possibly have*

*affected their determination of the application for planning permission, applying the principles set out in [28] below.*

Para 26 - *Ground 1 must be rejected.*

#### Miscellaneous

- 6.12 There also remains no objection to the proposal in terms of residential amenity, for the reasons previously set out in the 30<sup>th</sup> May 2019 committee report. In terms of flood risk and surface water drainage, the finished floor levels of the caravans in Flood Zone 2 will still be raised 150mm above surrounding ground levels. To clarify, KCC as the Lead Local Flood Authority, has reviewed the amended Surface Water Drainage Strategy Report by 'Ambiental' (dated Oct 2019) which updates the strategy to reflect the proposed layout, and they have no objections to make subject to the previously recommended conditions that have been duly recommended. All other matters addressed in paragraphs 6.25-6.27 of 30<sup>th</sup> May Committee report remain relevant; and to clarify, a condition has been recommended to seek details of the proposed method of foul sewage treatment prior to the occupation of any caravan.
- 6.13 The representations received from Marden Parish Council and local residents, as a result of re-consultation, have been considered in the assessment of this application. It should be noted here that the proposal has been considered on its own merits, based on the submission for tourism use. If approved and there is a reported breach of the permission, then it would be a matter for the Planning Enforcement Team to investigate at that time.

### **7.0 CONDITIONS AND HEADS OF TERMS**

- 7.01 The submitted criticisms relating to the imposed holiday occupation condition was rejected by The Honourable Mr Justice Holgate, as set out in paragraphs 59 and 60 of the High Court Decision which state:

*Para 59 - Ms. Olley stated that she was not contending that the condition was legally uncertain. Instead, she maintained that the condition was irrational and the officer's report misled the members about its effect.*

*Para 60 - There is no merit in these arguments. The condition did not need to define "holiday" or duration of stay in order to avoid irrationality or to be otherwise lawful. It is impossible to say that condition 3 fails the third test of validity set out in Newbury District Council v Secretary of State for the Environment [1981] AC 578, namely that it is so unreasonable that no reasonable planning authority could have imposed it. The condition makes it clear that no lodge may be occupied as the sole or main residence of the occupier. An occupier must reside wholly or mainly elsewhere. The register provides a suitable mechanism to enable the local authority to check on compliance with the condition and take enforcement action.*

- 7.02 Please note that this holiday occupation condition, and those conditions (and informatives) as previously imposed are still recommended, including the following as resolved by the planning Committee on 5<sup>th</sup> December 2019:
- *Further amendment of condition 3 (originally condition 4) (Holiday Occupancy) to include mechanism to effectively record use of the caravans;*
  - *Add condition requiring provision of owl boxes to protect/enhance biodiversity; and*
  - *Add informative reminding applicant/future occupiers this is tourist not permanent residential development and explaining that it cannot be for full time residential occupation.*
- 7.03 Furthermore, for the reasons set out above, further conditions are also recommended to restrict touring caravans using the site; and to control the design/appearance of the caravans on the site.

- 7.04 The applicant has also voluntarily agreed to enter into a legal agreement that removes permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12<sup>th</sup> October 2020.

## **8.0 CONCLUSION**

- 8.01 Since the deferral of this application at committee on 30<sup>th</sup> May 2019, the proposal site area has been significantly reduced (with layout, surfacing, and lighting shown); the number of caravans proposed has been reduced from 20 to 18; the proposal has shown more landscaping, provided a Visual Impact Assessment, and addressed the issue of Ancient Woodland protection; and a Business Plan has been submitted.
- 8.02 At the 5<sup>th</sup> December 2019 committee, Members of the Planning Committee resolved to grant permission of the application, considering there to be no grounds to object to the proposal in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; the viability of the business, subject to appropriate conditions/informatives. This resolution to grant planning permission is still material and as it stands, there is considered to be no reasonable justification to refuse planning permission. Furthermore, it still remains acceptable to impose a holiday occupancy condition to any permission, preventing use of any unit as a permanent encampment.
- 8.03 At the 5<sup>th</sup> December 2019 committee, Members of the committee also considered there to be no grounds to object to the proposal in terms of potential landscape impact, but this was based on the advice that it was not justified for them to seek more design details of the caravans. Addressing this advice, which the High Court found to be erroneous, this report now sets out the scale and design parameters of the caravans and the acceptability of these parameters, and it is advised that a suitable condition can be imposed to secure these details. With these details secured, this must be considered alongside the previously proposed layout, comprehensive landscaping scheme, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points) .
- 8.04 With everything considered, and in accordance with the relevant provisions of the Development Plan and the NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that the proposal is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.

## **8.0 RECOMMENDATION:**

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the head of terms set out below;

the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION** (and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee).

Heads of Terms:

1. To remove permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12<sup>th</sup> October 2020.

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. No more than 18 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

3. Prior to any caravan being brought onto the application site, the scale, appearance, and design details of each caravan shall be submitted to and approved in writing by the local planning authority. These details shall demonstrate that each caravan meets the legal definition of a caravan, as defined in Section 29 of the Caravan Sites and Control of Development Act 1960; and that each caravan will be timber clad and dark stained. The development hereby approved shall be carried out in accordance with the approved details, and shall be in place before being brought onto the site, and maintained as such for the duration of its time on the site.

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

4. All caravans permitted at the site shall be occupied for bona fide holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park 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 caravan 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 caravan park, who will keep the register and make it available for inspection, shall also be submitted to the local planning authority ([planningenforcement@maidstone.gov.uk](mailto:planningenforcement@maidstone.gov.uk)) prior to the first occupation of any of the approved caravans 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.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), and except for what is shown on the approved plans, no fencing, walling and other boundary treatments shall be erected within or around the site;

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



6. If the use hereby approved ceases, all caravans, buildings, 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.

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels;

Reason: In order to reduce the risk to occupants from flooding.

8. In accordance with drawing ref: 05 Rev F, and prior to the first occupation of any caravan on the site, details of a scheme of hard and soft 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, shall be submitted to and approved in writing by the Local Planning Authority. The site falls within Landscape Area 44 (Staplehurst Low Weald), and the landscaping scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:

- a) Location, species (to include Oak) and size of all new native trees and shrubs to be planted within the 15m buffer zone to the ancient woodland and the extended planting zone as shown on submitted plans;
- b) Retention of existing hedgerows along western and southern boundaries of site;
- c) Retention of existing trees within site as shown on the submitted plans;
- d) Details of a mixed native hedgerow that includes Hazel, to be planted in a double staggered row (45cm between plants in row and 30cm between rows) along the northern boundary of site;
- e) Details of grasscrete and how it would be laid for all of the parking spaces on site.

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 and to safeguard the protection of ancient woodland.

10. Prior to the first occupation of any static caravan, all of the fencing (as shown on drawing reference: 05 Rev F) shall be erected and retained as such for the duration of the development hereby approved;

Reason: To protect existing trees, new planting, and ancient woodland; and in the interests of biodiversity.

11. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has 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 caravans, 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 or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev D); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

12. The development hereby approved shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme 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 at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that 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.

13. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and 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 the National Planning Policy Framework.

14. Prior to the first occupation of any caravan 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 Beult Site of Special Scientific Interest and the adjacent Ancient Woodland.

15. Prior to the first occupation of the caravans 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 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 (in accordance with drawing ref: 05 Rev F)
- d) 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.

16. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:

- (a) Routing of construction and delivery vehicles to and from the site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries, with special provision for the proposed caravans
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management/signage

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

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

19. Any gates at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. Prior to the first use of the site as a holiday park, details of owl boxes to be installed within the site (to include manufacturer, location, number and height from ground level) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details, and the owl boxes shall be installed prior to the first use (occupation) of any caravans hereby approved and maintained as such thereafter;

Reason: To protect and enhance biodiversity.

22. The application site shall not be open to touring caravans and motorhomes at any time;

Reason: In the interests of highway safety.

23. The development hereby permitted shall be carried out in accordance with the following approved documents/plans references: 05 Rev F and 04 Rev A received 12.10.20; and 2763 01 A received 14/10/19; and Ambiantal Surface Water Drainage Strategy received 24/10/19;

Reason: For then avoidance of doubt.

Informative(s):

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.

4. Due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. 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/highwayboundary-enquiries>
7. The applicant is reminded that any additions to the caravans, such as decking and verandas, would then take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.
8. The applicant/future occupants are reminded that the development permits tourist accommodation only and cannot therefore be used for full time residential occupation. For example, individuals cannot live on the site for 6 months say and then go travelling for 6 months, as essentially this would be their permanent home. Condition 3 requires the caravans to be occupied for bona fide holiday accommodation only and not occupied as a person's sole or main place of residence.
9. Southern Water advise that no new soakaways, swales, ponds, watercourses, associated attenuation tanks or any other surface water retaining or conveying features should be located within 5 metres of a public or adoptable gravity sewer, rising main or water main. For further advice, please contact Southern Water at: [SouthernWaterPlanning@southernwater.co.uk](mailto:SouthernWaterPlanning@southernwater.co.uk)

Case Officer: Kathryn Altieri

<b>REFERENCE NO:</b> 19/500271/FULL		
<b>PROPOSAL:</b> Change of use of land for stationing of 18 holiday caravans with associated works including laying of hardstanding and bin store.		
<b>ADDRESS:</b> Oakhurst Stilebridge Lane Marden Tonbridge Kent TN12 9BA		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> 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.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> - Councilor Burton has called application in given level of local resident interest		
<b>WARD:</b> Marden	<b>PARISH COUNCIL:</b> Marden	<b>APPLICANT:</b> Mr & Mrs P Body <b>AGENT:</b> Graham Simpkin Planning
<b>TARGET DECISION DATE:</b> 13.01.2020		<b>PUBLICITY EXPIRY DATE:</b> 08.11.19

**MAIN REPORT****1.0 BACKGROUND INFORMATION**

1.01 This planning application was presented to Planning Committee on 30<sup>th</sup> May 2019 and the original report and urgent update is found in APPENDICES A and B. Members resolved to defer the application for the following reasons (taken from the published minutes):

- *Seek further information to assess the visual impact, the potential level of harm, the details of the mitigation and the benefits arising, this to include:*
- *Details of layout including hard & soft landscaping and associated facilities & lighting;*
- *Details of scale and design parameters;*
- *Details demonstrating both local & longer distance views & how it can be mitigated;*
- *More details in terms of landscaping, including net gain for biodiversity with incorporation of hedgerow trees reflecting Council's Landscape Character Assessment Guidance in proposed mixed native hedgerow along northern boundary of site, extension of Ancient Woodland buffer westward to provide habitat link to pond and ditch network on road frontage and fencing along AW buffer;*
- *Details of lighting strategy; and*
- *Clarification in terms of sustainability (role of rural tourism), economic benefits and business model, including identification of need for this type of use, model for occupation (i.e. whether these would be short-let units managed by site owners) and information about how site and landscape and ecology elements would be managed.*

1.02 The applicant has submitted the following:

- *Amended site location plan reducing the area of the planning unit*
- *Amended layout plan showing proposed caravans and associated works kept to the western (roadside) half of the site. Layout has reduced number of caravans to 18 instead of 20; and it shows an extension of new planting along the southern and northern boundaries*
- *Written statement responding to certain issues raised by Members*
- *Visual Impact Assessment (VIA)*
- *Business Plan*
- *Updated Surface Water Drainage Strategy*

## **2.0 RECONSULTATION RESPONSES**

2.01 **Local representations:** 10 further representations received raising concerns over:

- *Impact upon character of area*
- *Flood risk*
- *Surface water drainage and foul sewage disposal*
- *Inaccuracy of submitted plans*
- *Validity of submitted Business Plan*
- *Location not appropriate for proposed use/no demand for tourist use here*
- *Potential development to eastern half of site*
- *Site will be used as permanent residential*
- *Highway safety/traffic generation*
- *Biodiversity impacts*

2.02 **Councillor Burton:** No further comments have been received.

2.03 **Marden Parish Council:** Has reviewed additional information and still wishes for application to be refused. In summary their further views are:

- *Residents have expressed concern relating to water run-off and flooding risk*
- *Site is in flood zone 1/2, on narrow country lane known to flood*
- *Business Plan does not appear sufficiently robust to support application*
- *Development is contrary to Policy DM38 of Local Plan*

2.04 **KCC Highways:** Has no further comment to make.

2.05 **Environment Agency:** Has no further comment to make.

2.06 **Environmental Protection Team:** No additional comments to make.

2.07 **KCC SUDS:** Raise no objection subject to previously recommended conditions.

2.08 **Landscape Officer:** Raises no objection.

2.09 **Biodiversity Officer:** Has reviewed further information and continues to advise sufficient information has been provided to determine the planning application.

2.10 **Natural England:** Continue to raise no objection.

2.11 **Agricultural Advisor:** Has no further comment to make.

2.12 **Southern Water:** Previous comments remain unchanged and valid.

2.13 **Kent Police:** Extended planting zone and new native hedgerow will offer additional defensive planting once established - Previous comments remain valid.

## **3.0 ASSESSMENT**

### Details of layout

3.01 The agent has submitted an amended site location plan and proposed block plan that definitively sets out the application site and the proposed layout, including the static caravans; hardstanding/parking; the bin store location; landscaping; and where external lighting will be positioned. The amended layout also shows 18 caravans and not 20 as previously proposed.

- 3.02 As can be seen, the application site has been reduced in size (from 2ha to 1.18ha), with the paddock area to the east no longer part of the proposal's planning unit.
- 3.03 To be clear, any future development outside the red outline would require planning permission. The proposed layout would now restrict development to the front of the site, preventing the sprawl of development across the site and retaining a sense of openness at the rear. The level of hardstanding has been restricted to the access road and the caravan bases, with all parking areas being of grasscrete to further soften the appearance of the development. The layout also provides a significant buffer from the proposal to the Ancient Woodland beyond (over 65m). For these reasons, the layout is considered to be acceptable.
- 3.04 No details of a lighting strategy have been submitted. However, the agent has confirmed the location of the external lighting and stated that it would be of low level lighting bollards (125mm high). With more information submitted, the Environmental Protection Team and the Biodiversity Officer continue to raise no objection on this matter, and there is no reasonable justification to refuse the application on this matter. As previously recommended, and to safeguard the character and appearance of the countryside, as well as to mitigate against the potential adverse effects on bats, specific details of external lighting can be appropriately controlled by way of condition.

Details of scale and design parameters

- 3.05 The additional information that has been submitted confirms that the proposed static caravans would not exceed the definition of a caravan as set out in the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960. To reiterate, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall height being 3.05m. Provided the static caravans meet this definition, planning application is only required for the change of use of the land in this respect, and so it is not justified to request further plans/details of the static caravans.
- 3.06 An additional informative will also be imposed reminding the applicant that any additions to the caravans, such as decking and verandas, would take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.

Details of landscaping and ecological enhancements

- 3.07 As set out in the original committee report, the Biodiversity Officer has advised that sufficient information has been provided to determine the planning application; and they continue to raise no objection to the proposal in biodiversity terms (subject to appropriate conditions as previously recommended in terms of external lighting, precautionary measures for reptiles and Great Crested Newts, and ecological enhancements).
- 3.08 As well as the already proposed additional planting along in the 15m buffer to the Ancient Woodland, the proposal has now removed the eastern part of the site from the planning unit, and it has extended the area of new planting along the southern boundary of the site. The now left out paddock to the east of the site, and this new planting will be managed by appropriate timber post and rail fencing to deter public access in this area. This not only goes above and beyond what is required to protect the adjacent Ancient Woodland, but creates a wildlife corridor around the boundary



that also extend westwards to provide a habitat link to the pond and ditch network on the road frontage. With the planted buffer zone along the eastern and southern boundaries, the retained front boundary hedge, and the new native hedge along the northern boundary, the connectivity around the whole site for wildlife is a significant enhancement. The proposal will still also include the retention of the mature Oak trees close to the southern boundary; and it is considered reasonable to request a detailed landscaping scheme by way of an appropriate condition. The Landscape Officer is also of the view that the proposed soft landscaping is an improvement on the original scheme.

Further details in terms of visual impact and mitigation

- 3.09 As stated in the original committee report:  
*"The site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed."*
- 3.10 The now submitted Visual Impact Assessment (VIA) concludes that the proposal would have a minimal impact on the landscape from public vantage points, and this conclusion is accepted. The Landscape Officer is satisfied that the VIA is an appropriate level study for this proposal. Whilst some of the landscape details in the VIA are not up to date, as it is not intended to be a full LVIA and only an assessment of public viewpoints, the Landscape Officer considers it to be an acceptable submission on this basis.
- 3.11 In addition, the amended layout further safeguards the visual amenity of the countryside, by keeping the static caravans and associated built works away from the rearmost part of the site, where the land level does rise; by reducing the number of caravans; and by showing a more comprehensive landscaping scheme (as explained above) to further mitigate the visual impact of the development.
- 3.12 With everything considered, it remains the view that the proposal would not appear prominent or visually intrusive, and it would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

Viability of proposal and sustainability

- 3.13 Whilst relevant policy and guidance does not require applicants to set out the future commercial viability of such a proposal, key points taken from the submitted Business Plan are as follows:
- 5 caravans will be sold to private owners in order to recoup capital spend
  - 13 caravans will be owned and operated as hire fleet by site owner
  - Caravans to be sold on 50yr leasehold for which there will be annual service charges of £3,000 per caravan (to cover maintenance and management)
  - Layout will be in accordance with fire regulations and site licencing
  - In terms of marketing and managing, site owners will be assisted by Hoseasons

- *Visit Britain believes tourism sector will grow at annual rate of 3.8% through to 2025*
- *Holiday parks had strong years of trading given improvements in wider economy*

- 3.14 Furthermore, in terms of the local market, the Business Plan argues that within Kent there is an obvious demand for tourist facilities. The proposal site is in proximity to Tunbridge Wells, Tonbridge and Maidstone that all have their own draw; the site is also close enough for visitors to explore the High Weald AONB and the Kent Downs AONB if they so wish; and there is also a wide range of outdoor leisure activities in the locality, such as golf courses; public rights of way; fishing; horse riding facilities etc. The Business Plan also understands there to be limited sites in close proximity to the proposal site that offers high quality self-catering accommodation. The Business Plan then calculates development potential over a 3yr period, and this predicts a capital return on development in 2yrs, with the annual rental income for the site being circa. £375,000 once established by year 3. There is no clear evidence to dispute the findings of the Business Plan and it is considered unreasonable to object to the proposal on these grounds, particularly when applicants are not required in policy terms to set out the future viability of such tourist uses in the countryside.
- 3.15 It should be stressed again that Local Plan policy seeks to support small scale employment opportunities to support the rural economy; and the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by supporting the expansion of existing tourism related businesses in the countryside.
- 3.16 The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business 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. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do.

Other matters

- 3.17 The additional information has confirmed the layout of the static caravans, and has seen a reduction in the number of static caravans on the site to 18 (that will still remain in situ). The Highways Authority has reviewed the new information and continues to raise no objection on highway safety grounds, subject to the retention of the shown turning area and the imposition of their previously recommended conditions.
- 3.18 There also remains no objection to the proposal in terms of residential amenity, and in terms of flood risk and surface water drainage; and the finished floor levels of the 4/5 caravans in Flood Zone 2 will still be raised 150mm above surrounding ground levels. To clarify, KCC as the Lead Local Flood Authority has reviewed the amended Surface Water Drainage Strategy Report by 'Ambiental' (dated October 2019 and received 24/10/19), which updates the strategy to reflect the latest proposed block plan, and has no objections to make subject to the previously recommended conditions that have been duly imposed. All other matters raised in the original committee report remain relevant and acceptable.

- 3.19 The representations received from Marden Parish Council and local residents, as a result of reconsultation, have been considered in the assessment of this application. It should be noted here that the proposal has been considered on its own merits, based on the submission details for a tourism use. If approved and there is a reported breach of the permission, then it would be a matter for the Planning Enforcement Team to investigate at that time.

#### **4.0 CONCLUSION**

- 4.01 It is considered that the proposal's location is appropriate, and its scale (in terms of its reduced site area and number of static caravans), is acceptable. The proposal will now also provide further, more comprehensive, landscaping that will benefit both the amenity and biodiversity of the site and the surrounding area. It is still considered that the proposal would not have an unacceptable impact upon the living conditions of local residents; and no objection continues to be raised in terms of highway safety; flood risk; and in terms of Ancient Woodland protection. A holiday occupancy condition will also be attached to any permission, preventing use of any unit as a permanent encampment. In accordance with Local Plan policy DM38, the proposal would not result in unacceptable loss in amenity of area; and it would be unobtrusively located and well screened by existing and proposed native planting. So, with everything considered, the proposal is still considered to be 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.

#### **5.0 RECOMMENDATION – GRANT planning permission subject to 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. No more than 18 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time;  
  
Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.
3. The site shall not be open to touring caravans and tents at any time;  
  
Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.
4. All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority with details of the relevant contact at the operators of the caravan park (name, position, telephone number, email address and postal address) who will keep the register and make it available for inspection submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to first occupation

of any of the approved caravans with the relevant contact 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.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), and except for what is shown on the approved plans, no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, 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.

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels;

Reason: In order to reduce the risk to occupants from flooding.

8. In accordance with drawing ref: 2763 05 E (received 24/10/19) and prior to the first occupation of any caravan on the site, details of a scheme of hard and soft 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, shall be submitted to and approved in writing by the Local Planning Authority. The site falls within Landscape Area 44 (Staplehurst Low Weald), and the landscaping scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:

- a) Location, species (to include Oak) and size of all new native trees and shrubs to be planted within the 15m buffer zone to the ancient woodland and the extended planting zone as shown on submitted plans;
- b) Retention of existing hedgerows along western and southern boundaries of site;
- c) Retention of existing trees within site as shown on the submitted plans;
- d) Details of a mixed native hedgerow that includes Hazel, to be planted in a double staggered row (45cm between plants in row and 30cm between rows) along the northern boundary of site;
- e) Details of grasscrete and how it would be laid for all of the parking spaces on site.

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 and to safeguard the protection of ancient woodland.

10. Prior to the first occupation of any static caravan, all of the fencing (as shown on drawing reference: 2763 05E) shall be erected and retained as such for the duration of the development hereby approved;

Reason: To protect existing trees, new planting, and ancient woodland; and in the interests of biodiversity.

11. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has 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 caravans, 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 or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev D); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

12. The development hereby approved shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme 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 at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):
- that 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.

13. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and 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 (July 2018).

14. Prior to the first occupation of any caravan 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 Beult Site of Special Scientific Interest and the adjacent Ancient Woodland.

15. Prior to the first occupation of the caravans 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 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 (in accordance with drawing ref: 2763 05 E) 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.

16. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:
- (a) Routing of construction and delivery vehicles to and from the site
  - (b) Parking and turning areas for construction and delivery vehicles and site personnel
  - (c) Timing of deliveries, with special provision for the proposed caravans
  - (d) Provision of wheel washing facilities
  - (e) Temporary traffic management/signage

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

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

19. Any gates at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. The development hereby permitted shall be carried out in accordance with the following approved plan references: 2763 05 E received 24/10/19 and 2763 01 A received 14/10/19; and Ambiantal Surface Water Drainage Strategy received 24/10/19;

Reason: To safeguard the character and appearance of the countryside, in the interests of protecting biodiversity, existing trees and ancient woodland, in the interests of highway safety and drainage, and to safeguard the enjoyment of their properties by existing and prospective occupiers.

## INFORMATIVES

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent person and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.
4. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. 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>
7. The applicant is reminded that any additions to the caravans, such as decking and verandas, would then take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.

Case Officer: Kathryn Altieri



Item 17, Pages 59-71

Oakhurst, Stilebridge Lane,  
Marden, TN12 9BA

Reference number: 19/500271/FULL

- **Amend condition 4 to read:**

*All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority **with details of the relevant contact at the operators of the caravan park (name, position, telephone number, email address and postal address) who will keep the register and make it available for inspection submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to first occupation of any of the approved caravans with the relevant contact 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.*

- **Amend condition 8 to read:**

*Prior to the first occupation of any caravan on the site, details of a scheme of **hard and soft** 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 (2012) and shall include:*

- a) Location, species (to include Oak) and size of all new trees and shrubs to be planted;*
- b) Native planting within the 15m buffer zone to the ancient woodland (as shown on drawing ref: 05 Rev A);*
- c) Details of how the buffer zone will be delineated to prevent public access;*
- d) The retention of the existing hedgerows along the western and southern boundaries of the site;*
- e) The retention of the existing trees within the site (as shown on drawing ref: 05 Rev A);*
- f) Details of a mixed native hedgerow along the northern boundary of the site;*
- g) Scaled plan showing the extent and type of hardsurfacing within the site.***

*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.*

- **Amend condition 13 to read:**

*Prior to the first occupation of any caravan 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 Beult Site of Special Scientific Interest **and the adjacent Ancient Woodland.***

**Recommendation remains unchanged.**

<b>REFERENCE NO:</b> 19/500271/FULL		
<b>APPLICATION PROPOSAL:</b> Change of use of land for the stationing of 20 holiday caravans with associated works including laying of hardstanding and bin store.		
<b>ADDRESS:</b> Oakhurst Stilebridge Lane Marden Tonbridge Kent TN12 9BA		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> 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.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> - Councilor Burton has called application in given level of local resident interest		
<b>WARD:</b> Marden	<b>PARISH COUNCIL</b> Marden	<b>APPLICANT</b> Mr & Mrs P Body <b>AGENT</b> Graham Simpkin Planning
<b>TARGET DECISION DATE:</b> 03/06/19		<b>PUBLICITY EXPIRY DATE:</b> 30/01/19

## Relevant planning history

- MA/11/1037 – Keeping of horses & erection of stable block & hay barn - Approved

## 1.0 Site description

- 1.01 Oakhurst is a detached residential property located on the eastern side of Stilebridge Lane, close to the junction with Tilden Lane. The proposal site is an area of land to the immediate south of Oakhurst (some 2.3ha in area), with road access into the site from the south-western corner.
- 1.02 The western (front) part of the proposal site is currently used by the Caravan and Camping Club (its website states that the site can accommodate up to 5 caravans or motorhomes and up to 10 trailer tents or tents). The eastern part has been used for horse grazing. The road side (western) boundary is in Flood Zone 2 and the eastern boundary is adjacent to Ancient Woodland. The River Beult (Site of Special Scientific Interest), is some 335m to the north of the site. For the purposes of the Maidstone Local Plan (2017) the proposal site is within the countryside.

## 2.0 Proposal

- 2.01 This application is for the change of use of the land for the stationing of 20 holiday caravans, with associated works including hardstanding and parking. The 20 caravans will be moved on to the site and remain in situ, and so guests will not be towing caravans; and no other caravans, touring caravans, or tent pitches will go on the site. The Caravan Site Licence will deal with all of the health and safety requirements under separate legislation.
- 2.02 The application states that the 20 caravans will fall within the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and no further plans/details are required in this respect. For reference, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall height being 3.05m (measured internally from the floor at the lowest level to the ceiling at the highest level). Any additions to the caravans, such as verandas, would then take the caravans out of this definition and planning permission would be required for each structure.

## 3.0 Policy and other considerations

- Maidstone LP: SS1, SP17, SP21, DM1, DM3, DM8, DM30, DM37, DM38
- National Planning Policy Framework (2019)
- National Planning Practice Guidance
- Natural England Standing Advice
- Maidstone Landscape Character Assessment & Maidstone Landscape Capacity Study: Sensitivity Assessment

**4.0** Local representations: 15 representations received raising concerns over:

- *Caravans being lived in permanently;*
- *Flood risk/surface water drainage/foul sewage disposal;*
- *Highway safety/traffic generation;*
- *Light pollution/impacts upon ecology*
- *Impact upon trees/ancient woodland*
- *Commercial viability of business/need for such development;*
- *Visual impact;*
- *Not a sustainable location;*
- *Impact upon residential amenity (noise, odours, general disturbance);*
- *Impact upon setting of Grade II listed building (Little Tilden Farm)*
- *Loss of agricultural land*

**5.0 Consultations**

5.01 **Councillor Burton:** Wishes to see application reported to Planning Committee if recommendation is for approval;

5.02 **Marden Parish Council:** Wish to see application refused but has not requested for it to be reported to Planning Committee. In summary their views are as follows:

- *Introduction of vulnerable usage in Flood Zone 2*
- *Proposal would result in adverse impact on highway safety*
- *Would have adverse visual impact on countryside*
- *Noise and light pollution resulting from use would be detrimental to amenity of the area*

*If minded to approve, Cllrs recommend following conditions:*

- *To prohibit any permanent occupancy;*
- *To provide low level lighting scheme;*
- *Provide further information and mitigation of protected species;*
- *Provide specific and detailed method of foul water disposal;*
- *Provision of landscaping scheme;*
- *Provision of ecology assessment;*
- *Applicant to demonstrate adequate access arrangements and vision splays.*

5.03 **KCC Highways:** Raise no objection.

5.04 **Environment Agency:** Raise no objection.

5.05 **Environmental Protection Team:** Raise no objection in terms of noise, air quality, sewage and land contamination.

5.06 **KCC SUDS:** Raise no objection.

5.07 **Landscape Officer:** Raise no objection.

5.08 **Biodiversity Officer:** Advises sufficient information has been provided to determine planning application.

5.09 **Natural England:** Raise no objection.

5.10 **Agricultural Advisor:** Raise no objection.

5.11 **Southern Water:** Raise no objection.

5.12 **Kent Police:** Raise no objection.

## **6.0 Appraisal**

### Main issues

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. 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); and to protect areas of Ancient Woodland from inappropriate development and avoid significant adverse impacts as a result of development. Indeed, policy DM3 relates to how development should protect areas of Ancient Woodland from inappropriate development and to avoid significant adverse impacts as a result of development.

6.05 Please note that the proposal site could be used for camping (without restriction of numbers) for 28 days in total of any calendar year without requiring planning permission under Class 4, Part B of the GPDO.

6.06 The key issues for this application are considered to be what impacts the proposal would have upon the character and appearance of the area (including Ancient Woodland impacts); its highway safety and residential amenity impacts; flood risk; and what impact it would have upon the adjacent ancient woodland and biodiversity. Other material planning considerations will then also be addressed.

### Visual impact

6.07 Within the Maidstone Landscape Capacity Study: Sensitivity Assessment, the proposal site is in the Staplehurst Low Weald landscape character area (44) that is considered to be sensitive to change. This assessment also states that development in this area could support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.

6.08 It is accepted that the proposal would change the character of what is an open field. However, the site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely

enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed.

- 6.09 To further safeguard the character and appearance of the countryside, a suitable condition will also be imposed to secure the retention of the existing hedgerows along the southern and western boundaries of the site; for the retention of the existing trees within the site, as shown on the submitted plan; for further native planting within the 15m buffer zone to the ancient woodland; and for a mixed native hedge to be planted along the northern boundary of the site.
- 6.10 In accordance with the Maidstone Landscape Capacity Study, the proposal would conserve the existing Oak trees on the site; the landscaping scheme would seek new Oak tree planting; and existing hedgerows would be retained. External lighting could also be appropriately controlled by way of condition.
- 6.11 It is therefore considered that the proposal would not appear prominent or visually intrusive in a landscape that is sensitive to change, and would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

Highway safety implications

- 6.12 The Highways Authority has reviewed the application and considered the vehicle movements associated with such uses as permissible, notwithstanding the limitations that the nature of Stilebridge Lane presents.
- 6.13 The Highways Authority states a significant factor in considering the change of use of the site would be to recognise that towing caravans/motorhomes would no longer be coming and going from the site, as the accommodation will already be in situ; and that this can be ensured by way of an appropriate condition. This would leave only private cars using Stilebridge Road in association with the proposal and the Highways Authority confirm that they would have no grounds to object to the application in this respect. There will of course be an initial exception with the caravans coming onto the site, but the Highways Authority is satisfied that the impact of this could be feasibly mitigated by a Site Management Plan.
- 6.14 The Highways Authority has considered the nature of Stilebridge Lane, in terms of available passing widths and forward visibility; and they have also noted that the road is served at both ends by junctions which fall below current highway standards. However, despite the limitations this presents to current road users, the personal injury accident record (which provides KCC's evidence base in such judgements) does not suggest that these issues present an overbearing impact on road safety or that they will be significantly exacerbated by the proposals as they stand. No objection is raised in terms of parking provision.
- 6.15 With everything considered, the Highways Authority raise no objection to the proposal on highway safety grounds subject to the imposition of conditions including for the submission of a Site Management Plan.

Residential amenity

- 6.16 The applicant lives at Oakhurst, the property to the immediate north of the site. The next nearest residential property is Ellmacy. Whilst there is extant planning permission for the erection of an annexe to the north of Ellmacy, the main house is more than 40m from the south-western corner of the site, and the main garden area for this property is to the south of the house, more than 50m away from the proposal site. Beyond this is Stilebridge Barn; the caravans on Stilebridge Lane Caravan Site are some 120m to the north-east of the site; and no other residential property would be within 200m of the site.
- 6.17 When considering the intended use of the site and the separation distances from it and any residential property, the noise generated by the proposal (including vehicle movements to and from the site) will be acceptable in residential amenity terms, and the Environmental Protection Team has also raised no objection in terms of noise. It is also considered that most of the vehicle movements to and from the site would be by private motor vehicles only, coming from the A229 to the north-east of the site and not passing the nearest houses to the site. No objection is therefore raised to the proposal in terms of general noise and disturbance, and there is no reason to believe that odours from the site would create an unacceptable living environment for any local resident.

Flood risk/surface water drainage

- 6.18 The western (front) boundary of the site is within Flood Zone 2; and the proposed layout shows 4/5 of the caravans within this, with the rest of the site being in Flood Zone 1. In accordance with the revised NPPF and its Technical Guidance, sites used for holiday caravans are classified as 'More Vulnerable'. Such development in Flood Zone 2 is acceptable subject to a specific warning and evacuation plan; and subject to the Sequential and Exception Tests being applied. Furthermore, local planning authorities should also ensure that flood risk is not increased elsewhere, and should only consider development in flood risk areas to be appropriate where informed by a site-specific Flood Risk Assessment (FRA).
- 6.19 The applicant has submitted a Flood Risk Assessment (FRA), and a further letter (from Ambiantal Environmental Assessment) has provided further flood risk information. The submitted details confirm that the floor levels of the caravans will be raised 150mm above surrounding ground levels, and this can be secured by way of an appropriate condition.
- 6.20 In terms of the Sequential and Exception Tests, whilst no alternative sites have been discussed as part of this application, the Environment Agency has reviewed the submitted details and they are satisfied that the proposal would not pose a risk to property; and that future occupants would remain safe for the development's lifetime without increasing flood risk elsewhere (when allowances for climate change are taken into consideration). Furthermore, the development would provide a small scale employment opportunity to help support the rural economy; and it must be stressed again that the majority of the site falls within Flood Zone 1, where these tests are not required.
- 6.21 It is noted that the surrounding access roads to the site are located within Flood Zones 2/3; and with regards to a specific warning and evacuation plan, the application states that the applicant will sign up to the EA Flood Warning/Alert Service. This would ensure that future occupants of the site would be safe and have time to evacuate the site if necessary, avoiding the need of emergency egress and access. Furthermore, the majority of the site falls outside Flood Zones 2/3 and the floor levels of the caravans would be raised as accepted by the Environment Agency, so there is also the potential for future occupants to safely 'sit-out' any flood event.

- 6.22 The application also includes a Surface Water Drainage Strategy and as the lead local flood authority, KCC have reviewed the application. No objection is raised to the proposal, subject to appropriate pre-commencement conditions requiring a detailed sustainable surface water drainage scheme for the site, and a verification report pertaining to the surface water drainage system. With this all considered, the balanced view is that the proposal is acceptable in flood risk terms.

*Biodiversity and ancient woodland implications*

- 6.23 The Biodiversity Officer has advised that sufficient information has been provided to determine the planning application and they have raised no objection to the proposal in biodiversity terms. This is subject to appropriate conditions for details to be submitted of any external lighting scheme to mitigate against potential adverse effects on bats; of precautionary measures for reptiles and Great Crested Newts, including habitat manipulation and creating/improving reptile and GCN habitat; and of what ecological enhancements are to be incorporated into the scheme.
- 6.24 The Biodiversity Officer and the Landscape Officer both highlighted the need to protect the ancient woodland to the east of the proposal site. The submission details show the required 15m buffer-zone that is to be planted with native shrub species. Appropriate conditions can be imposed to ensure this buffer-zone planting is carried out and that public access should be prevented in this area.

*Other matters*

- 6.25 There is no indication that any agricultural business would be affected by the current proposal. The Agricultural Advisor, having regard to the relatively small extent of the land; its current use; and its likely quality, considers that the proposal would not involve a significant loss of agricultural land in planning policy terms, and so no objection is raised in this respect.
- 6.26 Foul sewage will be disposed of via a package treatment plant. Southern Water has raised no objection to the proposal; and the Environmental Protection Team also raise no objection in this respect subject to the submission of its details. Natural England has also raised no objection but comment that without appropriate mitigation the proposal could harm the interest features for which the River Beult Site of Special Scientific Interest (SSSI) has been notified. With this considered and in order to mitigate against potential adverse effects in relation to foul sewage disposal, a suitable condition will be imposed requesting further details.
- 6.27 No objection is raised in terms of refuse storage, air quality, and land contamination; the proposal would not have a harmful impact upon the setting of any listed building, given its scale, nature and the separation distances; and the proposal is not Environmental Impact Assessment development.
- 6.28 The issues raised by Marden Parish Council, Councillor Burton, and local residents have been considered in the determination of this application. It should also be noted that potential future breaches of planning would be investigated by the Planning Enforcement team as and when necessary; and the future commercial viability of the proposed business is not a material planning consideration in the assessment of this application.
- 6.29 Please note that the applicant has agreed to the imposition of all of the pre-commencement of works conditions.

## **7.0 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 and its impact upon the living conditions of local residents; and existing landscaping will be retained and the site will enhanced by further native planting. Furthermore, no objection is raised in terms of highway safety; flood risk; biodiversity; and in terms of Ancient Woodland protection. 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.

## **8.0 Recommendation - GRANT planning permission subject to 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. No more than 20 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time;

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

3. The site shall not be open to touring caravans and tents at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

4. All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, 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.



7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels.

Reason: In order to reduce the risk to occupants from flooding.

8. Prior to the first occupation of any caravan 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 principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:
- a) Location, species (to include Oak) and size of all new trees and shrubs to be planted;
  - b) Native planting within the 15m buffer zone to the ancient woodland (as shown on drawing ref: 05 Rev A);
  - c) Details of how the buffer zone will be delineated to prevent public access;
  - d) The retention of the existing hedgerows along the western and southern boundaries of the site;
  - e) The retention of the existing trees within the site (as shown on drawing ref: 05 Rev A);
  - f) Details of a mixed native hedgerow along the northern boundary of the site.

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 and to safeguard the protection of ancient woodland.

10. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has 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 caravans, 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 or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev A); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

11. The development hereby approved shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme 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 at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):
- that 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.

12. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and 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 (July 2018).

13. Prior to the first occupation of any caravan 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 Beult Site of Special Scientific Interest.

14. Prior to the first occupation of the caravans 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.

15. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

16. Prior to the first occupation of the caravans hereby approved, details for a scheme for the enhancement of biodiversity on 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 the caravans and all features shall be maintained thereafter.

Reason: In the interests of biodiversity enhancement.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:
- (a) Routing of construction and delivery vehicles to and from the site
  - (b) Parking and turning areas for construction and delivery vehicles and site personnel
  - (c) Timing of deliveries, with special provision for the proposed caravans
  - (d) Provision of wheel washing facilities
  - (e) Temporary traffic management/signage

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

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

19. Any gate(s) at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. The development hereby permitted shall be carried out in accordance with the following approved plan references: Site location plan (01);

Reason: To safeguard the character and appearance of the countryside, in the interests of protecting biodiversity, existing trees and ancient woodland; and to safeguard the enjoyment of their properties by existing and prospective occupiers.

#### INFORMATIVES

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent person and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.
4. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. 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>

Case Officer: Kathryn Altieri

Reference number: 19/500271/FULL

- **Amend condition 4 to read:**

*All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority **with details of the relevant contact at the operators of the caravan park (name, position, telephone number, email address and postal address) who will keep the register and make it available for inspection submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to first occupation of any of the approved caravans with the relevant contact 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.*

- **Amend condition 8 to read:**

*Prior to the first occupation of any caravan on the site, details of a scheme of **hard and soft** 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 (2012) and shall include:*

- a) Location, species (to include Oak) and size of all new trees and shrubs to be planted;*
- b) Native planting within the 15m buffer zone to the ancient woodland (as shown on drawing ref: 05 Rev A);*
- c) Details of how the buffer zone will be delineated to prevent public access;*
- d) The retention of the existing hedgerows along the western and southern boundaries of the site;*
- e) The retention of the existing trees within the site (as shown on drawing ref: 05 Rev A);*
- f) Details of a mixed native hedgerow along the northern boundary of the site;*
- g) Scaled plan showing the extent and type of hardsurfacing within the site.***

*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.*

- **Amend condition 13 to read:**

*Prior to the first occupation of any caravan 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 Beult Site of Special Scientific Interest **and the adjacent Ancient Woodland.***

**Recommendation remains unchanged.**

**MAIDSTONE BOROUGH COUNCIL**

**PLANNING COMMITTEE**

**MINUTES OF THE MEETING HELD ON 30 MAY 2019**

**Present:** Councillor English (Chairman) and  
Councillors Adkinson, Brice, M Burton, Eves,  
Harwood, Kimmance, Munford, Parfitt-Reid, Round,  
Spooner, Vizzard and Wilby

**Also Present:** Councillors Brindle, D Burton, J Sams and T Sams

6. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Bartlett and Perry.

7. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor Brice for Councillor Bartlett  
Councillor M Burton for Councillor Perry

8. NOTIFICATION OF VISITING MEMBERS

Councillor Brindle indicated her wish to speak on the report of the Head of Planning and Development relating to application 18/505455/REM (Land East of Gleamingwood Drive, Lordswood, Kent).

Councillor D Burton indicated his wish to speak on the report of the Head of Planning and Development relating to application 19/500271/FULL (Oakhurst, Stilebridge Lane, Marden, Tonbridge, Kent).

Councillors J and T Sams indicated their wish to speak on the report of the Head of Planning and Development relating to application 18/506657/FULL (Land West of Loder Close and Westwood Close, Ham Lane, Lenham, Kent).

9. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

10. URGENT ITEMS

The Chairman said that, in his opinion, the update reports of the Head of Planning and Development and the updates to be included in the Officer presentations should be taken as urgent items because they contained

further information relating to the applications to be considered at the meeting.

11. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Harwood said that, with regard to the report of the Head of Planning and Development relating to application 18/505455/REM, he was a Member of Boxley Parish Council, but he had not participated in the Parish Council's discussions on the application, and intended to speak and vote when it was considered.

12. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

13. MINUTES OF THE MEETING HELD ON 25 APRIL 2019 ADJOURNED TO 29 APRIL 2019

**RESOLVED:** That the Minutes of the meeting held on 25 April 2019 adjourned to 29 April 2019 be approved as a correct record and signed.

14. MINUTES OF THE MEETING HELD ON 21 MAY 2019

**RESOLVED:** That the Minutes of the meeting held on 21 May 2019 be approved as a correct record and signed.

15. APPOINTMENT OF POLITICAL GROUP SPOKESPERSONS

**RESOLVED:** That the following Members be appointed as Spokespersons for their respective Political Groups for the Municipal Year 2019/20:

Councillor Adkinson	Labour
Councillor Harwood	Liberal Democrat
Councillor Munford	Independent
Councillor Spooner	Conservative

16. PRESENTATION OF PETITIONS

There were no petitions.

17. DEFERRED ITEMS

18/505541/FULL - ERECTION OF A CHALET STYLE RESIDENTIAL PROPERTY WITH DETACHED GARAGE AND LANDSCAPING - LAND OPPOSITE ST ANNS, CHAPEL LANE, THURNHAM, KENT

AND

18/506223/FULL - INSTALLATION OF SEWERAGE PACKAGE TREATMENT PLANT AND ASSOCIATED DRAINAGE FIELD, PIPEWORK AND EQUIPMENT - PARKWOOD HOUSE, WEST STREET, HARRIETSHAM, MAIDSTONE, KENT

The Major Projects Manager said that he had checked with the Case Officers and no responses had been received from either applicant on the grounds of deferral. Both applicants were being given time limits in which to respond, and, if they failed to do so, the Officers would report back with recommendations that reflected Members' comments when the applications were deferred.

18. 18/506657/FULL - RESIDENTIAL DEVELOPMENT OF 53 NO. TWO, THREE AND FOUR BEDROOM TRADITIONAL TWO STOREY HOUSES AND APARTMENTS INCLUSIVE OF 40% AFFORDABLE HOUSING INCLUDING PROVISION OF FOUL PUMPING STATION, OPEN SPACE WITH ECOLOGICAL POND, PLAY AREA AND LANDSCAPING WITH VEHICULAR/PEDESTRIAN ACCESS VIA LODER CLOSE OFF HAM LANE, LENHAM - LAND WEST OF LODER CLOSE AND WESTWOOD CLOSE, HAM LANE, LENHAM, KENT

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Mr Jerrett, an objector, Mr Street, for the applicant, Councillor Walmsley of Lenham Parish Council and Councillors T and J Sams (Visiting Members) addressed the meeting.

The Chairman read out a letter from Mrs Shellina Prendergast, County Council Member for Maidstone Rural East, asking the Committee to consider how a S106 agreement could be entered into to secure funding for Lenham primary school provision if it was minded to grant permission.

During the discussion on the application, the Major Projects Manager advised the Committee that proposed condition 10 which required the submission of a Landscape and Ecological Management Plan should be modified to request measures to ensure that the open spaces including the play area are protected in perpetuity.

**RESOLVED:** That subject to:

- (a) The prior completion of a S106 legal agreement in such terms as the Head of Legal Partnership may advise to provide for the Heads of Terms set out in the report; and
- (b) The conditions and informative set out in the report as amended by the Major Projects Manager at the meeting,

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle, add or amend any necessary Heads of Terms and conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting:        10 – For        0 – Against        3 – Abstentions



19. 18/505455/REM - APPROVAL OF RESERVED MATTERS FOR ACCESS, APPEARANCE, LANDSCAPING, LAYOUT, AND SCALE, PURSUANT OF 15/503359/OUT - OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR RESIDENTIAL DEVELOPMENT (APPROX 89 DWELLINGS) PLUS OPEN SPACE, BIOMASS PLANT AND ACCESS ROAD (PLUS EMERGENCY ACCESS) - LAND EAST OF GLEAMINGWOOD DRIVE, LORDSWOOD, KENT

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

In presenting the report, the Principal Planning Officer advised the Committee that:

- Since the publication of the urgent update report earlier in the week, the agent for the applicant had been in contact with some queries about the landscaping. It was agreed in principle that the non-native tree species would be replaced with more native species and it was recommended that the Officers be given delegated powers to have further discussions with the agent as to whether or not there could be some amendments to the species to make sure that they are as natural and as native as possible.
- Similarly, it was very important in terms of the buffer to the Ancient Woodland to create good separation and minimise its use for recreation purposes. The Officers should be given the opportunity to go back to the agent for the applicant to secure a commitment that when the biodiversity plan and the woodland management plan are submitted the actual buffer is an effective buffer and minimises activity and pedestrian and cycle use within that area so it does protect the Ancient Woodland as far as it can.
- The recommendation was to grant permission with the caveat that the Officers wish to discuss with the agent for the applicant in detail about the landscape species and how the buffer can be most effective in terms of protecting the Ancient Woodland.

Councillor Brindle addressed the meeting as a Boxley Ward Member and as a representative of Boxley Parish Council.

Mr Warner addressed the meeting on behalf of the applicant.

During the discussion, the Major Projects Manager confirmed that the reserved matters application was for a total of 89 units.

**RESOLVED:**

1. That subject to further discussions with the applicant to (i) ensure that the non-native tree planting is replaced by native local provenance planting and (ii) ensure that the 15m Ancient Woodland buffer zone is appropriate and that there are no pathways within the

buffer, the Head of Planning and Development be given delegated powers to approve the reserved matters subject to the condition and informatives set out in the report, as amended by the urgent update report, with

- (a) An additional informative advising the applicant to consider making an application to vary the legal agreement requiring the provision of a biomass boiler and to come forward with an alternative more appropriate form of renewable energy generation such as solar PV panels; and
  - (b) An additional informative advising the applicant that the details of the emergency access to be submitted pursuant to condition 16 of the outline planning permission should comprise a scheme that deters any access other than genuine emergency access and that a gated design would be a more appropriate solution.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of any additional conditions as a consequence of the discussions outlined in the first resolution and of the additional informatives.

**Voting:**        11 – For        1 – Against        1 – Abstention

20. 19/500271/FULL - CHANGE OF USE OF LAND FOR THE STATIONING OF 20 HOLIDAY CARAVANS WITH ASSOCIATED WORKS INCLUDING LAYING OF HARDSTANDING AND BIN STORE - OAKHURST, STILEBRIDGE LANE, MARDEN, TONBRIDGE, KENT

All Members except Councillors Adkinson, Kimmance, Parfitt-Reid, Spooner and Vizzard stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

In presenting the report, the Major Projects Manager advised the Committee that, in addition to the amendments proposed in the urgent update report, he needed to add a drawing that was missed off the approved drawing list and a condition to the effect that notwithstanding the illustrative layout, no caravans will be sited in the approved areas of soft landscaping.

Ms Whittaker, an objector, Councillor Mannington of Marden Parish Council, Mr Nicholls, for the applicant, and Councillor D Burton (Visiting Member) addressed the meeting.

**RESOLVED:** That consideration of this application be deferred to:

Seek further information to assess the visual impact, the potential level of harm, the details of the mitigation and the benefits arising, this to include:

- Details of the actual layout of the site including hard and soft landscaping and any associated facilities and lighting;
- Details of the scale and design parameters;
- Further detail in terms of demonstrating both local and longer distance views and how these can be mitigated;
- More details in terms of landscaping, including a net gain for biodiversity with the incorporation of hedgerow trees reflecting the Council's Landscape Character Assessment Guidance in the proposed mixed native hedgerow along the northern boundary of the site, extension of the Ancient Woodland buffer westward to provide a habitat link to the pond and ditch network on the Stilebridge Lane frontage and fencing along the Ancient Woodland buffer (Chestnut spile);
- Details of the lighting strategy; and
- Clarification in terms of sustainability (role of rural tourism), the economic benefits and the business model, including identification of the need for this type of use, the model for occupation (for example, whether these would be short-let units managed by the site owners) and information about how the site and the landscape and ecology elements would be managed.

Voting:        11 – For        1 – Against        1 – Abstention

## 21. APPEAL DECISIONS

The Committee considered the report of the Head of Planning and Development setting out details of appeal decisions received since the last meeting. The Committee discussed both recent cases and appeal trends in general. Members were concerned that despite the Council having a relatively permissive Local Plan and being able to demonstrate a positive approach to housing delivery, in the cases where it did resist development, Inspectors appeared to be not affording sufficient weight to the Plan and to matters such as design quality.

The Major Projects Manager said that without assessing decisions in more detail and over a period of time, it was difficult to assess particular trends and provide advice, but the Officers would undertake a review and provide a digest. There were clear spikes influencing the statistics such as Gypsy and Traveller (G&T) appeals and in these cases non-Local Plan factors such as Equality Act considerations were potentially undermining planning policy. The outcome of the review could inform representations to Government and the LGA etc.

Members considered that the absence of public/affordable G&T sites might also be a factor in appeal decisions. It was acknowledged that the issue of G&T appeals was complex and it was suggested that a Working Group be set up to assess G&T appeals linked into the Local Plan review in terms of the effectiveness of existing policy and the evidence base.

**RESOLVED:** That the Development Manager be requested to (a) report back to a future meeting of the Committee on the establishment of a Working Group to assess G&T appeals linked into the Local Plan review in

terms of the effectiveness of existing policy and the evidence base, and  
(b) provide a separate, more generic report on S78 appeals.

Note: Councillor Parfitt-Reid left the meeting during consideration of this item.

22. DURATION OF MEETING

6.00 p.m. to 9.05 p.m.

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 28 NOVEMBER 2019** **ADJOURNED TO 5 DECEMBER 2019**

**Present:**            **Councillor English (Chairman) and**  
**5 December**       **Councillors Adkinson, Chappell-Tay, Harwood,**  
**2019**               **Kimmance, Munford, Parfitt-Reid, Perry and**  
                         **Vizzard**

**Also Present:**    **Councillors D Burton, Springett and Webb**

#### 143. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Eves, Spooner and Wilby.

#### 144. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Chappell-Tay was substituting for Councillor Spooner.

#### 145. NOTIFICATION OF VISITING MEMBERS

Councillor D Burton indicated his wish to speak on the report of the Head of Planning and Development relating to application 19/500271/FULL (Oakhurst, Stilebridge Lane, Marden, Tonbridge, Kent).

Councillor Springett indicated her wish to speak on the report of the Head of Planning and Development relating to application 19/504565/FULL (34, The Landway, Bearsted, Maidstone, Kent).

Councillor Webb indicated his wish to speak on the reports of the Head of Planning and Development relating to applications 17/504579/OUT (Durrants Farm, West Street, Hunton, Kent) and 19/504105/FULL (Stilebridge Kennels, White House Farm, Stilebridge Lane, Linton, Maidstone, Kent).

#### 146. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

#### 147. URGENT ITEMS

The Chairman said that, in his opinion, the update reports of the Head of Planning and Development and the updates to be included in the Officer presentations should be taken as urgent items as they contained further information relating to the applications to be considered at the meeting.

148. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

149. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

150. DEFERRED ITEMS

19/500200/FULL - RETROSPECTIVE APPLICATION FOR A CHANGE OF USE OF LAND TO BE USED AS A GYPSY/TRAVELLER CARAVAN SITE CONSISTING OF ONE PITCH - LITTLE PADDOCKS, STILEBRIDGE LANE, LINTON, KENT

19/501600/OUT - OUTLINE APPLICATION FOR UP TO 440 RESIDENTIAL DWELLINGS, WITH ASSOCIATED ACCESS, INFRASTRUCTURE, DRAINAGE, LANDSCAPING AND OPEN SPACE (ACCESS BEING SOUGHT WITH ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION) - LAND WEST OF CHURCH ROAD, OTHAM, KENT

19/504225/FULL - ERECTION OF A REPLACEMENT BARN (REVISED SCHEME TO 19/502397/FULL) - LAND TO THE SOUTH OF THE GABLES, MARDEN ROAD, STAPLEHURST, KENT

The Development Manager said that he had nothing further to report in respect of these applications at present.

151. 19/500271/FULL - CHANGE OF USE OF LAND FOR THE STATIONING OF 18 HOLIDAY CARAVANS WITH ASSOCIATED WORKS INCLUDING LAYING OF HARDSTANDING AND BIN STORE - OAKHURST, STILEBRIDGE LANE, MARDEN, TONBRIDGE, KENT

All Members except Councillors Harwood and Perry stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

In presenting the application, the Development Manager circulated a revised site location plan with an amended red line boundary. He also sought the Committee's agreement to the deletion of recommended condition 3 which had been superseded due to the reduction of the red line boundary.

Mr Cooper, an objector, Councillor Mannington of Marden Parish Council, Mr Nicholls, for the applicant, and Councillor D Burton (Visiting Member) addressed the meeting.

During the discussion on the application, the Development Manager advised the Committee that he wished to amend the first line of recommended condition 3 (originally condition 4) to read:

*All caravans permitted at the site shall be occupied for bona fide holiday purposes only.*

**RESOLVED:**

1. That permission be granted subject to the conditions and informatives set out in the report as amended by the Development Manager at the meeting with the deletion of condition 3 (Touring Caravans and Tents) and
  - (a) The further amendment of condition 3 (originally condition 4) (Holiday Occupancy) to include a mechanism to effectively record the use of the caravans;
  - (b) An additional condition requiring the provision of owl boxes within the site to protect and enhance biodiversity; and
  - (c) An additional informative reminding the applicant/future occupiers that this is a tourist rather than a permanent residential development and explaining that it cannot be for full time residential occupation.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended and additional conditions and the additional informative.

Voting:        7 – For        2 – Against        0 – Abstentions

152. 17/504579/OUT - OUTLINE APPLICATION FOR THE DEMOLITION OF EXISTING BUILDINGS AND THE ERECTION OF 8 NO. DWELLING HOUSES WITH ACCESS, LAYOUT, SCALE AND APPEARANCE TO BE CONSIDERED AT THIS STAGE WITH LANDSCAPING RESERVED FOR FUTURE CONSIDERATION - DURRANTS FARM, WEST STREET, HUNTON, KENT

There were no disclosures of lobbying.

The Committee considered the report of the Head of Planning and Development.

Ms Harvey addressed the meeting on behalf of the applicant. Councillor Webb (Visiting Member) made representations on behalf of Hunton Parish Council.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, the Committee considered that the proposed development by virtue of its poor, inappropriate and incongruous design and layout which is more appropriate to an urban location than the open countryside, its

density and the lack of accessibility for the number of houses proposed by sustainable modes of transport to the Maidstone urban area, rural service centre or larger village, would cause harm to the open countryside character and sustainability objectives as set out by Policies SS1, SP17, DM1, DM5 and DM30 of the Maidstone Borough Local Plan 2017 and the National Planning Policy Framework.

The Committee also considered that, in the absence of appropriate surveys for protected species having been carried out to establish the extent that they may be affected by the development and of exceptional circumstances to justify the use of planning conditions, the proposals would be contrary to Policy DM3 of the Maidstone Borough Local Plan 2017, the National Planning Policy Framework and advice contained in Circular 06/2005 - Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System - specifically paragraph 99, which require such matters to be established before planning permission is granted.

**RESOLVED:** That permission be refused for the following reasons:

1. The proposed development by virtue of its poor, inappropriate and incongruous design and layout which is more appropriate to an urban location than the open countryside, its density and the lack of accessibility for the number of houses proposed by sustainable modes of transport to the Maidstone urban area, rural service centre or larger village, would cause harm to the open countryside character and sustainability objectives as set out by Policies SS1, SP17, DM1, DM5 and DM30 of the Maidstone Borough Local Plan 2017 and the National Planning Policy Framework.
2. In the absence of appropriate surveys for protected species having been carried out to establish the extent that they may be affected by the development and of exceptional circumstances to justify the use of planning conditions, the proposals would be contrary to Policy DM3 of the Maidstone Borough Local Plan 2017, the National Planning Policy Framework and advice contained in Circular 06/2005 - Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System - specifically paragraph 99, which require such matters to be established before planning permission is granted.

Voting:        9 – For        0 – Against        0 – Abstentions

153. ELECTION OF CHAIRMAN FOR THE REMAINDER OF THE MEETING

Following consideration of application 17/504579/OUT (Durrants Farm, West Street, Hunton, Kent), the Chairman indicated that he would have to leave the meeting (7.40 p.m.).

**RESOLVED:** That in the absence of a Vice-Chairman, Councillor Harwood be elected as Chairman for the remainder of the meeting.



154. 19/504565/FULL - RENOVATION OF EXISTING DWELLING, INCLUDING ERECTION OF A TWO STOREY REAR EXTENSION, ALTERATIONS TO FRONT ELEVATION, AND ERECTION OF A PART FIRST FLOOR, PART TWO STOREY FRONT EXTENSION TO GARAGE - 34 THE LANDWAY, BEARSTED, MAIDSTONE, KENT

Councillor Parfitt-Reid stated that she had been lobbied.

Councillor Springett (Visiting Member) read out a statement on behalf of Mr Dawkins, an objector, who had left the meeting earlier due to another commitment. Councillor Springett then made her own representations as a Ward Member.

**RESOLVED:**

1. That permission be granted subject to the conditions set out in the report with an additional condition requiring the incorporation of an appropriate form of renewable energy generation within the development.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional condition and to amend any other conditions as a consequence.

Voting:        4 – For        3 – Against        2 – Abstentions

Chairman's casting vote in favour of approval.

155. 19/503314/FULL - DEMOLITION OF EXISTING BUILDINGS WITHIN THE SITE AND ERECTION OF THREE RESIDENTIAL DWELLINGS WITH ASSOCIATED ACCESS, PARKING, DRAINAGE AND LANDSCAPING - LAND AT SCRAGGED OAK FARM, SCRAGGED OAK ROAD, DETLING, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

Mr Willett addressed the meeting on behalf of the applicant.

**RESOLVED:** That permission be refused for the reasons and informative set out in the report.

Voting:        6 – For        0 – Against        2 – Abstentions

156. 19/504105/FULL - VARIATION OF CONDITION 2 OF 17/506297/FULL (STATIONING OF TEMPORARY MOBILE HOME ON LAND FORMING PART OF WHITE HOUSE FARM IN ASSOCIATION WITH OPERATION OF STILEBRIDGE KENNELS) TO ALLOW THE MOBILE HOME TO BE OCCUPIED FOR AN ADDITIONAL 2 YEARS UNTIL 19 MARCH 2023 - STILEBRIDGE KENNELS, WHITE HOUSE FARM, STILEBRIDGE LANE, LINTON, MAIDSTONE, KENT

Councillor Munford stated that he had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Councillor Webb (Visiting Member) addressed the meeting on behalf of Linton Parish Council which had raised objections to the application, but, due to a misunderstanding, had not registered a representative to speak.

**RESOLVED:** That permission be granted subject to the conditions set out in the report.

Voting:        8 – For        0 – Against        0 – Abstentions

157. 19/504848/FULL - SINGLE STOREY REAR EXTENSION AND TWO STOREY SIDE EXTENSION INCORPORATING CLADDING AT FIRST FLOOR (PART RETROSPECTIVE) - BIMBURY COTTAGE, BIMBURY LANE, STOCKBURY, MAIDSTONE, KENT

There were no disclosures of lobbying.

The Committee considered the report of the Head of Planning and Development.

**RESOLVED:**

1. That permission be granted subject to the conditions set out in the report with an additional condition requiring the incorporation of an appropriate form of renewable energy generation within the development.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional condition and to amend any other conditions as a consequence.

Voting:        8 – For        0 – Against        0 – Abstentions

158. 19/503979/TPOA - TPO APPLICATION - CROWN LIFT TO 6.5M T2 T4, T5 AND T6 (LIMES) AND CROWN LIFT TO 5M T10 (SYCAMORE) - ST. STEPHENS CHURCHYARD, CHURCH ROAD, TOVIL, KENT

There were no disclosures of lobbying.

The Committee considered the report of the Head of Planning and Development.

**RESOLVED:** That permission be granted subject to the condition and informative set out in the report.

Voting:        8 – For        0 – Against        0 – Abstentions

159. APPEAL DECISIONS

The Committee considered the report of the Head of Planning and Development setting out details of appeal decisions received since the last meeting.

**RESOLVED:** That the report be noted.

160. ENFORCEMENT TRACKER

The Committee considered the Enforcement Tracker setting out details of the current status of enforcement cases that had passed the point of an enforcement notice being served.

**RESOLVED:** That the report be noted.

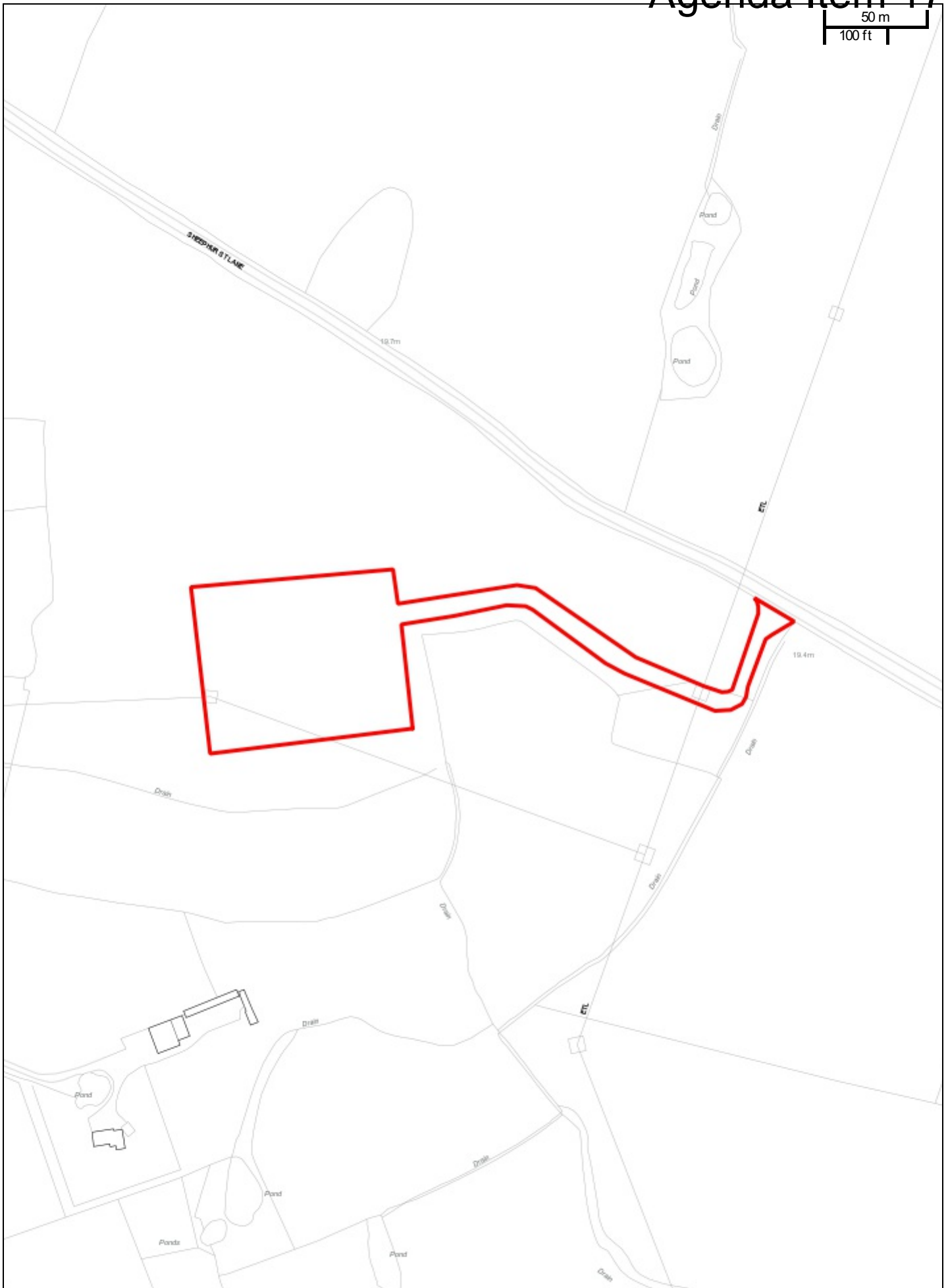
161. MATTERS ARISING FROM CONSIDERATION OF APPLICATION  
17/504568/FULL - KCC SPRINGFIELD LIBRARY HQ, SANDLING ROAD,  
MAIDSTONE, KENT

Arising from consideration of application 17/504568/FULL - KCC  
Springfield Library HQ, Sandling Road, Maidstone, Kent, the Committee:

**RESOLVED:** That the Strategic Planning and Infrastructure Committee be requested to consider, as part of the Local Plan Review, the need for a Tall Buildings policy and a development brief or allocation for the remainder of the Springfield site.

162. DURATION OF MEETING

6.00 p.m. to 9.00 p.m.



**20/500778/FULL - Overhead Line Land Adj To Sheephurst Lane Marden Kent**

Scale: 1:2500

Printed on: 18/11/2020 at 2:12 AM by StevieH



<b>REFERENCE NO - 20/500778/FULL</b>		
<b>APPLICATION PROPOSAL</b> The erection of a switching station with associated apparatus, and landscaping, including 2.4m high boundary fence and access road from Sheephurst Lane. The development affects a Public Right of Way (KM254).		
<b>ADDRESS</b> Land South of Sheephurst Lane, Marden, Tonbridge, Kent, TN12 9PB		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development fails to accord with the policies SP17, DM1 and DM30. Whilst there is electrical infrastructure present on site, in the form of electricity pylons, it is considered that this level of development would be significantly more intrusive when taking into account the infrastructure buildings and security fencing as well as the length of time for any mitigating screening to mature.  However, the above view must take account of the significant national policy support for electrical infrastructure. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 is a legislative requirement which seeks to reduce greenhouse gas emissions from at least 80% to 100%. This significant reduction will be assisted by allowing grid infrastructure works to be carried out. This legal requirement needs to be taken into account during the decision making process and indeed it should be given significant weight.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Collier Street Parish do not consider the development to be in keeping with policies within the Maidstone Borough Local Plan and the application is considered to be a development contrary to the local plan.		
<b>WARD</b> Marden and Yalding Ward	<b>PARISH/TOWN COUNCIL</b> Collier Street	<b>APPLICANT</b> UKPN  <b>AGENT</b> ADAS Leeds
<b>TARGET DECISION DATE</b> 09/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 23/06/2020

#### Relevant Planning History

12/0721A - Consultation with Maidstone Borough Council by UK Power Networks to remove 150m of overhead line and one steel lattice tower, reposition 95m of one of the existing overhead lines and replace three existing supporting towers to overhead line as shown on details received on 23 April 2011.

No objections

95/0059 - Removal of small lower and realignment of existing conductors. Overhead lines (Exemption) Regulations 1990.

No objections

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

- 1.01 The site is an area of open arable land located to the east and north of four existing dwellings. There are four pylons on the site as well as a number of smaller 11kV poles. There is a small area of woodland to the eastern boundary of the site where the pylon

will be removed. A small drain/stream flows along the southern boundary of the site towards the west joining the River Teise. The new access into the site will pass to the north of the existing woodland.

- 1.02 The site is surrounded by arable fields with residential dwellings located beyond the western aspect of the boundary of the arable field. The village of Claygate is located to the north west of the site. The railway between Marden and Paddock Wood Stations is located 720m (approx.) to the north of the site. The Village of Marden is located 3.5km away via the road network from the application site. There is an existing solar farm 2.6km to the west and another 3.1km south east from the site.

## **2. PROPOSAL**

- 2.01 The application seeks to erect an electrical switching station with associated apparatus. A 2.4m high Galvanised Steel security fence would be erected along the boundaries of the site which would be unpainted and an access road off Sheephurst Lane would be established.
- 2.02 The switching station has a length of 27m, a depth of 7m and is depicted as having a height of 5.5m. It is a corrugated structure with a gabled roof form and would be painted in Hermitage Green RAL 6002. The majority of apparatus, the circuit breakers, disconnectors, insulators and CVTs are depicted as being between 4.7m and 4.4m in height, with an additional pylon installed on site depicted as a maximum of 15m in height.
- 2.03 Three existing pylons in the area would be removed, however this does not form part of the application as these works can be carried out under Class B of the General Permitted Development Order.

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

Maidstone Borough Local Plan 2017:

SS1 – Maidstone borough spatial strategy

SP17 – Countryside

ID1 – Infrastructure delivery

DM1 – Principles of good design

DM3 – Natural environment

DM21 – Assessing the transport impacts of development

DM30 – Design principles in the countryside

Supplementary Planning Documents:

Maidstone Landscape Character Assessment 2013

Overarching National Policy Statement for Energy (2011):

National Policy Statement for Energy (EN-1)

National Policy Statement for Electricity Networks Infrastructure (EN-5)

The National Planning Policy Framework (NPPF):

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

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

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

- 4.01 5 representations have been received from neighbouring properties regarding the proposed development.
- 4.02 These are very detailed but the material concerns raised are generally related to the design of the development and its impact upon the character and appearance of the wider area as well as issues such as ecological impacts and impacts from light pollution. Issues raised are generally best summarised by the Parish Council whose summarised response is included in the below consultee section.
- 4.03 Issues of the developments impact that could be considered as a 'right to a view' are also raised. A detailed submission was received following the consultation period that appears to raise issues regarding access to land and past activity from infrastructure operators in the area.

#### **5. CONSULTATIONS**

##### Collier Street Parish Council (Summarised)

- 5.01 The Parish has submitted a detailed representation, in the interests of brevity the representation will be summarised.
- 5.02 The Parish Council strongly supports the view expressed by residents of the parish and would wish to object to the applications on the following basis:
- The proposed development is contrary to policy SP17 in the adopted Maidstone Local Plan.
  - 'The proposed development will have a considerable adverse impact on nearby residential properties and the surrounding rural area. In particular, the entrance gate and access road as well as the proposed switching station.' The industrial nature of the development would be out of place within the countryside.
  - The proposed development is also contrary to policy DM3
  - There is mention of a 5m tree screen which will take years to mature.
  - Highways and construction impacts:
  - Infrastructure works that need to be carried out which will mean loud noise. Due to machinery and workers visiting the site the development would have a detrimental impact upon the highway network.
  - The proposed development is contrary to Policy DM 21,
  - There is mention of the parking of 11 cars resulting in a regular flow of traffic with operatives working at night.
  - The building is 5.5m high, the switch gear 7.5m high and the pylon 15m high, this will impact on the outlook of several of our residents and there is no mention of the flow of cabling for the pylon
  - The proposed Development is contrary to policy DM8
  - Drawing number TR/9974/21/003 does not show any proposed perimeter fence lighting or external lighting either high or low level, would assume a site like this to have lots of lighting which will cause a huge amount of light pollution in the area at night time. There are currently no brightly lit buildings anywhere near by so this will be particularly intrusive.
- Flooding:
- A site of this size will have a big impact on the flood plain's ability to deal with flood water and is highly likely to increase the chances of flooding to my property the surrounding properties and Sheephurst Lane. The proposal contradicts the national debate to prevent further such flood plain developments.
  - There is an absolute strategic need to ensure that infrastructure is not placed in areas at risk of flooding.

Site size:

- The size of the development would be out of keeping with the character and appearance of the countryside location, not in accordance with Policy DM30
  - The development would have a detrimental impact upon biodiversity. "The area is used by the following. Roe deer Fallow deer Barn owls Tawny owls Little owls Bats (various species) Foxes; Badgers; Grass snakes and newts \*I'm sure there are many others that will be affected".
  - We support the view "the Ecological Appraisal was based on a field study of one day and consequently this snapshot is incomplete.
- Noise and Electromagnetic interference:
- We support the view that there is no mention in the proposals of any potential noise or electromagnetic interference that will be constantly generated from the multiple items of electrical equipment etc. to be installed in the development. The development site lies within a rural location where there is currently no source of noise or electromagnetic interference particularly at night.

Natural England

- 5.03 Natural England has no comments to make on this application. This consultee has directed the Local Planning Authority to its standing advice.

KCC Highways

- 5.04 This consultee initially raised concerns regarding predicted traffic levels and the position of the access gate. The applicant has indicated that the site would only be visited once a month by a single van, however this consultee has pointed out that the development has 11 parking spaces, that the building has a mess room and that the existing access is substandard for the speed of the road.
- 5.05 In response the applicant has replied that the 11 spaces are to provide enough turning space for maintenance vehicles and that it is an existing access.

Environmental Protection Team

- 5.06 No objections raised subject to conditions regarding low frequency noise assessments and details of external lighting to be secured by conditions
- 5.07 In terms of electromagnetic interference the environmental protection team comment as follows:
- 5.08 *"For public exposure, there are no statutory exposure limits in the UK. The limits that apply do so as a matter of Government policy. For public exposure, the UK policy is to comply with the 1998 ICNIRP (International Commission on Non-Ionizing Radiation Protection) guidelines in the terms of the 1999 EU Recommendation. In 2010, ICNIRP produced new guidelines, but these do not automatically take effect in the UK. The UK policy remains based on 1998 ICNIRP until Government decide otherwise."*
- 5.09 Should permission be forthcoming an informative will be included to ensure the applicant is aware of the above and that equipment will need to be installed to monitor emission levels from the site.

Environment Agency

- 5.10 Initially objected to this application on the grounds that there was conflicting information which suggested that the proposed development may not be sufficiently resilient to the impact of flooding and recommended that the application be refused planning permission on this basis.



- 5.11 Following the submission of additional details and drawings, the Environment Agency has *withdrawn* its objections.

KCC Ecology

- 5.12 Initially raised an objection to the development on the grounds that additional information was sought prior to determination of the planning application on the following

- Further surveys along with any necessary mitigation measures for reptiles;
- Further clarification on the impacts upon bats;
- Clarification of the potential impacts upon broadleaved woodland; and,
- Information on how the development will provide ecological enhancements.

- 5.13 Following the submission of additional details KCC ecology is satisfied that the above concerns can be addressed via conditions as will be detailed further in the report.

MBC Landscape Officer

- 5.14 Considers the development to be acceptable in principle but that there are elements of this development that are out of keeping with the landscape character assessment that will be detailed below.

Southern Water

- 5.15 No objections received but does request additional information regarding a SUDs scheme be provided to the Local Planning Authority, this could be addressed by a condition.

KCC Flood and Water Management

- 5.16 Initially requested additional information on the following:
- Provision of information on impermeable areas and calculations of surface water generated from the development proposal.
  - Information on the treatment of the access road.
  - Response to the question as to the approach to drainage

However, the consultee confirms that these issues can be addressed via pre-commencement conditions.

Kent Police

- 5.17 No objections received.

KCC PROW and Access

- 5.18 Public Rights of Way KM254 footpath runs inside the southern and eastern boundary of the actual site, but the switching station itself should not affect the path. However, the road leading to the station will cross over the footpath and will affect the application unless provision is made for pedestrians to allow access across the road and any vehicles must give way to people crossing.

Marden Walking Group

- 5.19 The application covers land crossed by Public Footpath KM254. This path is used by one of Marden Walking Groups published walking guides so we wish to ensure that it continues to be open and walkable. As the KCC PROW submission states, the path runs alongside the installation itself, which is acceptable though not desirable. However it will cross the access drive, which is not a problem as long as the drive is unfenced, which is not clear from the plan.

- 5.20 In summary we consider it essential to maintain this PROW footpath, either with access across or along the new drive or to reroute the path to Sheephurst Lane so that access is maintained.

## **6. APPRAISAL**

### **Main Issues**

- 6.01 The key issues for consideration relate to:

- Principle and policy background
- Landscape Impact/Design
- Wildlife
- Amenity Impact
- Highways
- Flooding

### **Principle and policy background**

- 6.02 In policy terms the application site is located within the open countryside but otherwise has no landscape designations.

- 6.03 Policy SS1 of the Local Plan (LP) sets out the spatial strategy for the Borough and amongst other matters confirms that *"Infrastructure schemes that provide for the needs arising from development will be supported. New residential and commercial development will be supported if sufficient infrastructure capacity is either available or can be provided in time to serve it"*

- 6.04 Policy ID1 of the LP, states in paragraph 6:  
*"Infrastructure schemes that are brought forward by service providers will be encouraged and supported, where they are in accordance with other policies in the local plan...."*

- 6.05 Policy SP17 of the LP, states in paragraph 1:  
*"Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area".*

- 6.06 In terms of design policies DM30 is most applicable in light of the location which states the following:

*"Outside of the settlement boundaries as defined on the policies map, proposals which would create high quality design, satisfy the requirements of other policies in this plan and meet the following criteria will be permitted:*

*The type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features;*

*Impacts on the appearance and character of the landscape would be appropriately mitigated. Suitability and required mitigation will be assessed through the submission of Landscape and Visual Impact Assessments to support development proposals in appropriate circumstances;*

*Proposals would not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity,*

*nature conservation, or historic or archaeological importance or the erosion of roadside verges;*

*Where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area;"*

- 6.07 In its own right it is considered that this infrastructure would be highly visible and intrusive in this location which other than the existing pylons is relatively undeveloped beyond the road network and a scattering of dwellings. It is acknowledged that the existing overhead lines and pylon towers in the immediate environment would be removed (utilising permitted development rights) but this would be set against the infrastructure as proposed.
- 6.08 Paragraph 140 of the National Planning Policy Framework (NPPF) states *"The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure."*
- 6.09 Paragraph 170 b) of the NPPF states that planning policies and decisions should contribute and enhance the natural environment by *"recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland"*.
- 6.10 The Overarching National Policy Statement for Energy 2011 sets out the Government's policy for delivery of major energy infrastructure and as set out in paragraph 1.2.1 *"is likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990"*. Paragraph 3.7.1 of the document states *"Much of the new electricity infrastructure that is needed will be located in places where there is no existing network infrastructure."* which is the situation in this instance.
- 6.11 Paragraph 3.7.2 continues *"The need to connect to new sources of electricity generation is not the only driver of need for new electricity network infrastructure. As noted in Parts 2 and 3 of this NPS, it is likely that demand for electricity will increase significantly over the coming decades. Factors contributing to such growth include the development of new housing and business premises (the number of households in England is projected to grow to 27.8 million by 2031) and the increased use of electricity in domestic and industrial heat and transport. Lack of sufficiently robust electricity networks can cause, or contribute to, large scale interruptions. Existing transmission and distribution networks will have to evolve and adapt in various ways to handle increases in demand, but construction of new lines of 132 kV and above will also be needed to meet the significant national need for expansion and reinforcement of the UK's transmission and distribution networks."*
- 6.12 Finally paragraph 3.7.3 states *"It is important to note that new electricity network infrastructure projects, which will add to the reliability of the national energy supply, provide crucial national benefits, which are shared by all users of the system."*

- 6.13 Paragraph 5.9.14 states *"Outside nationally designated areas, there are local landscapes that may be highly valued locally and protected by local designation. Where a local development document in England or a local development plan in Wales has policies based on landscape character assessment, these should be paid particular attention. However, local landscape designations should not be used in themselves to refuse consent, as this may unduly restrict acceptable development"*.
- 6.14 Paragraph 1.2.3 of National Policy Statement (NPS) for Electricity Networks Infrastructure (EN-5) (which is taken together with EN-1) states *"In England and Wales this NPS is likely to be a material consideration in decision making on relevant applications that fall under the Town and Country Planning Act 1990 (as amended). Whether, and to what extent this NPS is a material consideration will be judged on a case by case basis."*
- 6.15 There is national support for the promotion of improved infrastructure which is more resilient to the effects of climate change and growing populations and to promote the transition to a low carbon economy. There is policy support in the form of SS1 and ID1 of the LP which supports infrastructure schemes that provide for the needs arising from new development. However, there are also policies which seek to protect the intrinsic character and beauty of the countryside. Whilst the principle of development of such infrastructure is established, careful consideration with regard to the landscape and other constraints is required to ensure the balance between any harm arising from the development can be appropriately mitigated for or alternatively the need for the infrastructure outweighs the harm.

#### **Applicants Justification for Development**

- 6.16 The Design and Access Statement (DAS) submitted in support of the application details how the present situation leaves the local and regional area which is served by the current infrastructure to be at a significant risk of power outages. The statement details that *"demand is expected to increase as towns and settlements expand with new households and end business users, as well as the switch to hybrid vehicle technology and high-speed charging points. The proposed switching station won't increase the capacity, but it will ensure that when the network capacity is increased there will be the flexibility and resilience to ensure the power reaches the customers without significant outages."*
- 6.17 The DAS further explains that the existing infrastructure is particularly vulnerable to lightning strikes which requires a manual reset. This is a very dangerous situation and as a result this switching station has been proposed to allow the circuits to be switched remotely and without the need to manually interact with the pylons. This will ensure not only the ability to quickly reset the circuits but do so without risk to human life. Essentially the development would establish a more resilient and effective electricity network in the area as well as forming a safer network for maintenance staff to operate on.
- 6.18 The DAS details other options considered which are as follows: *"Another option at Hartley Grid was considered. However after an extensive study was undertaken it was assessed that a switching station at Hartley Grid will only service and provide control over two ends as it would not address the risk of a tower failure across the lightning prone Medway Valley. This would still result in a lengthy and dangerous operation to reset the jumpers and still result in long service outages which would prevent the UKPN from meeting its regulatory requirements."*

- 6.19 *The only other option is to do nothing which is not acceptable as this would result in potential long outages and time required to make jumpers in the event of a power loss on the 132kV network supplied from either Northfleet East or Ninfield Grid Supply Points across a large area of Kent. This would result in the UKPN being unable to meet the regulatory requirements."*

**Landscape Impact/Design**

- 6.20 When assessing the design and impact of the development it is worth reiterating the relevant policies within the borough plan.
- 6.21 SP17 in the adopted Maidstone Local Plan, states in paragraph 1: "*Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area*".
- 6.22 Paragraph ii. of DM1 states proposals must "*Respond positively to, and where possible enhance, the local, natural or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage – incorporating a high quality, modern design approach and making use of vernacular materials where appropriate;*".
- 6.23 Paragraph v. continues with development must "*Respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worth of retention within the site. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as a positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area;*"
- 6.24 Finally, paragraph vi states that development must "*Provide a high quality design which responds to areas of heritage, townscape and landscape value or uplifts an area of poor environmental quality;*"
- 6.25 In terms of design Policies DM30 is most applicable in light of the location which states "*Outside of the settlement boundaries as defined on the policies map, proposals which would create high quality design, satisfy the requirements of other policies in this plan and meet the following criteria will be permitted:*
- i. The type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features;*
  - ii. Impacts on the appearance and character of the landscape would be appropriately mitigated. Suitability and required mitigation will be assessed through the submission of Landscape and Visual Impact Assessments to support development proposals in appropriate circumstances;*
  - iii. Proposals would not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation, or historic or archaeological importance or the erosion of roadside verges;*
  - iv. Where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area;"*

- 6.26 Paragraph 2.8.2 National Policy Statement for Electricity Networks Infrastructure (EN-5) (2011) states *"New substations, sealing end compounds and other above ground installations that form connection, switching and voltage transformation points on the electricity networks can also give rise to landscape and visual impacts. Cumulative landscape and visual impacts can arise where new overhead lines are required along with other related developments such as substations, wind farms and/or other new sources of power generation."*
- 6.27 As taken from the DAS *"The design of the proposal is standard for a 132kV Switching Station which will be comprised of a building and Air Insulated Switchgear mounted on steel structures within the site, the maximum height of this apparatus will be 7.5 metres and the proposed Landing Gantry will be a maximum of 15 metres in height. The Landing Gantry is required to interconnect the proposed development with the existing overhead cables."*
- 6.28 *The Switching Station building will be 5.5 metres in height, 27 metres in length and 7 metres in width, the external appearance of this building will be painted in Hermitage Green RAL 6002. This building will contain a Mess Room and a Switch Room. The proposed perimeter fence will be a Galvanised Steel fence at 2.4 metres in height, it is required to secure the site from unauthorised access. The proposed perimeter fence will be unpainted."*
- 6.29 *The proposed Switching Station will include two small low voltage secondary transformers which will be contained within individual kiosks. These are required to provide operational power to the proposed Switching Station."*
- 6.30 *The proposed access road is making use of an existing field access from Sheephurst Lane into the site which is considered to provide adequate visibility for vehicles leaving and entering the site in a forward gear."*
- 6.31 The application site is located within the Laddingford Low Weald Landscape Character Area. Paragraph 39.6 of the Maidstone Landscape Character Assessment describes views in this area as the following *"Along many of the roads and within the settlements, views are contained by the small scale field pattern with hedgerows and tall shelterbelts often enclosing orchards. However views from the wider landscape are more extensive across large scale arable fields."* It is considered that this application site is very much in keeping with this assessment.
- 6.32 The assessment notes in paragraph 39.7 *"Visual detractors comprise large agricultural barns and silos, polytunnels, pylons and fencing."* Paragraph 39.8 continues *"Similarly whilst there are some striking examples of local vernacular, recent development often degrades the setting of traditional buildings."* The assessment concludes that the landscape is of moderate sensitivity and that the visual impact of large agricultural barns and silos should be softened with native planting.
- 6.33 A 5m wide tree screen is proposed along the northern boundary of the site (which is currently open to views from/to Sheephurst Lane). There are numerous gaps in the roadside hedging which allows open views across the farmland to the woodland and to the open area where the compound is proposed to be sited. The proposed access road leading to the compound would be constructed in front of and to the east of the existing woodland area following the route of the woodland edge. The backdrop of the woodland would to an extent soften the impact of the access road however the site of the proposed compound would be readily visible from Sheephurst Lane and would appear significantly at odds with the open countryside character due to its utilitarian character and galvanised steel fencing. Whilst it acknowledged that there are a number of

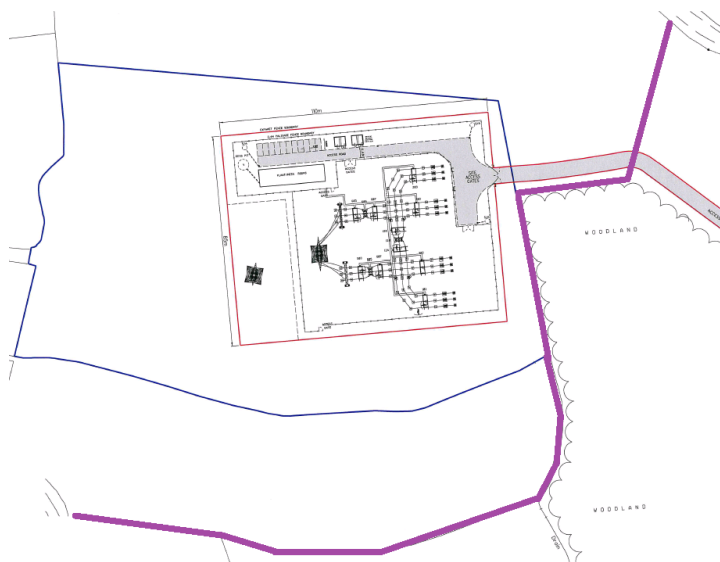
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existing large pylons in the vicinity of the site and across the wider landscape area, with the wider proposals resulting in the removal of three in close proximity to the compound and being replaced with smaller pylons together with the removal of overhead power lines in the immediate locality, (being carried out under permitted development rights and not forming part of this application), the overall impact of the development on the local countryside setting would be one at odds with its character and incongruous in this location.

- 6.34 It is acknowledged that the proposed tree screen would take some time to mature, at least 10-15 years and during this time, the site would be significantly more visible. The view below is from Sheephurst Lane with the woodland to the left and the open area where the compound is proposed to be positioned to the right of the woodland, marked by the arrow.



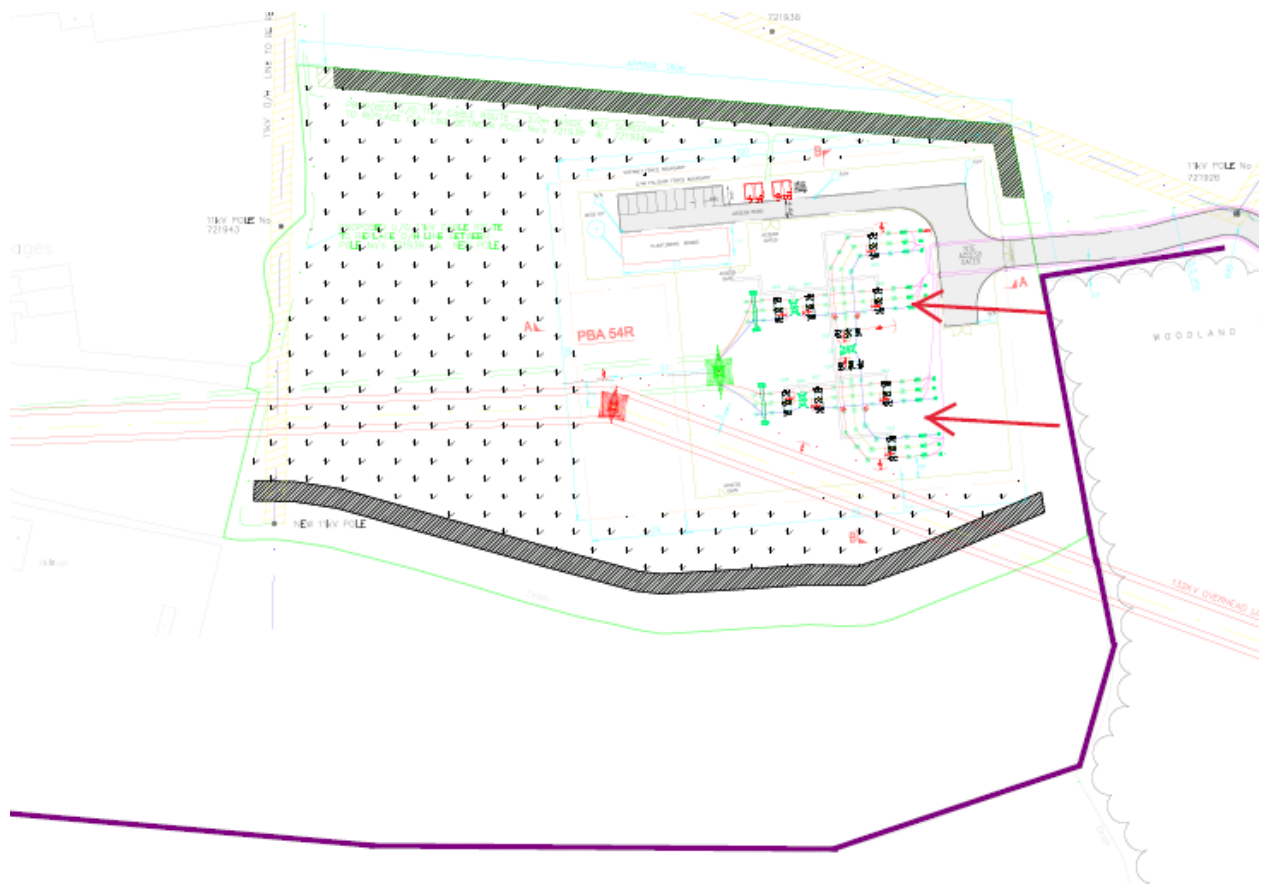
- 6.35 PROW KM254 runs across the farmland from Sheephurst Lane and connects to the corner of the woodland – see plan on next page (purple annotation added by case officer). Views from the PROW would look directly towards the compound and users of the PROW on reaching the corner of the woodland would have full sight in very close proximity of the compound and the surrounding fencing. This would be regarded as a very high visual detractor to users of the PROW who would expect to see views of the open countryside, but in fact would be faced, in very close proximity, to the compound and its structures.



- 6.36 The applicant's Landscape Visual Appraisal (LVA) does provide an assessment of landscape impacts between pages 26-29. A number of impacts such as the character landscape impact are assessed as being 'moderately adversely' impacted upon. Whilst the assessment provided by the applicant is broadly agreed with, and it is important to consider that the impact from this development is confined principally to the immediate area and not the wider landscape, I do not agree that the impact upon the immediate landscape and for users of the PROW footpath would only be 'moderate adverse'. To my mind, the impact would be "major adverse". As detailed above, the proposal would introduce a visually discordant and utilitarian feature to the immediate countryside setting and to users of the PROW and whilst not impacting on the wider landscape, would have significant impacts on the immediate landscape character. Whilst mitigation in the form of the proposed hedgerow screen/buffer planting would assist in reducing this adverse impact, the screening would take a significant time to reach maturity (15 years) and would not fully screen the development from public vantage points. This being especially so for users of the PROW.
- 6.37 The LVA also considers that the visual harm to neighbouring properties around Little Sheephurst Farm and Mill Cottages to be 'minor adverse' and the property known as 'Ridgings' to be 'moderately adverse'. This is a fair assessment and one I agree with, Ridgings does have a more direct view of the development where others have existing vegetation obscuring views to a degree but until mitigating landscaping has matured, dwellings would be able to view the development which again is considered to have a significant impact upon the immediate landscape.
- 6.38 The applicant has submitted photomontages in support of the application. Whilst these do indicate that large portions of the development would be screened, this will not occur until the landscaping reaches maturity (15 years from completion of the development) and therefore the development would be highly visible in the intervening period. It is also true to say that a photomontage is just that and cannot give a true view as would be experienced by users of the countryside in this location.
- 6.39 No planting is proposed between the woodland and the development and there would be direct views into the site from the footpath in this location as detailed below (arrows indicate views from PROW towards the proposed site). A further belt of screening is proposed to the south of the development, which would eventually help screen views of



the development as users walk along the PROW westwards, but until then a harmful impact would occur.



- 6.40 The proposal would involve external lighting, however subject to conditions it is considered that external lighting could be used appropriately without a harmful impact.
- 6.41 Paragraph 4.5.1 of Overarching National Policy Statement for Energy (2011) states *"The visual appearance of a building is sometimes considered to be the most important factor in good design. But high quality and inclusive design goes far beyond aesthetic considerations. The functionality of an object — be it a building or other type of infrastructure — including fitness for purpose and sustainability, is equally important. Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible. It is acknowledged, however that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area."*
- 6.42 Paragraph 4.5.3 continues *"In so doing, the IPC should satisfy itself that the applicant has taken into account both functionality (including fitness for purpose and sustainability) and aesthetics (including its contribution to the quality of the area in which it would be located) as far as possible. Whilst the applicant may not have any or very limited choice in the physical appearance of some energy infrastructure, there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation."*

- 6.43 The proposed apparatus along with fencing and associated development will have an overall harmful impact to the character and appearance of the immediate countryside and is considered to have a major adverse impact to users of the PROW and to a lesser extent, from views across Sheephurst Lane. Whilst the proposed mitigation in the form of the 5m wide tree belts will in time provide a degree of screening to the site compound, this will not be for a considerable period of time and will not entirely provide screening to the users of the PROW. Due to the constraints of the site it is not possible to more effectively screen the development. The Landscape and visual harm therefore weighs against the proposal.

**Wildlife**

- 6.44 Paragraph 6.20 of the Maidstone Borough Local Plan states: *"Maidstone is a biodiverse district endowed with a variety of habitats including heathlands and chalk downlands, orchards and ancient woodland, river valleys and ponds, wildflower meadows and parklands..."*
- 6.45 Paragraph 6.21 continues *"The broad range of habitats forms an extensive network across rural and urban areas, including previously developed. Many sites are important for their nature conservation and geological interest, and are designated for their protection..."*
- 6.46 Finally, Paragraph 6.23 states *"Development proposals will be expected to be supported by an initial survey of on-site assets. Surveys must be undertaken at the appropriate time of year for the relevant habitats, species, flora and fauna. Where harm to protected species or habitats is unavoidable, developers must ensure suitable mitigation measures are implemented to enhance or recreate the features, either on or off-site, and bring sites into positive conservation management. Sufficient information to assess the direct and indirect effects of development on protected sites, species, biodiversity or geology, and any proposed prevention, mitigation or compensation measures must be provided. Proposals should particularly seek to avoid damaging and fragmenting existing habitats. Opportunities to contribute towards the UK priority habitats and species in Maidstone and any additional Maidstone LBAP habitats and species should be maximised."*
- 6.47 Paragraph 2 of policy DM3 states the following: *"Where appropriate, development proposals will be expected to appraise the value of the borough's natural environment through the provision of the following:*
- i. An ecological evaluation of development sites and any additional land put forward for mitigation purposes to take full account of the biodiversity present, including the potential for the retention and provision of native plant species;*
  - ii. Arboricultural assessments to take full account of any natural assets connected with the development and associated sites; and*
  - iii. A landscape and visual impact assessment to take full account of the significance of, and potential effects of change on, the landscape as an environmental resource together with views and visual amenity."*
- 6.48 Paragraph 170. of the NPPF (2019) as amended states; *"Planning policies and decisions should contribute to and enhance the natural and local environment by:*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;"*

- 6.49 Policy SP17 states that development proposals in the countryside will not be permitted unless they accord with other policies in this plan.
- 6.50 The applicant has indicated that the development will not result in any loss of any bat habitats given the fact that no trees or other potential bat roosts will be removed or affected from the proposed development. The proposed mitigation planting will have the potential to create additional suitable bat foraging areas and therefore have the potential to improve the current situation for bats. The proposals will result in the loss of a large area of semi-improved neutral grassland and tall ruderals. This has been considered to be of negligible habitat value and the proposals seek to improve the remaining habitat by introducing a native species wildflower seed mix to the application site area upon completion of the works. This will help to provide a more diverse habitat for insect species and increase overall biodiversity on site.
- 6.51 Ecology consultees request conditions regarding, outdoor lighting, ecological enhancements, as well as an informative regarding breeding birds. It is considered that the justifications put forward by the agent and the conditions requested by consultees are both an accurate assessment of the development and its impacts and suitable to mitigate these impacts. Subject to conditions the development would not have a detrimental impact upon the wildlife in the area. Paragraph 175 of the NPPF encourages opportunities to incorporate biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity. The proposals seek to realise this.
- 6.52 Whilst measurable net gains have not been justified as part of the current proposals and indeed are not a policy requirement at this time, the proposals do offer an opportunity to incorporate biodiversity improvements by the incorporation of new hedgerow planting and more native species to the semi-improved grassland.

### **Highways**

- 6.53 Paragraph 1.i of policy DM 21, states that development proposals must "*Demonstrate that the impacts of trips generated to and from the development are accommodated, remedied or mitigated to prevent severe residual impacts, including where necessary an exploration of delivering mitigation measures ahead of the development being occupied.*"
- 6.54 Highways consultees have requested additional information, regarding the proposed visibility splays and how often the site would be accessed. In response the applicant has submitted the following.
- 6.55 "*The quoted visibility splay of 35 metres is as per the existing arrangement. The access to the site will only be used once per month by a Ford Transit sized motor vehicle for maintenance visits only. The Highway Authority acknowledges that the site has an existing access, we consider that due to the infrequent use of the access that there will be no harm to the safety of the users of the public highway network.*"
- 6.56 These comments have been put to highways consultees who have expressed some confusion by the applicant's comment that the site will only be accessed on a monthly basis by a ford type transit van vehicle. The site layout plans submitted as part of the application clearly show 11 car parking spaces, turning head for larger vehicles and a plant/mess room. This is at odds with the further information provided by the applicant, as the presence of the facilities indicates a higher degree of trip generation than once a month by a transit van attending the site for maintenance purposes.

- 6.57 Highways consultees continue *"In respect of the sight lines and the applicant's contention that they are acceptable because they mirror those at the existing access, KCC Highways disagree with this conclusion. As I understand it a new access to the site is being proposed, which will access onto Sheephurst Lane. Sheephurst Lane is a road that is subject to a speed limit of 50 mph; visibility sight lines of 35 meters are considerably below what is required for a speed limit of 50mph. It is therefore for the applicant to evidence the acceptability of the sight lines in relation to the roads posted speed limit, or observed speeds as demonstrated by an acceptable speed survey."*
- 6.58 In response the applicant has stated that the car park area for a maximum of 11 vehicles is shown as to provide sufficient turning space for any maintenance vehicles and restates the works will only entail at the very maximum one vehicle movement per month. With regards to the sight lines the applicant again reiterates that the site, has an existing access that will be utilised.
- 6.59 In this instance, I am inclined to agree with the applicant. It is noted that there is perhaps an inconsistency stating that the site will be visited once a month yet the development houses a mess room and does have 11 parking spaces. However it is likely that this site will need to be maintained and possibly upgraded during its lifetime at which point larger vehicles will need to visit it, not to mention if there was ever an emergency situation on site or elsewhere that required additional visitors to the site. It is also acknowledged that the access point utilises an existing access point (albeit upgraded) for the current proposals.
- 6.60 On the basis of the above it is considered that the number of parking spaces here is acceptable and would allow the site to be operated over its life time more conveniently. However it is felt that during the construction phase, the site access would be substandard and as such it is appropriate to require the applicant to submit a construction management plan detailing how vehicles will be managed when entering and leaving the site, particularly in light of the concerns raised by highways consultees. During normal operations and due to the minimal number of traffic movements associated with normal operational use, the substandard sight lines are considered acceptable.

#### **Flooding**

- 6.61 The application site is within flood zones 2 and 3. Paragraph 155 of the NPPF (2019) states *"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere."*
- 6.62 Paragraph 2.4.1 of National Policy Statement for Electricity Networks Infrastructure (EN-5) states *"As climate change is likely to increase risks to the resilience of some of this infrastructure, from flooding for example, or in situations where it is located near the coast or an estuary or is underground, applicants should in particular set out to what extent the proposed development is expected to be vulnerable, and, as appropriate, how it would be resilient to:*
- *flooding, particularly for substations that are vital for the electricity transmission and distribution network;"*
- 6.63 The NPPF requires applications for *"Essential Infrastructure"* located within zone 3 to pass the exception test. *"The Exception Test, as set out in paragraph 160 of the Framework, is a method to demonstrate and help ensure that flood risk to people and*

*property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available."*

- 6.64 The 2 parts to the Test require proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.
- 6.65 In this instance, as detailed above the applicant has explored other sites and no other location for the development is acceptable. The development would provide wider sustainability benefits to the community by way of aiding the transition to a low carbon future and by improving the resilience of the energy grid. This outweighs the risk of flooding.
- 6.66 In terms of ensuring the development will be safe for its lifetime and would not increase flood risk elsewhere. Concerns were initially raised by the Environment Agency regarding the development but following revised details being submitted these have been removed. KCC Flood and Water Management have issued a holding objection on the grounds of the submitted details not including information on the impermeable areas proposed and surface drainage. They have confirmed however that such concerns can be addressed by the imposition of conditions if the Council are minded to grant consent.

**Neighbouring Impact**

- 6.67 Five representations were received in objection to the development. The material concerns raised are generally related to the design of the development and its impact upon the character of the wider area. They are best summarised by the parish council whose response is included in the above consultee section, although the need for the development is questioned, that the development is located in an area that suffers from flooding and the impacts from EM Interference are all raised. These matters are addressed in the relevant sections of this report.
- 6.68 The LVA submitted with the application also considers the visual effects of the proposals on nearby residential properties. It concludes that the principle properties that will be impacted by the development are; Ridgings, located some 36m to the west of the site, where the proposals would be "*a noticeable element in the view but would not be a new element in the landscape*" and where the level of effect is considered to be moderate adverse and Mill Cottages, located approximately 60m to the west, where the level of effect is considered to be minor adverse (from the upper floors only).
- 6.69 Other properties around Sheephurst Farm, located some 150m to the south of the site would have a level of effect considered to be minor adverse but views of the main site would be blocked by intervening vegetation.
- 6.70 I take the view that the impact arising on these residential properties is an accurate assessment experienced by the occupants of these properties and adds to the overall adverse landscape and visual impact experienced by residents living in the immediate proximity of the site. Outside the immediate area, there are considered to be no adverse impacts to the occupants of other residential properties.
- 6.71 DM1 details how development must respect the amenity of neighbouring properties and ensure that development does not result in excessive noise, vehicular movements and other detrimental activity that could result from the use of a development. As is detailed above there would be an impact to the visual amenity of the residential

properties listed above which can be mitigated to a degree, but will still result in a negative impact for the few properties.

- 6.72 Representations have also been received from the 'Marden Walking Group', whilst these are not in objection to the development they do request that the PROW adjacent to the development be open and walkable and that it is essential to maintain this PROW footpath.
- 6.73 In terms of external lighting that could impact upon neighbouring properties. MBC Environmental Health officers have not raised any objections to the proposal on these grounds and requested conditions requiring additional information to be submitted to the Local Planning Authority. It is considered that a suitably worded condition requiring the application to submit external lighting details to the LPA prior to the first use of the development would be an acceptable way to address the issue.
- 6.74 In terms of Electromagnetic interference MBC's Environmental Health Officer have not raised this as an issue and on the basis of expert advice received it is not considered that this would be grounds to refuse the application on. Informatives will be included to ensure that the applicant is aware that electromagnetic emissions need to be monitored.
- 6.75 With regards to noise impacts this has not been raised as an issue with the application by the MBC Environmental Health Officer. Should permission be forthcoming conditions are suggested in line with consultee recommendations
- 6.76 In terms of non-material planning considerations raised, issues of the developments impact that could be considered as a 'right to a view' is not a material planning consideration. However, a distinction clearly needs to be made with regards to a right to a view and an impact arising due to a change of view which may dominate in landscape terms a particular view experienced by an occupier of a dwelling house. This clearly is a material planning consideration. A detailed submission was also received following the consultation period that appears to raise issues regarding access to land and past activity from infrastructure operators in the area. It is considered that this is not a material planning consideration.
- 6.75 Whilst the proposals will not result in neighbouring impacts outside the immediate area, the moderate adverse impacts on the occupants of Ridgings and the minor adverse impacts on Mill Cottages and to a less extent on the properties around Sheephurst Farm weight against the proposals.

### **Conclusion/Balancing exercise**

- 6.77 The application is one where national and local planning policies push and pull in different directions. There are Local Plan policies (as well as significant national policies) that support infrastructure development such as SS1 & ID1 and policies seeking to protect the character of the countryside and the amenity of residents like SP17 and DM1.
- 6.78 The development would have a significant impact on the immediate local area, but it should be recognised that this will be a very local impact, principally to within 500-1000m of the immediate area and the mitigation proposed will to an extent help to reduce this impact in the medium term (15 years). Users of the PROW will experience in my view, a major adverse impact reducing to moderate adverse impact following maturity of the hedgerow planting and there will be a moderate adverse impact on the property know as Ridgings and a minor adverse impact on Mill Cottages and properties

around Sheephurst Farm. This harm weights against the development proposals. However, this must be balanced against the significant national policy support for this type of development, which carries significant weight in the determination of this application, policy support that accepts that this type of development can have a detrimental impact and the support for infrastructure schemes which meet the needs of the area. The development, whilst harmful to immediate landscape character, is functional in its design and has to be effectively secured. As such the applicant would be limited in terms of materials and design that can be used and it is considered that it contributes to the area "as far as it possibly can" by way of establishing new hedgerows to attempt to screen it. It should also be recognised that the applicant has investigated alternative sites which have been found to be unacceptable and this is the only site available which meet the needs of the applicant and the wider infrastructure electricity network to secure the flexibility and resilience to ensure the power reaches the customers without significant outages.

- 6.79 Following the submission of revised and additional drawings by the applicant and subject to conditions, it is not considered that the development would present a flood risk nor would it have a detrimental impact upon the ecology of the area nor would it have an impact upon the amenity of the surrounding area in terms of light and noise pollution.
- 6.80 There are limited design alternatives to reduce the impact of the proposals on the landscape character and the applicants have sought to mitigate the impacts of the proposals as much as can be accommodated on the small site area. Taking all the matters into consideration including the need for the development, the alternative locations considered and discounted and the very localised impact, limited to the immediate area and balancing those factors that weight against and those in favour of the proposals, on balance, it considered that the regional/national need to secure a more resilient and effective electricity network in the area as well as forming a safer network for maintenance staff to operate on outweighs the landscape harm to the immediate local area, to users of the PROW and to the dwellings known as Ridgings and to a lesser extent, Mill Cottages and properties around Sheephurst Farm. It is therefore recommended that planning permission be granted subject to conditions.

## **RECOMMENDATION**

GRANT PLANNING PERMISSION subject to planning 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:

Application for planning permission

TR/9974/21/003 Rev M	Proposed Switch Station Layout
TR/9974/21/010 Rev D	Proposed Switch Station Elevations (24 June 2020)
TR/9974/21/011 Rev C	Proposed Switch House Elevations (24 June 2020)
TR/9974/21/012 Rev A	Proposed Layout
Arboricultural Report	

Ecological Appraisal  
Flood Risk Assessment  
Design and Access Statement  
Existing Site Photos  
Historic Environment Desk Based Assessment  
Landscape and Visual Appraisal  
Site Topography

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

3. 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

4. Prior to development commencing on the infrastructure works a "lighting design strategy for biodiversity" for the site boundaries and within the site shall be submitted to and approved in writing by the local planning authority. The lighting strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
- b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

Reason: In the interests of protecting wildlife and the amenity of neighbouring properties and the wider area from detrimental light intrusion.

5. Prior to development commencing on the infrastructure works a landscape scheme designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012) will have been submitted to and approved in writing by the local planning authority. The scheme shall use predominantly native or near-native species as appropriate and show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed. It shall also provide details of replacement planting to mitigate any loss of amenity and biodiversity value, the location of any habitat piles of cut and rotting wood and include a plant specification, implementation details, a maintenance schedule and a [10] year management plan. [The landscape scheme shall specifically refer to the submitted Preliminary Ecological Appraisal (received 17 February 2020), Figure 8: Landscape strategy found within the submitted Site Topography document (received 08 April 2020) and address the need to provide tree planting to screen the development from the surrounding area including the adjacent Public Right of Way (KM254)]



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

6. Prior to development commencing on the infrastructure works details of a scheme for the enhancement of biodiversity, including bat and bird boxes, native planting in landscaping and incorporation of features beneficial to wildlife wherever possible within and around the site, together with details of the timing/phasing of the respective elements forming the scheme. Reference will be made to the Maidstone Landscape Character Assessment, the submitted Preliminary Ecological Appraisal (received 17 February 2020) and propose management arrangements for the enhancements of at least 10 years. This shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be fully implemented prior to the use of the development and thereafter maintained.

7. A landscape and ecological management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaped and open areas for at least 10 years, shall be submitted to and approved in writing by the local planning authority prior to the first use of the development. Landscape and ecological management shall be carried out in accordance with the approved plan 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

8. Prior to development commencing on the infrastructure works a detailed sustainable surface water drainage scheme for the site shall be submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme 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 (with reference to published guidance):

- i) that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- ii) 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.

9. Prior to first use of the development hereby permitted, a full noise survey shall be submitted to and approved by the Local Planning Authority. The survey shall set out appropriate mitigation to be implemented based upon the results of the survey and such mitigation shall in place prior to the first use of the switching station and retained in use at all times whilst the switching remains operational. The noise survey should address:
  - a) Standard Industrial Noise based on the rating level of noise emitted from the proposed plant and equipment to be installed on the site (determined using the guidance of BS 4142: 2014 Rating for industrial noise affecting mixed residential and Industrial areas) shall be low as can be possible. In general this is expected to be no greater than 0dB above the existing measured background noise level LA90, T.
  - b) The issue of low frequency noise and vibration assessment to determine the level of the low frequency noise. The assessment should be conducted to assess the impact inside peoples homes so the low frequency noise would not exceed the Low frequency criterion curve for the 10Hz to 160Hz third octave bands as described in the DEFRA procedure for the assessment of low frequency noise complaints 2011 (NANR45). The survey will involve external measurements and calculations to give predicted internal noise levels to ensure that these levels would not be exceeded by the plant.
  - c) Any other noises such as arcing associated with the plant is addressed so that they are avoided or appropriately mitigated.

Once installed the plant and equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic report whenever it is operating. After installation of the approved plant no new plant shall be used without the written consent of the local planning authority.

Reason: In the interests of safeguarding neighbouring amenity from detrimental noise impacts.

10. If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

11. Prior to development commencing on the infrastructure works a method statement for the construction of the development hereby approved shall be submitted to, and approved in writing by, the Local Planning Authority. The construction works shall be carried out in accordance with the approved method statement. The method statement shall include details of, the provision of parking facilities for contractors during the construction of the development and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials and detail how construction and other vehicles will safely enter and exit the site.

Reason: To ensure the construction of development does not result in a loss of highway safety.

12. All works detailed upon page 27 of the submitted Flood Risk Assessment (received 13 May 2020) shall be carried out in prior to the use of the development hereby permitted.

Reason: In the interests of safeguarding the development and wider area from flooding.

The following informatives are also recommended

1. The applicant is advised that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:
  - The applicant pays for the administration costs
  - The duration of the closure is kept to a minimum
  - Alternative routes will be provided for the duration of the closure.
  - A minimum of six weeks notice is required to process any applications for temporary closures.

This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

2. Facilities to measure electro magnetic field readings to monitor emissions to ensure they fall within guidelines published by the Health Protection Agency will need to be in place.
3. Your attention is drawn to the following working practices which should be met in carrying out the development:
  - Your attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228: 2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of

construction and demolition: if necessary you should contact the Council's environmental health department regarding noise control requirements.

- Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Council's environmental health department.
- Plant and machinery used for demolition and construction should only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
- Vehicles in connection with the construction of the development should only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.
- The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours is advisable. Where possible, the developer shall provide residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work.
- Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.
- It is recommended that the developer produces a Site Waste Management Plan in order to reduce the volumes of waste produced, increase recycling potential and divert materials from landfill. This best practice has been demonstrated to both increase the sustainability of a project and maximise profits by reducing the cost of waste disposal.
- Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

If relevant, the applicant must consult the Environmental Health Manager regarding an Environmental Permit under the Environmental Protection Act 1990.

Case officer: William Fletcher





<b>REFERENCE NO:</b> 20/504370/OUT		
<b>APPLICATION PROPOSAL:</b> Outline application for erection of 3(no) detached dwellings with matters of access and layout being sought.		
<b>ADDRESS:</b> Land rear of Redic House, Warmlake Road, Sutton Valence, ME17 3LP		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> 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.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Sutton Valence has requested the application is considered by the Planning Committee if officers are minded to approve planning permission. This request is made for the reasons outlined in the consultation section below.		
<b>WARD:</b> Sutton Valence & Langley	<b>PARISH:</b> Sutton Valence	<b>APPLICANT</b> Mrs A. Medlam <b>AGENT</b> Bloomfields
<b>TARGET DECISION DATE:</b> 30/11/20		<b>PUBLICITY EXPIRY DATE:</b> 22/10/20

## RELEVANT PLANNING HISTORY

### Proposal site

- 20/501800 - Outline for 3 dwellings (access & layout sought) – Refused
- 19/501103 – Erection of 2 houses with garages – Refused
- 19/500724 - Reserved matters following approval of 16/500489 – Approved
- 17/503541 – Outline: 3 dwellings (access sought) – Refused (appeal dismissed)
- 16/500489 – Outline: 1 dwelling (access sought) - Refused (appeal allowed)

### Land to north of proposal site

- 20/501089 - CLD to confirm development permitted under 16/508382 and 18/503784 can be lawfully implemented at any time - Approved
- 19/506309 – NMA to 18/503784 - amend layout of parking (plot 5) - Approved
- 18/503784 - Reserved matters application pursuant to 16/508382 – Approved
- 16/508382 – Outline: demolition of buildings and erection of 8 dwellings to ensure retention of 5 B1 commercial units – Approved
- 15/509960 - Outline (considering access) for demolition of storage & distribution unit and construction of 5 dwellings (to ensure retention of 5 B1 units) - Approved

## MAIN REPORT

### 1.0 Site description

- 1.01 The proposal site relates to a parcel of undeveloped land located to the north of Redic House. To the east of the site is the rear garden of 'Marwood House', with the main house to the south-east of the site; to the north, work has commenced on an approved residential development (see above planning history); and to the west is agricultural land. The Oast, that is in Warmlake Business Estate and some 60m to the north-east of the northern boundary of the proposal site (with a large modern commercial building in between), is Grade II listed. For the purposes of the Maidstone Local Plan the proposal site is within the designated countryside.

### 2.0 Background information

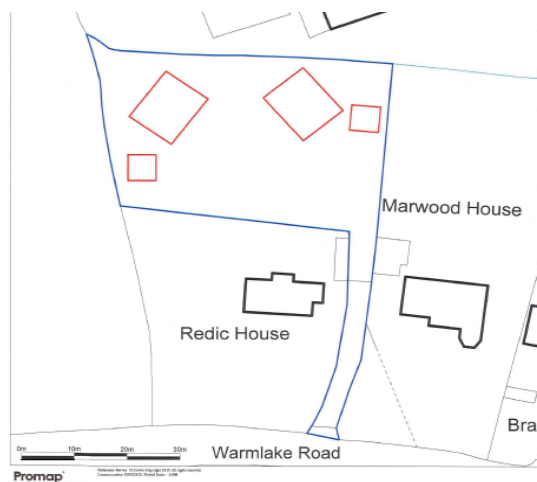
- 2.01 There is extant permission on the application site for a detached dwelling, with access taken from Warmlake Road using the existing access in between Redic House and Marwood House (16/500489 and 19/500724).

- 2.02 An outline application (access & layout sought) for three detached dwellings on the site, where one dwelling made use of the access in between Redic House and Marwood House, and two dwellings were accessed from Maidstone Road (via the existing access road for the new housing development to the immediate north of the site), was refused for the following reason (20/501800):



*-Proposal, by virtue of increased use of site and resultant general noise & disturbance associated with development, would be detrimental to residential amenity occupiers of Redic House could reasonably expect to be able to continue to enjoy, particularly when using their private garden areas.*

- 2.03 An application for two houses on the site, both using the same access from Warmlake Road, was refused for the following reason (19/501103):



*-Proposal, by virtue of increased use of site access and associated resultant general noise and disturbance, would be detrimental to residential amenity the occupiers of Redic House and Marwood House could reasonably expect to be able to continue to enjoy.*

- 2.04 An outline application for 3 detached dwellings on the site, using the same access from Warmlake Road, was refused for the following reasons (17/503541):



*-Proposal, by virtue of increased use of site access and resultant associated general noise and disturbance, would be detrimental to residential amenity occupiers of 'Redic House' & 'Marwood House' could reasonably expect to be able to continue to enjoy, particularly when using private garden areas. Erection of 3 dwellings here is also likely to result in development that would appear overbearing to occupants of 'Redic House' when enjoying their private garden area.*

*-Proposed constitutes cramped form of development resulting in poor design, being detrimental to character of area and at odds with prevailing pattern of development in area.*



- 2.05 It is important to note here that the Planning Inspector concluded that the development proposed under 17/503541 (for 3 detached houses), would not harm the character and appearance of the area, but it would harm the living conditions of surrounding occupiers through the effects of noise and disturbance, contrary to Local Plan policy DM1. The Inspector focused their objections around the access road/vehicle movements, as set out below:

*Access for all 3 dwellings would incorporate existing route into property. This runs along a narrow passage between Redic House and Marwood House, similar to layout of extant permission granted by aforementioned previous appeal. In that instance, Inspector found that no harm would be caused to the living conditions of the occupiers of these adjacent properties, as a result of any noise and disturbance relating to access to the single proposed dwelling.*

*Current appeal scheme proposes the use of the access by three dwellings, rather than one as previously. The adjacent existing dwellings are, as before, set away from the boundary and separated by outbuildings along some of their lengths, along with high fences/walls and hedges. I acknowledge the appellant's assertion that each of the dwellings would typically only generate one in/out movement per day, although there is no substantive evidence for this.*

*Nonetheless, I am concerned the increase of transport movements, however small, represents 3 times that of previously allowed scheme. Council and other concerned respondents have pointed out that as well as noise from vehicular movements along accessway, there could also be light from headlights as vehicles turn from the road, additional pedestrian movements, additional activity and movement in car parking areas, increased deliveries and suchlike, which cumulatively would be particularly noticeable given existing quiet, semi-rural nature of adjoining properties. Access would swing partly in front of dwelling at Marwood House, which would exacerbate these effects on occupiers of this property.*

*Moreover, there would be a requirement for vehicles to turn within site as well as refuse collection, which would represent an increase in activity on previous application. Given likely proximity of such an area to the gardens of the adjoining properties, this could be a particularly significant source of noise and disturbance. I have taken into account the possibility of noise-dampening material bonded within the proposed driveway treatment, but consider that this alone would not ameliorate the impact that increased movements and activity would have on the occupiers of the adjoining dwellings and their enjoyment of their homes and gardens.*

*I conclude proposal would harm living conditions of surrounding occupiers through effects of noise & disturbance, but not outlook. Nonetheless proposal would conflict with DM1 and its requirement for development to respect amenities of occupiers of neighbouring properties.*

### 3.0 Proposed development

- 3.01 This outline application is again for the erection of three detached dwellings, with access and layout being sought at this stage. Appearance, landscape, and scale are reserved matters for future consideration. The proposed access/layout is:



Layout and means of access

- 3.02 In general terms, the proposed layout shows the continuation of the access road serving the development to the north, leading into the proposal site. There is to be no access from Warmlake Road. Three detached houses are then located around the access road, with garden land predominantly abutting the eastern, southern, and western boundaries of the site. Except for the three houses, no other buildings are shown; and each plot is provided with two side-by-side parking spaces. No vehicular or pedestrian access is shown into the site from the existing track in between Redic House and Marwood House. All plots are shown to be accessed from Maidstone Road, via the access for the new housing development to the immediate north of the site.

Scale, appearance, and landscape

- 3.03 With regards to the reserved matters, except for the proposed site layout plan showing the footprint of the three houses, no other parameters have been provided in terms of the scale of the houses; and in terms of appearance, the submission only states that the proposed dwellings can be designed so that they will relate closely to the existing built development and the new dwellings currently under construction. For landscaping, the submission states (in summary) that: *As shown on the indicative block plan, the landscape buffer which was approved on the western boundary of the Warmlake Business Estate development, will be continued along the western boundary of the application site, providing a continuous buffer to safeguard the countryside from encroachment.....The landscape buffer will be continued along the southern boundary of the site, to provide enhanced screening and amenity protection to the residents of Redic House and Marwood.*

#### **4.0 Policy and other considerations**

- Local Plan (2017): SS1, SP17, SP18, DM1, DM2, DM4, DM6, DM8, DM23, DM30
- National Planning Policy Framework (2019)
- National Planning Practice Guidance

#### **5.0 Local representations**

- 5.01 4 representations received raising concerns over (in summary): Over development of site; visual impact; traffic generation/highway safety; lack of parking; extra demand on community infrastructure; impact on residential amenity (including general noise and disturbance); Council can demonstrate a 5yrs worth of housing land supply; heritage impact; sustainability in terms of location; arboricultural/ecological impact.

#### **6.0 Consultation responses**

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

- 6.01 **Sutton Valence Parish Council:** Wish to see application refused and reported to Planning Committee if officers are minded to recommend approval. Their comments are summarised as follows:

- *Proposal does not respond positively to local character of area, particular with regard to scale, height, and site coverage.*
- *Proposal does not respect amenities of occupiers of neighbouring properties - will cause excessive noise, and unacceptable overlooking and loss of privacy and light.*
- *Proposal plans to coalesce with development of Warmlake Business park, creating suburban feel rather than retaining semi-rural natural character of the area.*

- 6.02 **KCC Biodiversity Officer:** Raises no objection to proposal.

- 6.03 **KCC Highways:** Proposal does not meet criteria to warrant their involvement.

- 6.04 **Environmental Protection Officer:** Under previous applications on this site, no objections have been raised in terms of noise; contamination; air quality; sewage.

## 7.0 APPRAISAL

### Main issues

- 7.01 The Local Plan sets out a hierarchy for new residential development, with the defined urban area being the most sustainable location to accommodate such growth, then rural service centres, and then larger villages. In other locations, such as the designated countryside, protection should be given to the rural character of the borough. As previously set out, the proposal site is in the designated countryside for the purposes of the Local Plan.
- 7.02 Furthermore, relevant policies in the Local Plan seek high quality design; and new development in the countryside will not be permitted unless it accords with other policies in the Local Plan and will not result in harm to the character and appearance of the area. Local Plan policy DM1 sets out the principles of good design, and under this policy proposals which would create high quality design and meet certain criteria will be permitted.
- 7.03 Local Plan policies also seek to ensure that development affecting heritage assets should incorporate measures to conserve, and where possible enhance, the significance of the heritage asset and, where appropriate, its setting. Section 16 of the NPPF sets out what should be considered in terms of conserving and enhancing the historic environment.
- 7.04 The NPPF also seeks sustainable development and it is clear that good design is a key aspect of this; and it states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 170 of the NPPF also states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

### Location

- 7.05 The proposal site benefits from an extant planning permission for the erection of a single dwelling; and as accepted by the Planning Inspector under 16/500489, future occupants of the site would not be dependent upon the use of private vehicles, and the site is in a sustainable location in terms of access to services. The site and its surrounding context has not significantly changed since this decision and it is considered unreasonable to now go against the view of the Planning Inspector in relation to the current application site, and in fact other Planning Inspectors for other nearby sites. As such, the principle for residential development on this site has already been accepted and it would now be unreasonable to object to the proposal in terms of its location.

### Access (matter for consideration)

- 7.06 KCC Highways did not raise any objection to the use of the existing access from Maidstone Road for the eight new houses to the north of the site; and it is accepted that the use of this access by another three dwellings would not have an unacceptable impact on highway safety; and would not have a 'severe' impact on the road network. The proposal would therefore be acceptable in highway safety terms and no objection is raised on this matter for consideration.

Layout (matter for consideration)

- 7.07 Under 17/503541 (outline for 3 houses), the Planning Inspector concluded the following (in summary):

*I observed during my visit to area, instances of other backland development....Such development is not uncommon in surrounding district....Given indicative layout shows plot sizes would be similar to those under construction adjacent to site, there is nothing to suggest that such development would be out of character with what has gone before.....I therefore conclude proposal would not harm character and appearance of area. There would be no conflict with LP Policies SP17, DM1 or DM30, which together require development to be of a high standard that takes account of local patterns of development, amongst other factors.*

- 7.08 Whilst this current application shows a different layout to 17/503541, it remains that backland development (for 3 dwellings) has been previously accepted by the Planning Inspector; and the three plots now shown remain of a similar size to the plots to the north of the site. Furthermore, the proposal would continue the road through from the north and there is a clear relationship with this site and how the houses to the north are laid out, whilst helping to provide a natural end to the Warmlake Business Estate development. In terms of parking provision, the proposed layout has also demonstrated that three houses here could provide adequate on-site spaces in accordance with Local Plan policy DM23. On this basis, it would be unreasonable to now argue that a proposal for 3 detached dwellings on this site would result in a development that would appear cramped and out of place with the pattern and grain of development in the area. It is therefore concluded that the proposal would not harm the character and appearance of the area, and there would be no conflict with current Local Plan policies.

Scale, appearance, and landscape (reserved matters)

- 7.09 Matters of scale, appearance, and landscaping are not for consideration at this stage. However, the submission does provide some indicative details relating to these matters and it still needs to be considered whether or not a scheme for three houses here could be acceptable in these terms.
- 7.10 In terms of scale, the indicative plans show three detached properties of a similar scale to the properties shown under 17/503541 (albeit in a different layout), and the Inspector at the time did not consider the scale to be objectionable. As such, it would again now be unreasonable to argue that this proposal would result in a development of an unacceptable scale. On this basis, the proposal has demonstrated that three detached properties can fit on to the site without causing unacceptable harm to the character and appearance of the area hereabouts.
- 7.11 Taken in isolation, whilst no specific details in terms of appearance has been submitted, it is considered that a scheme for three houses here, in terms of architecture and choice of external materials and finishing, could be acceptable and positively relate to the appearance of both existing and recently approved development in the locality of the proposal site. The boundary trees are of little amenity value and the submission indicatively shows new planting along the boundaries of the site. Whilst in general terms this is acceptable, no further details have been provided in terms of location, species and size of all new planting for example, and so a suitable condition is recommended to secure the specific details of an appropriate planting scheme.

## Other considerations

### Residential amenity

- 7.12 In the appeal decision for 17/503541, the Planning inspector agreed that the proposal (for 3 dwellings) would harm the living conditions of the occupants of Redic House and Marwood House through the effects of noise and disturbance. This appeal decision focused on the proposed access road and vehicle movements (as explained in paragraph 2.05 of this report). A subsequent application (20/501800) for three dwellings on the site was refused, again because of the expected noise and disturbance resulting from the proposed access arrangements.
- 7.13 Unlike the previous planning applications, this current proposal now shows sole access (both pedestrian and vehicle) from Maidstone Road, through the already approved housing development to the north of the site. The proposal has also reconfigured the layout, so that the access road has been noticeably shortened within the site. Furthermore, the proposed layout now separates the access road and parking areas away from the boundaries with Redic House and Marwood House, with gardens and buildings acting as a suitable buffer.
- 7.14 By removing any access to and from the proposal site from the track in between Redic House and Marwood House; and by having the new access and parking arrangements kept to the northern end of the application site (buffered by gardens and buildings), it is considered that the vehicle movements associated with the new development would no longer have an unacceptable impact upon the occupants of Redic House or Marwood House, when trying to enjoy their properties (both internally and externally). Furthermore, residential use has already been accepted on this site, and the creation of new dwellings and garden areas is not usually expected to result in an unneighbourly use.
- 7.15 In terms of three detached dwellings being overbearing on the occupants of Redic House and Marwood House, the Planning Inspector for the previous proposal for three dwellings on this site concluded:

*The Council also raised a concern the proposed dwellings would be overbearing in the outlook of the occupiers of adjoining dwellings. Both existing dwellings would be separated from the proposed homes by their rear gardens, which are large. Although dwellings might be visible, they are \*likely to be of a scale or in a location that would enclose or substantially overbear existing dwellings and their gardens, to point where their occupiers would suffer a significant negative impact on their living conditions. I conclude proposal would harm living conditions of surrounding occupiers through effects of noise & disturbance, but not outlook. Nonetheless proposal would conflict with DM1 and its requirement for development to respect amenities of occupiers of neighbouring properties.*

\*Appeal decision states 'likely' but this is believed to be an error and should say 'unlikely'.

- 7.16 Whilst this proposal shows a different layout (which is a matter for consideration) to the referenced appeal decision, it still remains that the proposal is for three detached houses on the same site, and the two neighbouring properties to the south still benefit from large gardens, separating the existing houses from the proposal. Indeed, the proposed layout shows the new dwellings to be more than 21m away from the rear elevations of Redic House and Marwood House; and whilst plot 1 is close to the western boundary of Marwood House, this is not considered to be objectionable given the size of this neighbour's garden. Furthermore, the reserved matters of scale, appearance, and landscaping are still to be considered by the local planning authority, and in light of the Inspector's previous views, it is accepted that the consideration of these matters would safeguard the amenity of any neighbouring resident (including the immediate development to the north of the site), as well as the living conditions of future occupants on the site, in terms of outlook, privacy, and light. It is therefore considered that the proposal would be in accordance with Local

Plan Policy DM1, which includes a requirement for new development to respect the residential amenity of existing and future residents.

Biodiversity implications

- 7.17 The ecological survey information submitted with this application is over 5ys old, and the Biodiversity Officer previously raised concerns under 20/501800 that the conclusions of the reptile survey were no longer valid. During the assessment of 20/501800, the site was unmanaged, but it was confirmed by the agent at the time that until recently, the grassland within the site was managed as regularly cut lawn. This was backed up by pictures within the sale brochure; and photographs taken by the planning officer did indicate that the vegetation was only left uncut for 1yr, rather than several. The Biodiversity Officer accepted at the time that it was likely that the grassland was short at the beginning of the year (2020); and they also confirmed that the submitted reptile survey did not record any reptiles on the site in 2015, and no reptiles were recorded during surveys of lands within the surrounding area. As such, the Biodiversity Officer is satisfied that as the habitat on site appears to get periodically cut it is probably unlikely that a reptile population will have established on site during 2020; and they also accept that there is no requirement for updated ecological surveys (or any other ecological information) to be carried out for this current application. Please note here that a site visit was undertaken in late September and November 2020 and it was clear that the site has again been cut.
- 7.18 Notwithstanding this, one of the principles of the NPPF is that “...opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”. A suitable condition would therefore be imposed requesting details of biodiversity enhancements on the site (including integrated methods of design such as swift bricks).

Heritage implications

- 7.19 The application site is noticeably separated from the Grade II listed ‘Warmlake Oast’, with recently approved residential development in between; and the proposal does not alter the existing access from Maidstone Road. It is therefore considered that the proposal would not have an adverse impact upon the setting and significance of this listed building.

Miscellaneous

- 7.20 In the interests of sustainability and air quality, if the application were to be approved a condition would be imposed for the provision of an operational electric vehicle charging point for low-emission plug-in vehicles for each unit.
- 7.21 Given the proposal site’s location (flood zone 1), no objection is raised in terms of flood risk. The Environmental Protection Officer has also previously raised no objections to the proposal in terms of noise (in terms of traffic noise on future occupants of the site), contamination, sewage, and air quality. It is unknown how foul sewage and surface water disposal will be dealt with, and so a suitable condition would be imposed for further details if this application were to be approved. The submission shows sufficient room for refuse storage.
- 7.22 The issues raised by Sutton Valence Parish Council and local residents have been considered in the assessment of this application; and 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 proposal would not undermine objectives of this Duty.

Conclusion

- 7.23 Whilst the Council is in a position where it can demonstrate a 6.1yrs worth of housing land supply (1<sup>st</sup> April 2020), this does mean that appropriate windfall sites should not be approved. For the reasons outlined above, the proposal is considered to be 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 is therefore made on this basis.

**8.0 RECOMMENDATION:** GRANT planning permission subject to following conditions:

1. The development hereby approved shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority:

(a) Scale (b) Appearance (c) Landscaping

Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

3. The development hereby approved shall not commence above slab level on any individual property until written details and samples of the materials to be used in the construction of the external surfaces of the buildings and hardsurfacing have been submitted to and approved in writing by the local planning authority. The development hereby approved shall be constructed using the approved materials and maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development.

4. Pursuant to condition 1 of this permission, the scheme of hard and soft landscaping shall use indigenous species and 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. The landscaping shall be designed using the principles established in the Councils adopted Landscape Character Assessment and Landscape Guidelines and shall include the following:

(a) native hedgerow planting along eastern, southern, and western boundaries (as shown on drawing ref: P.16.001.2201 03B);

(b) details of new planting (including location, planting species and size); and

(c) details of all fencing, walling and other boundary treatments.

The landscaping of the site thereafter shall be carried out in accordance with the approved details and maintained as such thereafter;

Reason: To ensure a satisfactory appearance to the development, and in the interests of residential amenity and biodiversity enhancement.

5. The approved landscaping associated with the individual dwellings shall be in place at the end of the first planting and seeding season following completion of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following completion of the final unit. Any trees or plants, which, within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory appearance to the development, and in the interests of residential amenity and biodiversity enhancement.

6. Pursuant to condition 1 of this permission, biodiversity enhancements shall be incorporated into the design and appearance of all three dwellings, through integrated methods such as swift bricks, bat tubes/bricks and/or bee bricks. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: In the interests of biodiversity enhancement.

7. The development hereby approved shall not commence above slab level on any individual property until details of foul sewage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details before the first occupation of any dwelling hereby approved and maintained as such thereafter.

Reason: To ensure adequate foul sewage and surface water disposal arrangements.

8. Prior to the first occupation of any property, a minimum of one operational electric vehicle charging point for low-emission plug-in vehicles for each dwelling shall be installed and shall thereafter be retained and maintained as such for that purpose;

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

9. The development hereby approved shall at no time provide vehicle access to and from the site, including at construction phase, via the track in between Redic House and Marwood House.

Reason: In the interests of residential amenity.

10. With regards to the matters of layout and access, the development hereby permitted shall be carried out in accordance with the following approved plans: P.16.001.2201 01A; and P.16.001.2201 03B.

Reason: For the avoidance of doubt.

Case Officer: Kathryn Altieri



[illegible]

<b>REFERENCE NO - 20/503417/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of a two storey detached dwelling, including creation of new vehicular access onto Queens Avenue (part retrospective).		
<b>ADDRESS</b> Land Rear Of 335 Queens Road, Maidstone, ME16 0ER		
<b>RECOMMENDATION</b> Grant planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <ul style="list-style-type: none"> <li>• The new dwelling is of an appropriate design, bulk, appearance and siting</li> <li>• The new dwelling is acceptable in relation to neighbour amenity, highways impact and will provide a good standard of living accommodation.</li> <li>• The development is acceptable in relation to the potential impact on the Wellingtonia tree in a neighbouring garden.</li> <li>• The proposal has a fall back position under 18/505459/FULL for a similar proposal</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Cllr Jonathan Purle has requested that the planning application is considered by the Planning Committee if officers are minded to approve for the reasons set out in paragraph 5.01 and 5.02.		
<b>WARD</b> Bridge	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr Thackray  <b>AGENT</b> Mr Nathan Burr, Harringtons 2006
<b>TARGET DECISION DATE</b> 4/12/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 31/8/2020

### **Relevant Planning History:**

20/501504/SUB: Submission of details pursuant to conditions 2 (details of materials) , 3 (details of decentralised and renewable or low-carbon sources of energy) , 4 (details of electric vehicle charging point) , 7 (landscaping scheme) , 12 (sustainable drainage scheme) , 13 (Construction Management Plan) , 14 , (details of refuse storage facilities) & 15 (biodiversity enhancement scheme) of application 18/505459/FULL – APPROVED

18/505459/FULL: Erection of two-storey detached house including creation of access onto Queens Avenue – APPROVED

16/503402/FULL: Erection of one two storey five bedroom dwelling and one single storey two bedroom dwelling with new access onto Queen's Avenue – REFUSED AND DISMISSED AT APPEAL

### **MAIN REPORT**

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

- 1.01 The area, which lies within the urban boundary of Maidstone, is predominantly residential in character, comprising mainly large detached houses in spacious plots.
- 1.02 The application site relates to an irregular shaped plot of land taken from the residential garden of No.335 Queens Road, a 2-storey detached dwelling. The applicant also owns the property at 335 Queens Road. The host building fronts onto Queens Road although the application site fronts Queens Avenue and adjoins the boundary with Tall Trees and The Old Laundry.

- 1.03 The application site boundary in Queens Avenue (front boundary) has a ragstone wall which is approximately 2m high. The boundary to the north (side boundary with Tall Trees) is fencing and planting. To the south (side boundary) the boundary with The Old Laundry is a brick wall and trellis. The eastern boundary with 333 Queens Road (rear boundary) is demarcated by soft landscape.
- 1.04 There are trees within the rear garden of Tall Trees to the north that are protected by a Tree Preservation Order (TPO) in particular to a mature Wellingtonia. There are a number of mature street trees which are sited along Queens Avenue.
- 1.05 The site was granted planning permission in 2018 under ref: 18/505459/FULL for the erection of a two-storey detached house including creation of access onto Queens Avenue. Construction has commenced with the creation of access, land levelling and building works of the house.
- 1.06 A subsequent discharge of conditions (20/501504/SUB) was approved on 4 June 2020 discharging the following 8 conditions:  
condition 2: details of materials  
condition 3: details of decentralised and renewable or low-carbon energy  
condition 4: details of electric vehicle charging point  
condition 7: landscaping scheme  
condition 12: sustainable drainage scheme  
condition 13: Construction Management Plan  
condition 14: details of refuse storage facilities  
condition 15: biodiversity enhancement scheme

## **2. PROPOSAL**

- 2.01 The current, part retrospective, planning application is for the erection of a two storey detached dwelling, including creation of new vehicular access onto Queens Avenue.
- 2.02 Construction work to implement planning permission ref:18/505459/FULL has commenced. A number of amendments to the approved plans are now proposed and as these changes involve an amended application site boundary and changes in ground level a new planning application is required.
- 2.03 The approved and proposed site plans are shown above. The current proposal in comparison to the previous approved scheme includes:
- Change to the western site boundary including an additional strip of land from the rear garden of 335 Queens Road providing additional space for the rear garden of the new house.
  - Erection of 1.5m tall retaining wall enclosing the rear and side boundaries of the site.
  - Lowering of ground level (70cm) providing a levelled ground for rear garden and provision of patio area.
  - Updated Arboricultural Report including assessment of the potential impact on the Wellingtonia tree (covered by a TPO) in the neighbouring property to the north (Tall Trees).
- 2.04 The position, setting, size, scale and design of the dwelling remain the same as previously approved comprising a two-storey 5-bedroom detached house with an L-shaped design with a maximum length of approximately 19m, and a maximum width of approximately 14m. The main building would have a hipped end roof with a maximum height of approximately 7.5m. The garage wing would have a maximum height of approximately 6.5m with dormers on the first floor to three sides.

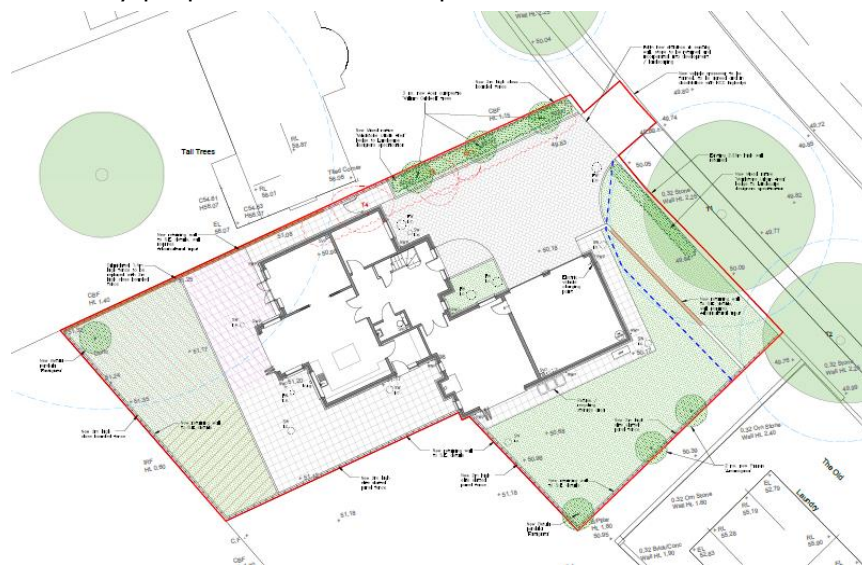
- 2.05 The proposal includes a new crossover and vehicle access on to Queens Avenue and would have a hardstanding and turning area to the front of the property. This part of the proposal remains the same as previously approved and the creation of access has been completed.

**Fig 1: Comparison of site plans for 18/505459/FULL and current application**

Approved site plan for 18/505459



Currently proposed revised site plan



### 3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

SS1- Maidstone borough spatial strategy

SP1- Maidstone urban area

DM1- Principles of good design

DM2- Sustainable design

DM3- Natural environment

DM11- Residential garden land

DM23- Parking standards

Supplementary Planning Documents:

- Supplementary Planning Documents: London Road Character Area Assessment SPD 2008
- Maidstone Local Development Framework, Residential Extensions Supplementary Planning Document (adopted May 2009)

#### 4. LOCAL REPRESENTATIONS

##### Local Residents:

- 4.01 4 representations received from local residents objecting the proposal raising the following (summarised) issues:

COMMENTS RECEIVED	OFFICER'S RESPONSE
<ul style="list-style-type: none"> <li>▪ Unsure what is being applied for in this resubmission</li> <li>▪ The ongoing building works is causing safety issue to the pavement along Queens Ave.</li> <li>▪ A 2m tall close boarded fence should run from Queens Ave between the site and Tall Trees and on the boundary with 333 Queens Road to prevent overlooking.</li> <li>▪ The current application is trying to rectify the wrongs relating to permission 18/505459/FULL and 20/501504/SUB</li> <li>▪ Tree Protection Plan, No. 4790/18/C received on 29 July 2020, is incomplete as it does not show the Wellingtonia tree. The plan does not show the Root Protection Area (PRA) of this tree or the Construction Exclusion Zone (CEZ) for that tree in the neighbouring property, Tall Trees.</li> <li>▪ 20/502712/NMAMD is not available on planning portal for public viewing</li> </ul>	<ul style="list-style-type: none"> <li>▪ The application is available for public viewing on the planning portal</li> <li>▪ Matters, if found to be in breach of condition 13 – construction management plan, of planning permission 18/505459/FULL, should be reported to Planning Enforcement for investigation</li> <li>▪ In response, the Applicant has proposed a 2m high close boarded fence to the shared boundary with 333 Queens Road and Tall Trees in the amended Proposed Site Plan received on 16 Sept 2020.</li> <li>▪ This further planning application is required as the proposed changes to the earlier approval cannot be considered as either a non-material amendment or a minor material amendment.</li> <li>▪ The Applicant has responded and advised that the CEMP Site Plan was mis labelled as Tree Protection Plan. The Tree Protection Plan including the assessment of the Wellingtonia has been submitted as part of the Arboricultural Report.</li> <li>▪ The application under reference 20/502712/NMAMD sought approval for changes to the permission under reference 18/505459/FULL. After the applicant was advised that the proposed changes could not be considered non material, the applicant submitted the planning</li> </ul>

<ul style="list-style-type: none"> <li>▪ Proposed Site Plan, No. 19/1448/101A received on 29 July 2020 shows a tree in Tall Tree's garden and indicates the RPA/CEZ for the tree, however, the RPA/CEZ are in the wrong position which the dimension to the nearest corner of Tall Tree is 6.7m and not 8.7m as shown.</li> <li>▪ Engineering Layout, No. 1111-1182-CIV-10 received on 4 Aug 2020 does not corresponded with Proposed Site Plan showing far less excavation and retaining walls to the rear garden.</li> <li>▪ Tree Protection Plan, No. TPP-01 Rev C, submitted as part of the Arboricultural report shows the Wellingtonia in the wrong position, the RPA/CEZ are also shown incorrectly. The drawing indicates a CEZ that does not appear to relate to anything. The introduction of the drawing states "All dimension relating to T4 are estimated" which is not acceptable, and the correct dimension has been provided.</li> <li>▪ The site assessment on the Tree Protection Plan discussed above states the rear garden has been lowered by 700cm. Also, the roots of the Wellingtonia(T4) have been cut and considers this will have on the structural integrity of T4.</li> <li>▪ MBC previously approved 18/505459/FULL and 20/501504/SUB knowing that they both excluded the TPO Wellingtonia, relevant Tree Protection Area and Construction Exclusion Zone from all the approved drawings. MBC Officers should make sure that all details associated with this current application are absolutely correct and are openly presented on the Planning Portal to comment on them before approval is considered.</li> <li>▪ Proposed house is shown to be in land that remains within the boundary of 335 Queens Road</li> </ul>	<p>application that is currently being considered. In line with normal practice the application under reference 20/502712/NMAMD is not available for viewing as it has been withdrawn.</p> <ul style="list-style-type: none"> <li>▪ The Applicant has responded with an amended Proposed Site Plan and Tree Protection Plan received on 16 Sept 2020 showing the distance between the RPA/CEZ for the Wellingtonia to the nearest corner of Tall Tree as 6.7m.</li> <li>▪ The Applicant has submitted an amended Engineering Layout received on 14 Sept 2020 showing the boundary of the retaining wall on three sides of the site apart from the driveway and planting strip in front.</li> <li>▪ The Applicant has responded with an amended Tree Protection Plan received on 16 Sept 2020 showing the distance between the RPA/CEZ for the Wellingtonia to the nearest corner of Tall Tree as 6.7m.</li> <li>▪ An amended Tree Protection Plan has been submitted rectifying the rear garden has been lowered by 70cm. The assessment of the Wellingtonia (T4) will be assessed in the main section of this report.</li> <li>▪ Landscape Officer has been consulted in particular to the impact to the TPO Wellingtonia from the development on the original planning permission 18/505459/FULL and 20/501504/SUB and on both occasion the officer considered that it is unlikely to result in detriment to the long term health of the tree. As set out below, neighbours have had the opportunity to comment on the revised plans.</li> <li>▪ The proposed building is entirely within the red outline as shown on the Proposed Site Plan.</li> </ul>
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<ul style="list-style-type: none"> <li>▪ The new dwelling is uninsurable being above the CEZ root boundary</li> <li>▪ The submitted drawings are below standards for assessment and approval.</li> </ul>	<ul style="list-style-type: none"> <li>▪ There is nothing to indicate that the building will not get insurance and insurance is not a planning material consideration</li> <li>▪ The submitted drawings (amended where necessary) are of a sufficient standard to consider the submitted planning application.</li> </ul>
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4.02 The applicant submitted an amended Proposed Site Plan, Engineering Layout, Arboricultural Report and CEMP Site Plan on 16 Sept 2020. These plans were submitted to address the issues raised in consultation responses and further consultation has taken place on these amended documents.

4.03 Further 2 representations have been received raising the following summarised concerns:

- Query on the location of the Construction Exclusion Zone (CEZ) being away from the Root Protection Area (RPA) of the Wellingtonia
- Excavation work would remove 12% of the RPA of the tree and RPA of the Wellingtonia would be covered with hard paving contrary to BS5837:2012
- Proposed site plan does not show that the development is within the CEZ

4.04 Impact of the development had on the Wellingtonia would be assessed in the Landscape section in this report.

## 5. CONSULTATIONS

### 5.01 Cllr Jonathan Purle (Summarised)

Objection: Councillors recommend that the application be REFUSED and referred to MBC Planning Committee were the Planning Officer minded to approve the application for the reasons listed below.

- Significant impact upon residential amenity to neighbouring properties in contrary to policy DM11
- Significant loss of privacy, light and outlook to The Old Laundry, Tall Trees, 333 Queens Road, and Chelsfield House
- Loss of ragstone wall
- Traffic and highway implications
- Impact on street trees along Queens Avenue and neighbouring TPO
- 18/502320/FULL is a similar 5-bedroom house development on Bower Mount Road and is refused based on the impact of the ragstone wall.

### 5.02 MBC Tree Officer

- Raise no objection to the proposal and do not consider that the impact of the proposal on the Wellingtonia tree is grounds for refusal of the application. (Further comments in the main section of this report)

## 6. APPRAISAL

### Main Issues

6.01 The key issues for consideration relate to:

- Principle of Development
- Visual amenity
- Trees and landscape
- Residential amenity
- Highways and parking considerations

### Principle of development



- 6.02 Policy SS1 of the Maidstone Borough Local Plan specifies that development should be delivered within the most sustainable locations in the borough where employment, key services and facilities together with a range of transport choice are available. Maidstone urban area is the most sustainable location in the hierarchy where new development is firstly directed followed by the rural service centres and the larger villages. The site is located within the urban area of Maidstone and as such, is in a sustainable location.
- 6.03 Policy DM1 promotes developments which do not have an adverse impact on the character of the area or the amenities of the neighbouring properties.
- 6.04 One of the main issues to consider whether the proposed development would comply with DM11 which supports the development of residential garden land in circumstances where the criteria listed in the policy have been met. These criteria include where the development would not result in significant harm to the character and appearance of the area; no significant loss of privacy, light or outlook for adjoining properties and/or their curtilages; access of an appropriate standard can be provided to a suitable highway; and there would be no significant increase in noise or disturbance from traffic gaining access to the development.
- 6.05 The planning permission granted in 2018 under ref: 18/505459/FULL was for the erection of a two-storey detached house including the creation of access onto Queens Avenue. Construction has commenced with the creation of access, land levelling and building works of the house. As such, the principle of development has been established.

**Visual amenity**

- 6.06 The application site is not constrained by specific landscape or conservation designations, however the Council's consideration of its character importance is included as part of the adopted Character Area Assessment within the SPD for London Road, Bower Mount Road, Buckland Hill Area. The site falls within the Queens Road Character Area (8.10), and adjoins the Queens Avenue Character Area (8.14). Both are considered relevant to the application site.
- 6.07 The positive characteristics include a spacious, verdant character, ragstone wall, more recent development set back from frontage without harming spacious character, landscape structure of mature trees and form of development creating and development vistas. Negative characteristics include poor standard of architecture, loss of enclosure at southern end of Queens Avenue, building line and height contrasting to spacious character and scale of other properties.
- 6.08 The area is predominantly residential in character, comprising mainly of large, detached houses in spacious plots with a mix of building design and height in various plot sizes and shapes. This section of Queens Avenue is characterised with tall trees on both side of the avenue with ragstone walls enclosing the front garden of the properties to the west and a mix of low brick wall and hedges to the east of the avenue.
- 6.09 The proposed L-shaped dwelling sits centrally on the site. The two-storey house would have a maximum height of approximately 7.5m and the attached garage wing would have a lower height of approximately 6.5m next to The Old Laundry, which is a bungalow. The height, scale, design and siting are in keeping with neighbouring properties, and the site is capable of providing sufficient amenity area,
- 6.10 The access to the development from Queens Avenue would result in the loss of part (approximately 2.5m) of the ragstone wall, which forms a main character for the area. It is highlighted there are several other openings with a width of about 2.5m



in the wall serving existing properties along the west side of Queens Avenue, including to both adjacent properties.

- 6.11 Whilst it is accepted that the proposal would result in the loss of part of the ragstone wall, the width of the opening is similar in size to others in the vicinity. I consider that proposal is acceptable in terms of visual impact. The proposal includes the re-use of the demolished part of the ragstone, this ragstone will be used at the new entrance with planting to ensure a satisfactory visual appearance to the development.
- 6.12 The proposed building and access are the same (apart from non material changes to the reduction of fenestration) as permitted under the earlier permission ref:18/505459/FULL and construction work has commenced to implement this permission. The lowering of land level in the rear garden, and increase in the size of the site to include part of the rear garden of 335 Queens Road are acceptable in terms of visual amenity.

#### **Trees and landscape**

- 6.13 Local Plan policy DM3 seeks to protect the visual character of Maidstone landscape and protect veteran trees, trees with significant amenity value from inappropriate development and avoid significant adverse impacts as a result of development.
- 6.14 A Landscape Planting Plan along with a planting programme, site Plan and Tree Protection Plan have been submitted with the application. The application also includes details of existing and proposed trees on the site and provision of landscape to the entrance of the site from Queens Road. These details have been assessed and are considered acceptable.

#### **Street trees along Queens Avenue**

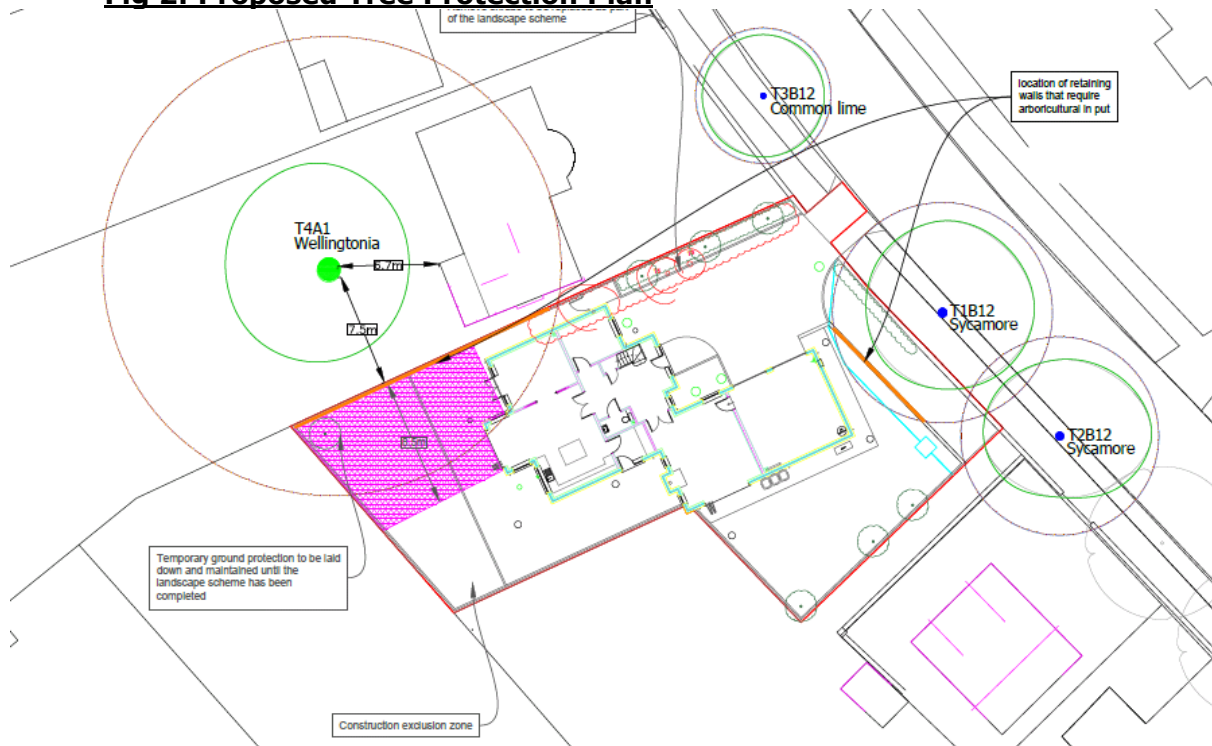
- 6.15 The applicant has submitted a Arboricultural Report in support of the application. As demonstrated in the assessment and the Tree Protection Plan, all trees along Queens Avenue would be maintained, and the new access to the development would not fall into the Tree Protection Area of these trees.
- 6.16 The proposed retaining wall has slight encroachment into the plotted Root Protection Area (RPA) of a Sycamore tree. The Tree Officer has commented the line of the proposed wall just crosses the edge of the theoretical RPA and might be considered negligible. In addition, the tree officer has advised that it is reasonable to assume that the existing ragstone boundary wall (and possibly the services buried beneath the pavement) is likely to have restricted the rooting of tree in the direction of the application site. In conclusion, the Tree Officer has raised no objection to this element of the proposal on arboricultural grounds.

#### **Wellingtonia tree**

- 6.17 The potential impact of the development on the Wellingtonia in the rear garden of the neighbouring property called Tall Trees has been assessed as part of this application. The application site sits 7.5m to the south of the stem of this tree which is protected by a tree preservation order.
- 6.18 Part of the retaining wall along the site boundary, land levelling at the rear garden, and the north-western corner of the building falls partially within the Root Protection Area (RPA) of the tree as shown in the submitted Tree Protection Plan (Figure 2 on the following page ).
- 6.19 As confirmed by the MBC Tree Officer, an assessment has been made on the extent of incursion that the building works have on the maximum possible RPA of the Wellingtonia tree and found that the extent of conflict was small enough to be considered negligible.

- 6.20 The Tree Officer explains that the RPA is a tool contained within BS:5837 guidance which gives a theoretical indication of the minimum root mass to ensure the successful retention of trees. The guidance makes some allowances for situations where the RPA can be compromised and the recommendations do not require the RPA to be a circle centred on the tree stem – it can be 'morphed' to a different shape if other areas of suitable rooting environment are available. The Tree Officer estimates that it equates to approximately 10% of the RPA area.
- 6.21 As the location of the building works in relation to the Wellingtonia tree were not ideal, the tree officer visited the site whilst the excavations were exposed. The tree officer reports that he was surprised to find little evidence of damaged Wellingtonia roots, noting only about 4 roots of 50mm -75mm diameter (assumed to be Wellingtonia but not confirmed) and virtually no fibrous roots.
- 6.22 Concerns have been raised in relation to the possible destabilisation of the Wellingtonia tree by the excavations. The tree officer has advised that it is clear from the simplified studies and guidance that are available that the rooting structure relied on for stability is considerably smaller than the RPA. It is calculated that the stability of the tree would likely be affected by excavations 5.5 metres from the tree and in this case the works are a distance of about 7.5 metres. In the tree officer's experience of other Wellingtonia trees, the species are not also particularly prone to windthrow failure, even on a more exposed site with historic excavations (house foundations in the 1980s).

**Fig 2: Proposed Tree Protection Plan**



- 6.23 The submitted Arboricultural Report has assessed the proposal's impact upon the Wellingtonia and provided mitigation measures for ground works within the RPA area. The Council have considered and acted upon comments made in representations with the submission of revised by the applicant. Sufficient accurate information has been submitted in order to assess the proposal.
- 6.24 As such based on the information submitted and the comments from Tree Officer, the proposed development would not result in any significant impact on the Wellingtonia TPO tree and the trees along Queens Avenue and the proposed landscape plan would ensure a satisfactory appearance to the development.

- 6.25 An amended Site Location Plan has been submitted on 16 Nov 2020 to correspondence the actual red outline as shown on the block plan and all other plans as submitted for assessment.

**Residential amenity**

- 6.26 The application site is bounded by existing residential properties on all sides. To the north is Tall Trees, to the south The Old Laundry and 335 Queens Road and to the west 333 Queens Road. Those properties opposite (including Chelsfield House, are considered to be a significant distance (more than 14m from the front wall of the proposed dwelling to the front wall of Chelsfield House) from the application site to be affected by the proposed development.
- 6.27 To the west of the proposed scheme would be the rear garden of 335 Queens Road. The proposed dwelling would be sited approximately 0.5m from the shared boundary at the rear part of this neighbour's rear garden. A first floor window serving a bathroom would provide some views of the garden area of this neighbour, however, it could be resolved by conditioning this window to be obscure glazed and non opening (below 1.7m from internal floor level) to ensure an acceptable level of privacy remains.
- 6.28 Rear windows are proposed in the west facing elevation of the new dwelling. The building would however look towards the extreme rear part of the garden of 333 Queens Road. This property benefits from a garden length of over 40m. It is not considered that the proposed new dwelling would cause significant harm to the amenity of the occupier of number 333 and 335.
- 6.29 To the north of the site is Tall Trees is a 2-storey detached dwelling. There are existing side secondary windows at ground and first floor . The proposed dwelling would be sited 1m from the neighbours boundary. Given the dwelling would be in-line with both the front and rear elevation of this neighbouring property and the side windows are secondary windows, the proposal is acceptable in relation to natural light, outlook and overbearance. In terms of privacy, a condition is recommended to ensure that a first floor window serving a bathroom is fitted with obscure glazing and non opening (below 1.7m from internal floor level).
- 6.30 To the south of the site is The Old Laundry is a bungalow, formally an outbuilding. The building is gable ended with a window and patio doors in the elevation facing towards the application site. There is an existing wall and trellis separating the two sites.
- 6.31 The proposed dwelling would be sited a minimum of 10m from the boundary to this neighbour. Given the proposal is of modest scale and is sufficiently separated from this neighbour, the proposal is acceptable in relation to natural light, outlook and overbearance to The Old Laundry. In terms of privacy, views from the proposed ground floor windows and patio doors are sufficiently set away from the side boundary and the views are screened by the existing boundary treatment. The proposed 2 dormers, one serving a bathroom and the other one being a secondary window to a bedroom, together with a window serving a family bathroom on the first floor on the elevation facing this neighbour would provide views to this neighbour, however, it could also be resolved by conditioning this window to be obscure glazed.
- 6.32 Overlooking concerns have been raised by 333 Queens Road for the use of slatted panel at their shared boundary. In response, the applicant has proposed a 2m high close boarded fence to the shared boundary with 333 Queens Road and Tall Trees in the amended Proposed Site Plan received on 16 Sept 2020.
- 6.33 There is a previously approved permission in place for the proposed building in this location. The changes to fenestration in this current application only include a

reduction in the number of secondary windows on the first floor in the rear elevation and three ground floor windows on the side elevations, and thus the proposal does not consist of any additional windows. The four first floor windows on both the side elevations assessed above which might give rise to overlooking issue are proposed to be obscure glazed and non-opening below 1.7m internal floor level.

- 6.34 Overall although the relationship with neighbouring properties would be altered no undue harm would result to residential amenity and there are no grounds to warrant refusal of the application on these grounds .

#### **Highways and Parking**

- 6.35 As previously approved, the current application would result in a new access, off street parking with a double garage on site. The parking provision would meet adopted standards and the manoeuvrability of vehicles has been demonstrated on the submitted plans. KCC Highways has indicated the development proposal does not meet the criteria to warrant involvement from the Highway Authority due to its small size.
- 6.36 Traffic and highway concerns raised by Cllr Purle are noted, however it is not considered that the traffic generated by a single dwelling would be significant to warrant refusal.

### **7. CONCLUSION**

- 7.01 The site has a fall back permission (18/505459/FULL) for the same proposed dwelling and access. The proposed dwelling in this location is considered acceptable, it is in keeping with the character of the area and is acceptable in relation to residential amenity and highways considerations.
- 7.02 The works involving the excavation for land levelling, the erection of retaining wall, and hard paving within the RPA of the Wellingtonia TPO have been assessed and found to be acceptable. The Tree Officer has concluded that the long term health of the tree is unlikely to be affected by the proposal.
- 7.03 The proposal would assist in the provision of an appropriately design dwelling at this sustainable location in accordance with the national and local plan policies. I do not consider there are justifiable material planning reasons to withheld granting permission.

### **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 shall be constructed using the materials as shown on the approved plans and the materials schedule received on 29 Jul 2020 and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development.

- (3) Prior to occupation of the proposed new dwelling a minimum of one electric vehicle charging point per dwelling shall be installed and ready for use and in accordance with details as shown on Site Layout Plan, No. 19/1448/101B received on 16 Sep 2020 with the points retained thereafter and maintained in accordance with the approved details;

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 35 of the NPPF.

- (4) The development hereby permitted shall be carried out in accordance to the Site Layout Plan, No. 19/1448/101B received on 16 Sep 2020 in relation to the boundary fencing, walling and other boundary treatments and the development shall be carried out in accordance with the approved details before the first occupation of the approved dwelling and maintained thereafter;

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

- (5) The development shall be carried out in strict accordance with Phlorum's Arboricultural Impact Assessment received on 16 Sep 2020 submitted with the application;

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

- (6) The development hereby permitted shall be carried out in accordance to the Landscape Planting Plan, No. 0313/20/B/1A received on 12 Nov 2020, the scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

Reason: To ensure adequate protection of trees and a satisfactory external appearance to the development and in the character of the area.

- (7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out by the end of the first planting and seeding seasons following the occupation of the approved dwelling and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory external appearance to the development.

- (8) The approved details of the parking/turning areas shall be completed before the first occupation of the approved dwelling shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (Amendment) (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 to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenience to other road users and in the interests of road safety.

- (9) Before the development hereby permitted is first occupied, the three first floor windows opening on the south-east facing elevation, and first floor window serving the bathroom on the north-west elevation (as shown on drawing NE and NW Elevations, No. 19-1448-105 and SW and SE Elevations, No. 19-1448-106 received on 29 Jul 2020) shall be fitted with obscure glazing and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such to the satisfaction of the Local Planning Authority.

Reason: To prevent overlooking of adjoining property and to safeguard the privacy of existing and prospective occupiers.

- (10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), any development that falls within Schedule 2, Part 1, Class A, B, C and E or any erection of outbuildings, boundary treatments or laying of hardstanding shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by prospective occupiers.

- (11) The development hereby approved shall be implemented in accordance to the Engineering Layout, No. 1111-1182-CIV-10-P5 received on 16 Sep 2020 in relation to the installation a sustainable drainage scheme for the disposal of surface water and waste water. The scheme shall be implemented prior to first occupation of the approved dwelling and thereafter managed and maintained in accordance with the approved details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this development and to ensure ongoing efficacy of the drainage provisions.

- (12) The development hereby approved shall be implemented in accordance with the Code of Construction Practice received on 16 Sept 2020. The details shall be implemented before construction commences and retained until the completion of the construction.

Reason: To ensure adequate on site parking and turning provision is made for construction traffic In the interest of highway safety and the free flow of traffic.

- (14) The development hereby approved shall provide the facilities for the storage of refuse on site for the occupiers of the approved accommodation as shown on Proposed Site Plan, No. 19/1448/101B received on 16 Sep 2020 and the approved facilities shall be provided before the first occupation of any of the units and maintained as such thereafter;

Reason: In the interest of residential amenity.

- (15) The development hereby approved shall be constructed in accordance with the Landscape and Ecological Management Plan received on 29 Jul 2020 including the insertion of swift bricks, sparrow terrace and bat box prior to first occupation of the approved dwelling and all features shall be maintained thereafter.

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

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

Proposed Site Plan, No. 19/1448/101B received on 16 Sep 2020  
Site Location and Block Plan, No. 19-1448/110A received on 16 Nov 2020  
Ground Floor Plan, No. 19-1448-102 received on 29 Jul 2020  
First Floor Plan, No. 19-1448-103 received on 29 Jul 2020  
Roof Plan, No. 19-1448-104 received on 29 Jul 2020  
NE and NW Elevations, No. 19-1448-105 received on 29 Jul 2020  
SW and SE Elevations, No. 19-1448-106 received on 29 Jul 2020  
CEMP Site Plan, No. 19/1448/110 received on 16 Sep 2020  
Engineering Layout, No. 1111-1182-CIV-10-P5 received on 16 Sep 2020  
Landscape Planting Plan, No. 0313/20/B/1A received on 12 Nov 2020

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

Case Officer: Michelle Kwok



20/502277/FULL - Greenacre, Church Hill, Boughton Monchelsea, Maidstone, Kent

Scale: 1:1250

Printed on: 14/9/2020 at 13:41 PM by JoannaW



<b>REFERENCE NO - 20/502277/FULL</b>		
<b>APPLICATION PROPOSAL</b> Siting of 1no. mobile home, creation of 2no. parking spaces and removal of internal fence.		
<b>ADDRESS</b> Greenacre, Church Hill, Boughton Monchelsea, Maidstone, Kent, ME17 4BU		
<b>RECOMMENDATION</b> Grant permission subject to conditions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <ul style="list-style-type: none"> <li>The development will not have a detrimental impact upon Church Hill or the wider area</li> <li>The development is seeking to add one additional mobile home on site for existing occupants. The application is not seeking to further expand the traveller site.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The development would result in an unacceptable intensification of the site and no evidence has been provided as justification or why an additional mobile home is required on the site.		
<b>WARD</b> Boughton Monchelsea and Chart Sutton	<b>PARISH/TOWN COUNCIL</b> Boughton Monchelsea	<b>APPLICANT</b> Mr H Edwards  <b>AGENT</b> Martin Potts Associates
<b>TARGET DECISION DATE</b> 04/12/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 08/07/2020

## **MAIN REPORT**

### **1. Background**

- 1.01 This application was deferred at the Committee meeting on the 24 September 2020. This report should be read in association with the original committee report that is included as an appendix.
- 1.02 The committee minutes recorded the following:  
**"RESOLVED:** That consideration of this application be deferred to enable the Officers to:
- Negotiate an alternative siting for the new caravan pitch which results in the caravan having an increased amenity space and not being positioned so close to the rear boundary of the site;
  - Check whether this is a retrospective application and, if so, rephrase the proposed conditions and description of development accordingly; and
  - Confirm whether the occupants/future occupants of the caravan are related to the applicant i.e. daughters".

### **2. CONSULTATIONS**

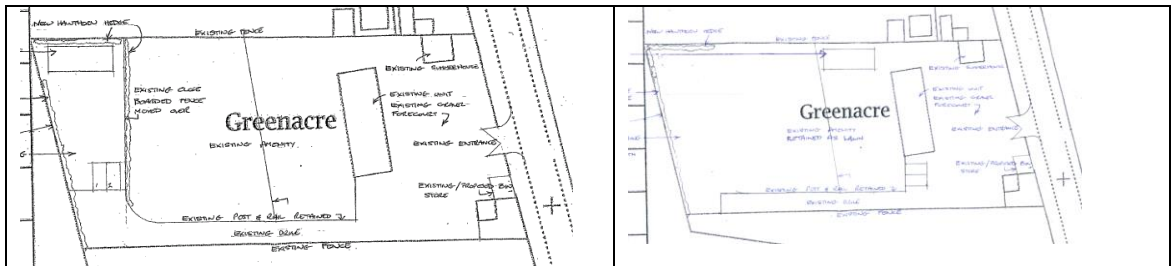
- 2.01 Following the decision by members for deferral of this application on the 24<sup>th</sup> September 2020, no additional consultations were required..

### **3. APPRAISAL**

- 3.01 This appraisal section is structured using the 3 points that were outlined in the committee minutes for the meeting on the 24 September 2020.

### Negotiate alternative siting

- 3.02 Following discussions with the applicant's agent, the proposed mobile home has been moved further to the east, and much closer to the existing retained mobile home. Please see the below images which highlight this.



- 3.03 In addition the internal fence would be removed from the application site and the hardstanding area along the western boundary broken up and grassed over.
- 3.04 In accordance with the minutes, the proposed caravan has been relocated on the site away from the rear boundary and closer to the existing caravan and the front boundary. The relocated caravan and the breaking up of the existing hardstanding at the rear of the site will provide an increased amenity space.

Establish whether or not the development is retrospective.

- 3.05 As shown in officer site photos, it is confirmed that no development has taken place on site.

Confirm whether the occupants/future occupants of the caravan are related to the applicant

- 3.06 Following the comments made by members, the applicant has submitted a statement clarifying the occupants of the proposed caravan.
- 3.07 The existing mobile has 4 bedrooms which is occupied by the applicant's family of 8 with the two parents and their 6 children.
- 3.08 The need for the additional caravan is linked to the existing family on the site. The two older daughters are at a point in their lives where it would be beneficial for them to have their own space and bedrooms. The applicant's youngest daughter has a number of health issues that would be lessened were she to have her own bedroom, As the existing mobile cannot be extended a new mobile on site would provide this space.

## 4. CONCLUSION

- 4.01 Following the deferral, the officer recommendation remains unchanged as below.
- 4.02 The proposal is acceptable in relation to the potential impact on Church Hill, the development would have no impact visually, or cause any loss of amenity to neighbouring properties nor would any detrimental highways impact occur. The

proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations.

- 4.03 The site was assessed as part of the adoption of the Local Plan as being suitable for two gypsy and traveller pitches and the current proposal is a less intensive use providing an additional caravan linked to the existing single pitch on the site. The proposal is in accordance with the site allocation at Local Plan policy GT1 (2) Greenacres (Plot 5), Church Hill, Boughton.

- 4.04 A recommendation of approval of the application is therefore made on this basis.

## **5. 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 additional mobile home hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document).

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.

- 3) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. Unless agreed in writing by the Local Planning Authority, the two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (P922/2B26/5/20 Proposed Block Plan)

Reason: To safeguard the visual amenity, character and appearance of the countryside location.

- 4) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.

Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.

- 5) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.

Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.

- 6) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the Local Planning Authority other than as expressly permitted by this decision.

Reason: To safeguard the visual amenity, character and appearance of the countryside location

- 7) Prior to the occupation of the additional mobile home hereby approved, 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 planting to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and shall include:
- i) Location, species, number and size of all new trees and shrubs and
  - ii) Retention and enhancement of boundary planting
  - (iii) the breaking up of the existing hardstanding and the resulting material removed from the site.

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

- 8) All planting, seeding or turfing comprised in the approved details of landscaping including the breaking up of the hardstanding and the removal of the resulting material shall be carried out by the end of the first planting and seeding seasons following the occupation of the additional caravan hereby approved, Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of the caravan 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

- 9) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.

Reason: In order to safeguard residential and local amenity generally.

- 10) The development hereby permitted shall be carried out in accordance with the following approved plans and information: P922/2B - Proposed Block Plan and P922/3 Proposed Floor and Elevations Plan.

Planning Committee  
26 November 2020

Reason: To clarify which plans have been approved.

Case officer: William Fletcher

<b>REFERENCE NO - 20/502277/FULL</b>		
<b>APPLICATION PROPOSAL</b> Siting of 1no. mobile home, creation of 2no. parking spaces and relocation of fence.		
<b>ADDRESS</b> Greenacre, Church Hill, Boughton Monchelsea, Maidstone, Kent, ME17 4BU		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <ul style="list-style-type: none"> <li>• With its enclosed nature, the development will not have a detrimental visual impact upon Church Hill or the wider area</li> <li>• The additional mobile home is within the boundary of an existing gypsy and traveller site.</li> <li>• The proposal is acceptable in relation to highways impact and residential amenity.</li> <li>• The site was assessed as part of the adoption of the Local Plan as being suitable for two gypsy and traveller pitches and the current proposal is a less intensive use as an additional caravan linked to the existing single pitch on the site.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Boughton Monchelsea Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission, this request is made for the reasons outlined in the consultation section below.		
<b>WARD</b> Boughton Monchelsea and Chart Sutton	<b>PARISH/TOWN COUNCIL</b> Boughton Monchelsea	<b>APPLICANT</b> Mr H Edwards  <b>AGENT</b> Martin Potts Associates
<b>TARGET DECISION DATE</b> 08/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 08/07/2020

### **Relevant Planning History**

10/1545 - Retrospective planning application for Change of use of land for stationing of caravans for residential occupation with associated works – Appeal Allowed

02/0255 - Change of use of the land to open air caravan parking for 50 no. caravans, as shown on unnumbered site plan and supporting statement received on 05.02.02. – Permitted

### **MAIN REPORT**

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

## Planning Committee

24 September 2020

- 1.01 The application site lies on the western side of Church Hill, Boughton Monchelsea, south of Heath Road. The site is approximately 0.4km to the south of the village centre. The site is not within any specific landscape designation.
- 1.02 The site is an allocated Gypsy and Traveller site in the adopted Local Plan (Policy GT1 (2) Greenacres (Plot 5), Church Hill, Boughton Monchelsea) where it is specified that the site should have a total of 2 Gypsy and Traveller pitches (one additional pitch).

## **2. PROPOSAL**

- 2.01 The application seeks to add one additional caravan to the existing gypsy and traveller pitch on the application site.
- 2.02 This caravan would be located at the western end of the plot and would involve the relocation of an existing fence within the plot to facilitate the placement of the additional caravan.
- 2.03 To clarify there would be a total of 2 static caravans on site as a result of the development.

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

Maidstone Borough Local Plan 2017:

DM1 – Principles of good design

DM15 – Gypsy, Traveller and Travelling Showpeople accommodation

DM30 – Design principles in the countryside

GT 1 - Gypsy and Traveller site allocations

GT1(2) – Greenacres (Plot 5), Church Lane, Boughton Monchelsea

The National Planning Policy Framework (NPPF):

Section 12 – Achieving well-designed places

Supplementary Planning Guidance:

Planning Policy for Traveller Sites' (PPTS)

Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)

Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)

Maidstone Landscape Character Assessment (amended 2013)

## **4. LOCAL REPRESENTATIONS**

Local Residents:

- 4.01 No representations were received as a result of the neighbour consultation in objection to the development.

## **5. CONSULTATIONS**

### **Boughton Monchelsea Parish Council**

- 5.01 Objection, wish to see the application refused for the following planning reasons. Should the recommendation be for approval then the application should be reported to MBC planning committee for decision:
- 5.02 The proposal represents unacceptable intensification of the site. We are particularly concerned that the unit has been positioned on the western boundary of the site which represents a significant intrusion into the open countryside. All existing mobile units on the various traveller sites have been placed close to the road (Church Hill).

5.03 No evidence has been provided as justification for why an additional mobile home is required on the site. Full details should be provided by the applicant.

5.04 As a general point, we are concerned at the intensification of various traveller sites on Church Hill which appears to have happened without the relevant consents. This unauthorised development should be taken into account when deciding this application.

## **6. APPRAISAL**

### **Main Issues**

6.01 The key issues for consideration relate to:

- Principle
- Design / impact on character of area
- Amenity concerns
- Highways issues
- Sustainability

**Aerial photograph showing the existing areas of hardstanding on the site with the proposed caravan located at the top (western) part of the site.**





- Principle
- 6.02 The application relates to a site allocated for gypsy and traveller accommodation in the adopted Local Plan.
- 6.03 Policy GT 1 states that the sites allocated under policies GT1(1) to GT1(16) will deliver approximately 41 pitches for Gypsy and Traveller accommodation to assist in meeting needs during the plan period. Development will be permitted provided the criteria for each site set out in the detailed site allocation policies are met.
- 6.04 Policy GT1 (2) Greenacres (Plot 5), Church Hill, Boughton Monchelsea relates to the application site. The allocation in the Local Plan sets out the following requirements which are considered against the current submission below:
1. The total capacity of the site does not exceed 2 Gypsy and Traveller pitches.

The current application meets this aim with a single pitch remaining on the site

2. Access to the site is via the existing access off Church Hill.  
The new caravan will use the existing established vehicle access from Church Hill
3. The additional pitch is sited on the existing hardstanding and not beyond the site boundaries defined on the policies map.  
With the reference to the comments from the parish council about extending into the countryside; the proposed caravan is in line with the site allocation as it would be located on the existing hardstanding at the rear (western) end of the site.
4. A landscaping scheme for the site is approved which provides for: i. The retention and future maintenance of the trees and hedge line along the site frontage to Church Hill; and ii. The establishment of a landscaped boundary to the south of the site comprising native species to provide an effective screen to the development.  
Planning conditions are recommended to seek the provision of this landscaping.

- 6.05 Whilst the application site is an allocated gypsy and traveller site and the current submission meets the criteria set out in this allocation, an assessment of the need and supply situation in relation to of gypsy and traveller pitches is set out below.

#### **Need for Gypsy sites**

- 6.06 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.

#### **Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

<b>Period</b>	<b>No of pitches</b>
Oct 2011 – March 2016	105
April 2016 – March 2021	25
April 2021 – March 2026	27
April 2026 – March 2031	30
Total Oct 2011 to March 2031	187

- 6.07 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA conclusions on the need for pitches over the remaining Local Plan period is shown in the table above .
- 6.08 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.
- 6.09 The target of 187 additional pitches is included in Policy SS1 of the Adopted Maidstone Borough Local Plan (Adopted October 2017).

### **Supply of Gypsy sites**

- 6.10 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.11 The following table sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.

#### **Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

<b>Type of consents</b>	<b>No. pitches</b>
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.12 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate an 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.
- 6.13 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".
- 6.14 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

### **Gypsy Status**

- 6.15 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*.
- 6.16 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

6.17 In terms of the applicant their status as a Gypsy has been previously been explored and accepted at appeal. In relation to the current application, the applicant has submitted information indicating they travel for work and attend horse fairs as well as trade in horses. In this instance the proposed mobile home would be used to house two members of the applicants close family who have medical needs and accommodating these needs would be assisted by the current proposal. Personal details provided in this report have been anonymised in line with guidance from the Council's Data Protection Officer.

6.18 The site is an established Gypsy and Traveller plot and a condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).

**Landscape and design**

6.19 In policy terms the application site is located within the countryside outside all settlement boundaries as defined within the Maidstone Borough Settlement Hierarchy. Policy SP17 of the Local Plan states that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted. Policy DM15 states that planning permission for G&T development will be granted if it would not result in significant harm to the landscape and rural character of the area.

6.20 Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity maintain, or where possible, enhances local distinctiveness including landscape features. The policy requires that impacts on the appearance and character of the landscape are appropriately mitigated and that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.

6.21 The site is located outside the urban area of Maidstone at the end of a row of established traveller sites with Boughton Monchelsea Primary School to the north of the row. Private dwellings are located further north along Church Street and as such whilst in policy terms the site is located within the countryside, this is not an isolated location. It would be fair to describe the location as a semi-rural buffer between the more developed areas north of Hearth Road and the wider countryside to the south of the application site.

6.22 The site is enclosed by substantial vegetative screening along Church Hill; with views of the site limited from public areas. Whilst it is accepted that the development would result in this site more 'intensively' occupied, in terms of its landscape impact this is not development in an open, visible countryside location and the additional caravan is restricted to the existing curtilage. The application is not seeking to expand the site in terms of its scale. In light of the above the views of the additional caravan would be restricted

**Amenity**

6.23 Other than the existing caravan, the closest property is located upon the site known as Barnview 40metres to the north of the application site. In terms of the amenity impact when considering this distance and the boundary treatments the proposal is acceptable on residential amenity grounds..

- 6.24 When considering the distances involved and the proposed single storey structure it is not considered that the proposal would cause any loss of light or overbearing impact on neighbouring properties.

### **Highways**

- 6.25 As part of the adoption of the Local Plan, the application site was assessed and found suitable for the provision of two gypsy and traveller pitches.
- 6.26 The current application involves less intensive use of the site to the site allocation with the provision of additional caravans linked to the single existing pitch on the site for family members. The site allocation requires the use of the existing site entrance and this is suitable for any additional vehicle movements associated with the additional caravan

### **Sustainability**

- 6.27 The site is approximately 0.4km from Boughton Monchelsea whereby there is access to a comprehensive range of services, amenities and facilities. Whilst the majority of trips are likely to be by car, the site is considered reasonably sustainable in terms of its proximity to the 'larger village'. This is a view supported at appeal by Inspectors at other sites.
- 6.28 As mentioned at the beginning of this report, there are a number of other traveller sites within the immediate locality; however it is not considered that the addition of a further caravan would result in over dominance in the area.

### **Human Rights and Equality**

- 6.29 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions.
- 6.30 Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.

### **Conclusion**

- 6.31 The proposal is acceptable in relation to the potential impact on Church Hill, the development would have no impact visually, or cause any loss of amenity to neighbouring properties nor would any detrimental highways impact occur. The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations.
- 6.32 The site was assessed as part of the adoption of the Local Plan as being suitable for two gypsy and traveller pitches and the current proposal is a less intensive use providing an additional caravan linked to the existing single pitch on the site. The proposal is in accordance with the site allocation at Local Plan policy GT1 (2) Greenacres (Plot 5), Church Hill, Boughton.
- 6.33 A recommendation of approval of the application is therefore made on this basis.

## **7. 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 additional mobile home hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document).  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 3) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. Unless agreed in writing by the Local Planning Authority, the two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (P922/2 Proposed Block Plan) Reason: To safeguard the visual amenity, character and appearance of the countryside location.
- 4) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 6) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.  
Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.
- 7) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the Local Planning Authority other than as expressly permitted by this decision.  
Reason: To safeguard the visual amenity, character and appearance of the countryside location
- 8) Prior to the occupation of the additional mobile home hereby approved, 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 planting to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and shall include:

Planning Committee

24 September 2020

- i) Location, species, number and size of all new trees and shrubs to be retained and planted; and
- ii) Retention and enhancement of boundary planting.

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

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the additional caravan hereby approved, or following the commencement of works for either the garage, stables or day room hereby approved, whichever is the sooner. Any seeding or turfing which fails to establish or any trees or plants which, within five 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

- 9) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.

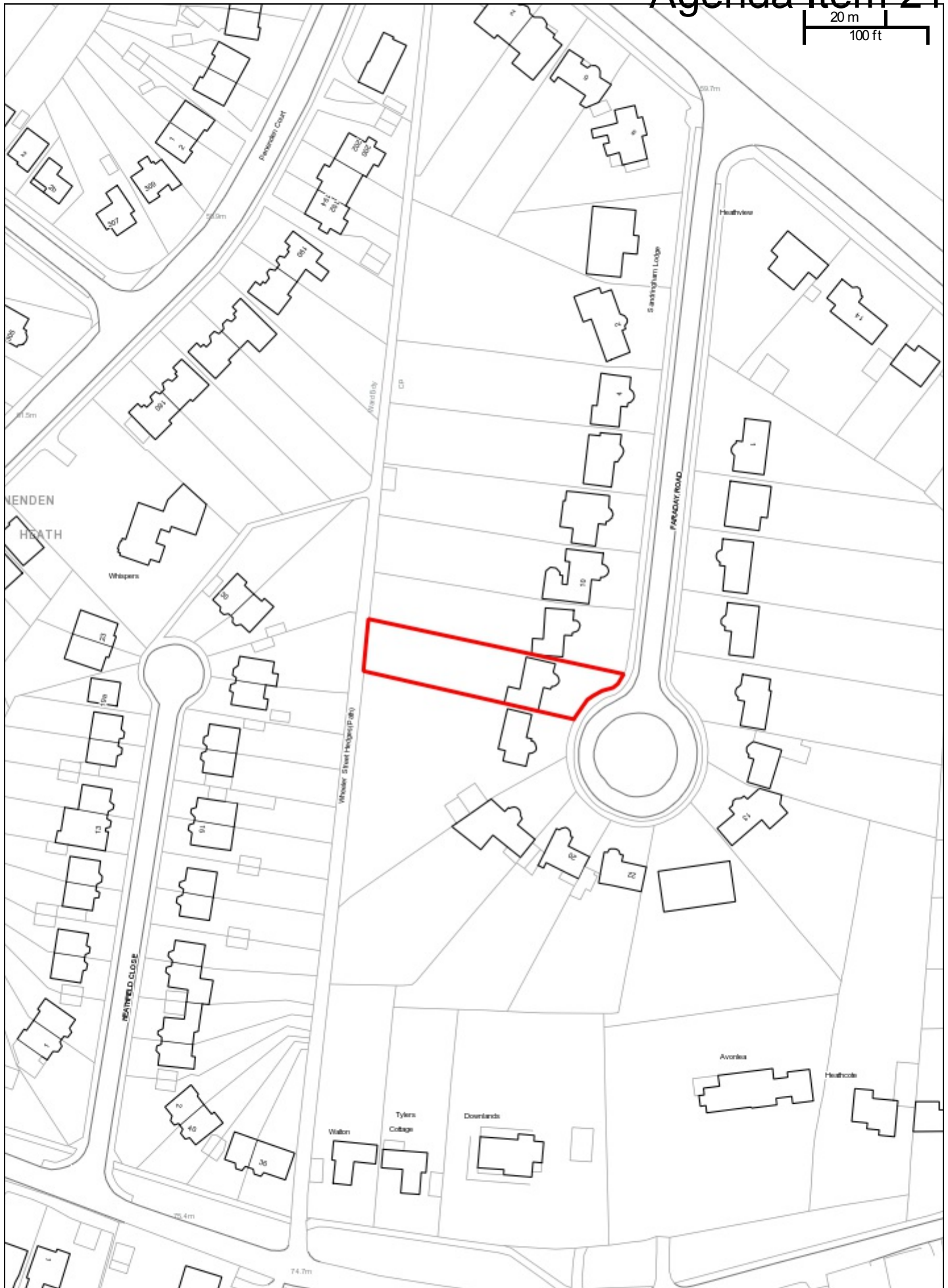
Reason: In order to safeguard residential and local amenity generally.

- 10) The development hereby permitted shall be carried out in accordance with the following approved plans and information: P922/2 - Proposed Block Plan and P922/2 Proposed Floor and Elevations Plan.

Reason: To clarify which plans have been approved.

Case officer: William Fletcher





20/504742/FULL - 14 Faraday Road

Scale: 1:1250

Printed on: 18/11/2020 at 0:12 AM by StevieH



<b>REFERENCE NO - 20/504742/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing garage/utility room and erection of two storey side and rear extensions, including raised patio to rear.		
<b>ADDRESS</b> 14 Faraday Road, Penenden Heath, Maidstone, Kent, ME14 2DB		
<b>RECOMMENDATION</b> Grant planning permission subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal would not be visually harmful in this suburban location and would not have a detrimental impact upon neighbouring amenity or parking in the area.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The applicant is related to a member of staff.		
<b>WARD</b> East Ward	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Mr Richard Franks  <b>AGENT</b> N/A
<b>TARGET DECISION DATE</b> 09/12/2020		<b>PUBLICITY EXPIRY DATE</b> 06/11/2019

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 Faraday Road is a residential cul-de-sac consisting of two storey detached dwellings. The dwelling on the application site is a two storey detached dwelling with a hipped roof. The ground floor of the property is brick finished and the first floor rendered.

### **2. PROPOSAL**

- 2.01 The proposal seeks to demolish an existing single storey garage/utility room at the side of the property and construct a two storey side and rear extension. The proposal includes a raised patio section to the rear.
- 2.02 The two storey side extension projects from the existing side elevation by 2.3m. The side extension is the same height as the existing dwelling (7.16m) and has a depth at first floor level of 6.13m. e
- 2.03 The two storey rear extension is also the same height as the existing dwelling and projects 2.45m to the rear. The rear extension measures 6m across the rear elevation where it meets the existing two storey rear projection.

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

Maidstone Borough Local Plan 2017:

DM1 – Principles of good design

DM9 - Residential extensions, conversions and redevelopment within the built up area.

DM23 – Residential parking standards

#### 4. LOCAL REPRESENTATIONS

- 4.01 Three neighbouring properties were consulted by direct mail regarding the proposed development. This consultation expired on 05/11/2020, no representations were received.

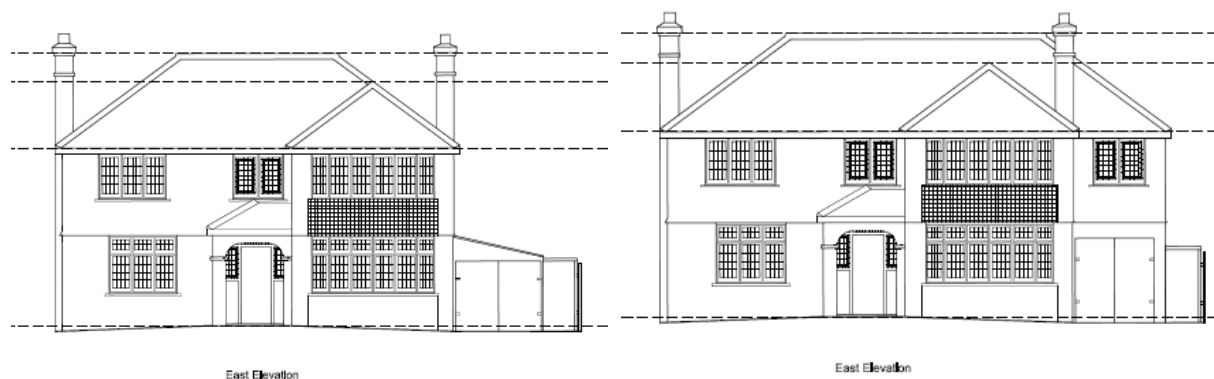
#### 5. APPRAISAL Main Issues

- 5.01 The key issues for consideration relate to:
- Design and visual impact of the proposed development
  - The potential impact upon the amenities of neighbouring householders.
  - Parking and highways
  - Biodiversity gains

##### Design and visual impact

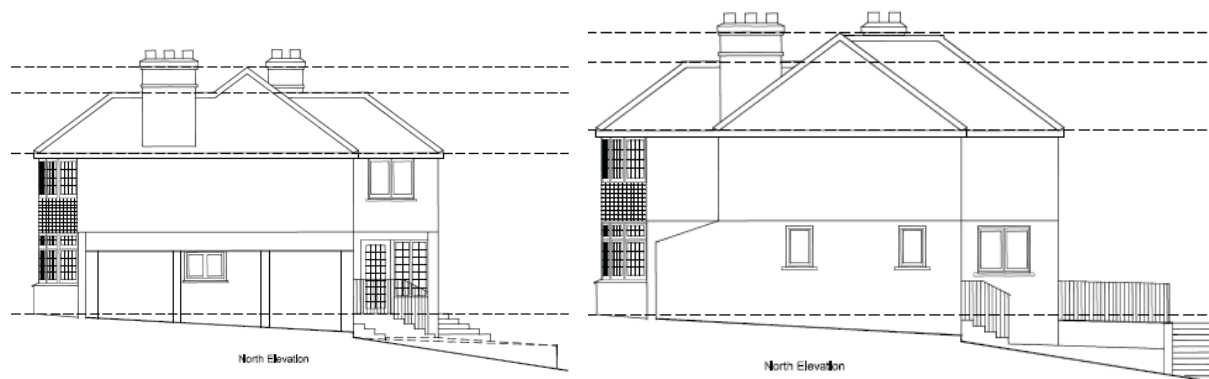
- 5.02 Policy DM1 sets out the principles of good design. In particular, proposals should respond positively to local character and particular regard should be paid to scale, height, materials, detailing mass and bulk.

Fig 1: Existing and proposed front elevations



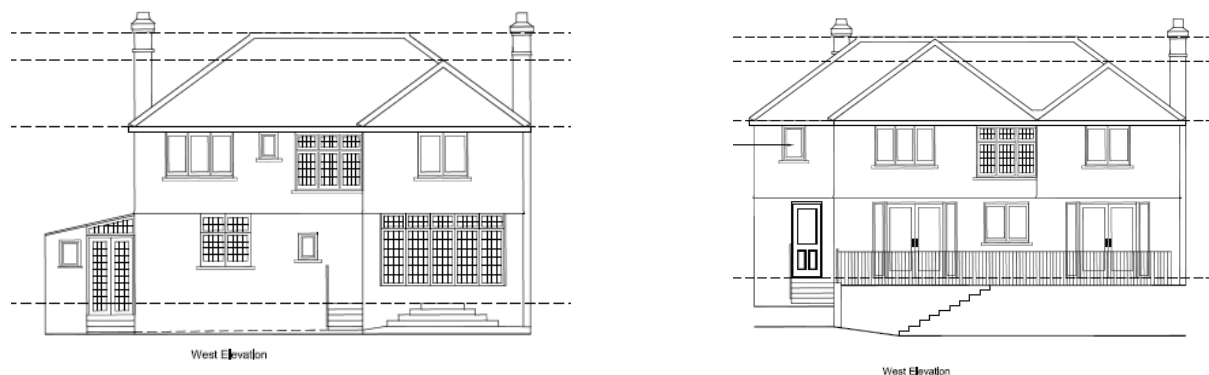
- 5.03 More specifically, Policy DM9 sets out the criteria for domestic extensions. Within the defined boundaries of the urban area, rural service centres and larger villages, proposals for the extension, conversion or redevelopment of a residential property which meet the following criteria will be permitted if: i. The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context.
- 5.04 Beginning with the side extension this projects from the side elevation by 2.3m, which is well under half the width of the existing dwelling house, which has a width of 10.5m. In terms of subservience whilst the side extension is not set down from the main roof line, it does match the hipped roof form and where it is to the side of the existing front projection, it is substantially set back by a distance of at 3m from the front elevation.

Fig 2: Existing and proposed side elevations



- 5.05 It is considered that the side extension retains the character and appearance of the existing dwelling and does not 'overwhelm' the character of the existing dwelling. When viewed from the front it is a relatively small addition in comparison to the rest of the dwelling.
- 5.06 Moving onto the rear, there is an existing rear two storey projection at the southern side of the existing building and the proposal involves a rear extension infilling across the rear of the remaining rear elevation.
- 5.07 The rear extension has a roof form that matches the existing dwelling. In terms of its scale whilst the extension is wider than the existing rear projection, the design of the roof and fenestration integrates the extension into the existing property. As this element is located to the rear, there would be no impact upon the wider street scene.

Fig 3: Existing and proposed side elevations



### **Impact on neighbouring amenities**

- 5.08 Policy DM9 specifically states that domestic extensions will be supported provided that the privacy, daylight, sunlight and maintenance of a pleasant outlook of the adjoining residents would be safeguarded. This requirement is also observed in the Residential Extensions SPD (2009) where it is noted that the design of domestic alterations should not result in windows that directly overlook the windows or private amenity spaces of any adjoining properties and should also respect daylight, sunlight and outlook.
- 5.09 The two neighbouring properties that could be impacted upon by the development are 12 and 16 Faraday Road which are located to the 1.5m north and 1m south of 14 Faraday Road.

- 5.10 The residential extension SPD advises that where necessary a 45 degree angle light test should be carried out to confirm whether a particular development would result in a loss of daylight to a habitable room.
- 5.11 When considering the presence of the existing rear projection, it is not considered that any harmful impact would occur to number 16 to the south.
- 5.12 When carrying out 45 degree angle tests in relation to number 12, whilst a slight impact may occur from over the top of the development on the rear conservatory, no impact would occur from around the development. The impact is slight and on this basis it is not considered that a harmful impact to the amenity of occupants of number 12 would occur.
- 5.13 No windows are proposed on the side elevations that could overlook neighbouring properties.

**Parking and highways**

- 5.14 The development does not seek to increase the number of bedrooms in the dwelling.
- 5.15 Appendix B to Policy DM23 states that a 4 bedroom dwelling should have 2 independently accessible spaces within a suburban area. It is not considered that the loss of the small parking garage that would result from the development would have a detrimental impact upon parking in the area or the wider highway network. 2 vehicles can be accommodated on the front drive.

**Biodiversity gains**

- 5.16 The applicant has submitted a 'Biodiversity Plan' which indicates that a 'Brushwood nest' for birds, a 'Hedgehog house' and a 'Stourhead bat box' would all be placed within the rear garden. It is considered that these are helpful additions to the application.

**Public sector Equality Duty**

- 5.17 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.

**Conclusion**

- 5.18 The proposal will provide well designed subservient additions to the dwelling that would not have any harmful impact upon the host dwelling or the character and appearance of the area.
- 5.19 The development would not harm the amenity of neighbouring properties nor would it harmfully impact upon parking in the area or the wider highway network. As such the development is compliant with local and national design policies and is recommended for approval.

**6. RECOMMENDATION**

Grant 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/documents:

Householder Application for planning permission

FARA-001	Existing Floor and Roof Plans
FARA-002	Proposed Floor and Roof Plans
FARA-003	Existing Elevations
FARA-004	Proposed Elevations
FARA-005	Existing and Proposed Block Plans
FARA-006	Site Location Plan
FARA-007	Biodiversity Plan

Reason: To ensure a satisfactory appearance to the development and in the interests of residential amenity.

- 3) The materials to be used in the development hereby approved shall be as indicated on the approved plans.

Reason: To ensure a satisfactory appearance to the development

- 4) The biodiversity enhancements set out in the submitted biodiversity plan shall be in place prior to the first use of the approved extensions and retained thereafter.

Reason: In the interests of biodiversity.

20 m  
100 ft



20/502133/FULL - Oaklands, Lenham Road, Headcorn, Kent, TN27 9LE

Scale: 1:1250

Printed on: 14/9/2020 at 13:08 PM by JoannaW

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<b>REFERENCE NO</b> 20/502133/FULL (Plot 1)		
<b>APPLICATION PROPOSAL</b> Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective).		
<b>ADDRESS</b> Oaklands (previously known as 1 Martins Gardens) Lenham Road Headcorn Ashford Kent TN27 9LE		
<b>RECOMMENDATION</b> - GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The plot is at the south-western end of the six plots.</p> <p>The current application for one additional mobile home and one touring caravan represents the same number of caravans as was previously approved in 2019. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of existing caravans in the rear part of the site and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer, will not have a significant and unacceptable harmful visual and landscape impact in the locality.</p> <p>The current plot extends significantly into the designated area of Ancient Woodland to the rear of the plot. The proposed reduction in the depth of the current plot will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. Full details and implementation of the landscaping/planting scheme can be secured by planning condition.</p> <p>The native species planting proposed will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements can be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).</p> <p>The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.</p>		
<b>REASON FOR ORIGINAL REFERRAL TO COMMITTEE</b> Ulcombe Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve for the reasons set out in paragraph 5.01 of the original report to the meeting on the 24 September 2020 (adjourned till the 1 October). This report is included as an appendix to this current report. <p><i>NB: This report follows the deferral of a decision by members at the meeting on the 24 September 2020 (adjourned till the 1 October).</i></p>		
<b>WARD</b> Headcorn	<b>PARISH/TOWN</b> Ulcombe	<b>COUNCIL</b> <b>APPLICANT</b> Mr James Cash <b>AGENT</b> L Jennings
<b>TARGET DECISION DATE</b> 04/12/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 14/07/20

## **1. BACKGROUND**

- 1.01 At the meeting on the 24 September 2020 (adjourned till the 1 October) members considered a report for this retrospective application for the siting of 1 additional mobile home and 1 additional tourer on the application site.
- 1.02 With the original vehicle access to the application site, provided off the internal access road, the submitted plans showed the retention of a new second access directly from Lenham Road.
- 1.03 The reason for the deferral of a decision by members was as follows: *"That consideration of this application be deferred to enable the Officers to investigate the status of the separate access from the application site onto Lenham Road (i.e. is it lawful and immune from enforcement action)"*
- 1.04 Following the committee decision, the applicant's agent was asked to firstly provide any evidence that that they have in relation to the date that the entrance was constructed and secondly to consider the removal of the entrance.
- 1.05 The agent was not able to provide any photographic evidence or a date when the entrance was constructed but did submit a statement that included the following: *"...The entrance has been in situ and used for over 4 years, so it is my view that it is now immune from enforcement. I understand that there are no other issues with the current application so I do feel that it would be unjust to refuse it based on the opposition to the entrance. Therefore, my client would ask that the application is determined as it stands. Should it be refused then the appeal process will be followed".*

## **2. APPRAISAL**

- 2.01 The officer report that is included as an appendix to this report considered the submitted proposal. The report concluded that the proposal including the retained site entrance was acceptable and recommended approval.

Oaklands 20.04.2015: Google Earth.



Oaklands 05.05.2018: Google Earth.





- 2.02 The Google Earth images above confirm that the entrance was constructed at some point in the 3 year period between April 2015 (entrance was not present on the 20 April 2015 - left hand image above) and May 2018 (entrance was present on the 05.05.2018 - right hand image above).
- 2.03 The Council's records include the photograph below dated 02.05.2015. This photograph is taken from inside the site and does not include the direct entrance to Oaklands. At some point after this photograph was taken, the second direct site entrance was formed to the right of the entrance shown in the photograph.

Photograph from inside the application site showing the single shared entrance 02.05.2015



- 2.04 In order for the entrance to be immune from planning enforcement action it would need to have been present for a continuous period of more than 4 years. With reference to the committee meeting date (26 November 2020), the entrance would therefore have to have been constructed before the 26 November 2016. There is no photographic evidence available between 02.05.2015 and 05.05.2018.
- 2.05 Where it is unclear whether a development is immune from enforcement action (lawful) an application for a Certificate of Lawfulness may be submitted. There has been no application for this legally binding certificate submitted here. As part of this application the onus would be on the applicant to demonstrate on the 'balance of probability' that the entrance for more than 4 years.
- 2.06 Other than a statement from the applicant with a reference to Google Maps (see assessment at paragraph 2.02 of this report), the applicant has been unable to provide any evidence to demonstrate the length of time that the entrance has been in place. In conflict with this statement from the applicant, a council officer has stated categorically that the entrance was not present when they visited the application site in January 2017. On this basis, the relevant 'balance of probability' test has not been met and if submitted, any Certificate of Lawfulness application that relies on the information currently available is unlikely to be successful.
- 2.07 The original officer report in assessing the relative merits of the overall proposal did not place any weight on the lawfulness of the second entrance that had been formed for Oaklands. With no significant new evidence available from either

photographs or from the applicant this situation remains unchanged. The applicant has advised that the second entrance is required to enable mobile homes to be transported for off site servicing. This is due to the tight bend on the internal access road. The vehicle carrying the mobile homes enters Oaklands from the internal access road before egress onto Lenham Road through the second entrance.

- 2.08 A concern was expressed by a member at the committee meeting about the visual impact of the second entrance. It is accepted that the additional entrance has a visual impact on Lenham Road, however this negative visual impact needs to be considered against other factors such as the existing local character and the positive impacts from the proposal (as set out in the conclusion to this report).
- 2.09 It is considered that visual impact of the second entrance is reduced in the context of a number of other existing nearby residential entrances on both sides of Lenham Road.
- 2.10 As shown below Oaklands is the plot within Martins Gardens with the biggest encroachment into designated ancient woodland. As a result of this current situation, the proposals for Oaklands with the removal/relocation of caravans from the rear part of the site offers the greatest benefit in terms of the area of land being rewilded.

Current application - caravans to be removed, retained caravans and replacement/proposed caravans.



Relationship of the application site to designated Ancient Woodland (Ancient Woodland shown as green hatching)



- 2.11 In summary, there is no conclusive evidence available to show whether the entrance has been in place for more than 4 years and therefore immunity from enforcement has little weight in the planning balance. It is acknowledged that the second entrance has a visual impact, however it is considered that this impact is reduced by the site context and outweighed by the positive aspects of the proposal.

### **3. CONCLUSION**

- 3.01 All of the matters that were assessed in the main committee report (included as an appendix) remain relevant to the consideration of the development and this deferred application.
- 3.02 The plot, the subject of this application, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) for the stationing of 1 static caravan, 1 touring caravan and a utility room. A previous recent application (18/506273/FULL) for one additional mobile home and one

tourer was approved by members with the decision issued on the 12.08.2019. The current application involves the same number of caravans in a revised layout.

- 3.03 The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The plot is at the south-western end of the six plots.
- 3.04 The current application for one additional mobile home and one touring caravan represents the same number of caravans as was previously approved in 2019. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of existing caravans in the rear part of the site and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer, will not have a significant and unacceptable harmful visual and landscape impact in the locality.
- 3.05 The current plot extends significantly into the designated area of Ancient Woodland to the rear of the plot. The proposed reduction in the depth of the current plot will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. A condition is recommended seeking full details and implementation of the landscaping/planting scheme.
- 3.06 The native species planting proposed will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements can be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).
- 3.07 The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.

#### **4. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The additional mobile home and tourer hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document)  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. The two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (Proposed Block Plan) hereby approved.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be

stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.

Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.

- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of: the external appearance of the mobile home means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone to the repositioned north-western boundary of the plot including details of species (should not include the planting of Sycamore trees), plant sizes and proposed numbers and densities and then outside this area to the north the type 1 surface material to be removed with the land left to regenerate naturally; details of the measures to enhance biodiversity at the site; include the re-instatement of a pond within the land to the north of the site and, the said Scheme shall include a timetable for its implementation.

(ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.

(iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.

Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

**NB: Underlined text above has been added to the condition following member comments at the committee meeting on the 24 September 2020 (adjourned till the 1 October) in relation to the other approved Martins Gardens planning applications.**

- (5) At the same time as the Site Development Scheme required by condition 4 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for the proposed planting within the 5m wide landscape buffer zone for a period of 5 years, the 5 years beginning on the date of the completion of the implementation of the planting as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- 5) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.

Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.

- 6) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the Local Planning Authority other than as expressly permitted by this decision;

Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.

- 7) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.

Reason: In order to safeguard residential and local amenity generally.

- 8) The development hereby permitted shall be carried out in accordance with the following approved plans and information: Site Location Plan, Proposed Block Plan and Planning Statement

Reason: To clarify which plans have been approved.

Case Officer: Tony Ryan

<b>REFERENCE NO</b> 20/502133/FULL (Plot 1)		
<b>APPLICATION PROPOSAL</b> Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective).		
<b>ADDRESS</b> Oaklands (previously known as 1 Martins Gardens) Lenham Road Headcorn Ashford Kent TN27 9LE		
<b>RECOMMENDATION</b> - GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The plot is at the south-western end of the six plots.</p> <p>The current application for one additional mobile home and one touring caravan represents the same number of caravans as was previously approved in 2019. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of existing caravans in the rear part of the site and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer, will not have a significant and unacceptable harmful visual and landscape impact in the locality.</p> <p>The current plot extends significantly into the designated area of Ancient Woodland to the rear of the plot. The proposed reduction in the depth of the current plot will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. Full details and implementation of the landscaping/planting scheme can be secured by planning condition.</p> <p>The native species planting proposed will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements can be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).</p> <p>The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> <p>Ulcombe Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve for the reasons set out in paragraph 5.01</p>		
<b>WARD</b> Headcorn	<b>PARISH/TOWN</b> Ulcombe	<b>COUNCIL</b>  <b>APPLICANT</b> Mr James Cash <b>AGENT</b> L Jennings
<b>TARGET DECISION DATE</b> 08/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 14/07/20

### **Relevant Planning History**

- History for current application site Oaklands (previously known as 1 Martins Gardens). 18/506270/FULL Application for one additional mobile home and one additional tourer. (Resubmission of 18/502176/FULL) (Part retrospective) approved 12.08.2019 (committee decision)

18/502176/FULL Proposed siting of 3 additional mobile homes and 3 touring caravans at 1 Martins Gardens. Refused 12.10.2018 for the following reasons:

- 1) *'In the absence of sufficient information pertaining to Gypsy and Traveller status there is no justification for allowing this development, given the adverse visual harm it would have on the character, appearance and landscape of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1, DM15 and DM30 of Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2018).'*
- 2) *'The access constructed to Lenham Road and the associated gates, brick piers and timber boarded front boundary fencing is visually incongruous and intrusive in the roadside views and is harmful to the rural character of the road and the visual amenity along the road generally, contrary to the aims and requirements of policies SS1, SP17, DM1, DM15 and DM30 of the Maidstone Borough Local Plan (Adopted October 2017) and Government guidance in the NPPF (2018).'*
- 3) *'The intensification of the use of the site for the stationing of mobile homes has resulted in the significant encroachment of the use into a designated area of Ancient Woodland and the significant loss of trees and soils from the area of Ancient Woodland and trees and hedgerows from the frontage to Lenham Road and the front part of the south-western side boundary to the detriment of the visual amenity and landscape of the open countryside location which forms part of Low Weald Landscape of Local Value and the ecological and wildlife interests of the site, contrary to policy DM3 of the Maidstone Borough Local Plan (Adopted 2017) and Government guidance in the NPPF (2018).'*

MA/11/1122 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Approved 23.12.11.

MA/09/1722 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Split decision (Part refused/part approved) 24.12.09.

ENF/10155 (Enforcement notice A) Appeal allowed and enforcement notice quashed 24.07.09. The allowed appeal granted permission for the change of use of the land from a mixed use of woodland and nil use to stationing and residential occupation of caravans, the parking and storage of motor vehicles, the erection of fencing on the site and a new entrance gate at the access onto Lenham Road and the placing on the land of domestic and other paraphernalia all ancillary to the residential occupation of caravans on the land.

ENF/10155 (Enforcement notice B) Appeal allowed and enforcement notice quashed 24.07.09. The allowed appeal granted permission for operational development comprising the construction of hardsurfacing and engineering operations comprising the infilling of a pond.



- **Adjacent plots**

Decisions on the following planning applications for adjacent plots of land are currently pending. There are current applications for 4 out of the 6 plots with no applications submitted for Plot 2 (1A Martins Gardens) or Plot 5 (3 Martins Gardens/5 Martins Gardens). The planning history for these adjacent sites is provided in the relevant reports.

**Plot 1 The current application relates to Plot 1 which is the subject of this report**  
Oaklands/1 Martins Gardens- 20/502133/Full Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective).

**Plot 2**

1A Martins Gardens - No current planning application (Medical reasons have been given for not submitting an application at this time)

**Plot 3**

1B Martins Gardens - 20/502134/full - Siting of 1no. mobile home, 1no. tourer and erection of a dayroom (Retrospective).

**Plot 4**

2 Martins Gardens 20/502135/FULL Siting of 2 mobile homes and 2 tourers (Retrospective).

**Plot 5**

3 Martins Gardens/5 Martins Gardens - No current planning application (Medical reasons have been given for not submitting an application at this time)

**Plot 6**

4 Martins Gardens/6 Martins Gardens - 20/502136/Full - Siting of 1no. additional mobile home (Retrospective).

**MAIN REPORT**

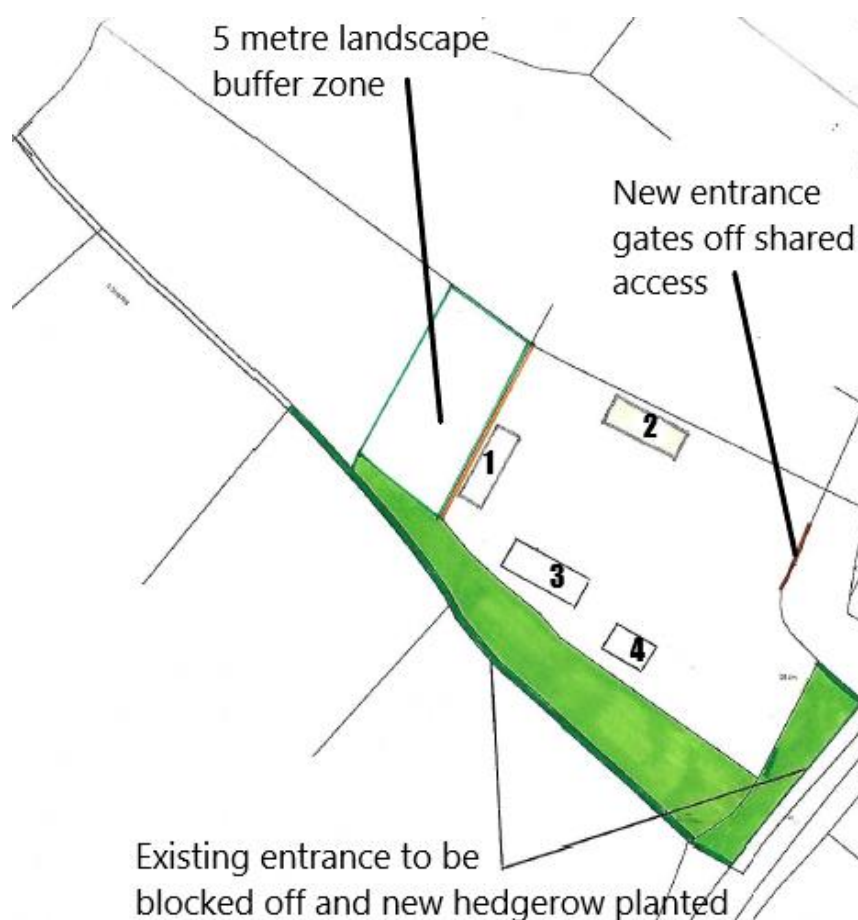
**1. DESCRIPTION OF SITE**

- 1.01 The site is located off the north-western side of Lenham Road and comprises the south-western most plot of a row of Gypsy sites running north-eastwards from the site along Lenham Road. Unlike the five neighbouring plots to the north-east which are accessed from a shared accessway off Lenham Road, the application plot has a frontage and separate access to Lenham Road.
- 1.02 The plot access comprising 2m approx. high brick piers with splayed brick walls either side and timber gates is currently unauthorised from a planning point of view. Beyond the rear (north-western) part of the site is a group of trees and a pond. The boundaries of the site are enclosed by 2m approx. high timber fencing and there is a line of trees along the south-western side boundary. Beyond the trees and pond to the rear of the site and along the south-western boundary is open field.
- 1.03 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six plots. To the rear of the plots at the south-western end of the row of Gypsy sites, including the rear of the current application plot, is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The rear part of the current application plot extends into the designated area of Ancient Woodland.



- 1.04 The site is less than 2km from the edge of Headcorn village (to the south-west of the site) and for the purposes of the Local Plan, the site is within the open countryside and within the Low Weald Landscape of Local Value as defined on the Policies Map to the Maidstone Borough Local Plan. The site is also within a KCC Minerals Safeguarding Area.
- 1.05 The 6 plots that make up Martins Gardens are within the parish of Ulcombe. The parish boundary with Headcorn, wraps around the 6 plots running along Lenham Road to the south east and the side boundary of The Oaklands to the south west.
- 1.06 The plot referred to in the current application as The Oaklands /1 Martins Gardens did benefit from planning permission granted by committee in August 2019 (18/506270/FULL) for one additional mobile home and one additional tourer. This decision last year was preceded by an allowed appeal in July 2009 under ENF/10155 (Enforcement notice A). The allowed appeal permitted the stationing of 1 static caravan, 1 touring caravan and 1 utility room.

**Layout as approved under application 18/506270/FULL**



- 1. Existing retained mobile**  
**2. Existing retained utility block**

- 3. Proposed additional mobile**  
**4. Proposed additional tourer**

**2. PROPOSAL**

- 2.01 The current application seeks planning permission for same number of caravans as previously approved (one additional mobile home and one additional touring caravan). The submitted plan shows the additional mobile home and tourer on a slightly different location on the site.

- 2.02 The Planning Statement submitted in support of the application states that the mobile home will be occupied by the applicant's eldest son and his girlfriend who have a small child and now need a stable base.
- 2.03 The Planning Statement further states that although the family member has been travelling and using the roadside to stop in, he now needs a stable base to bring up his child and enable the child to get an education.
- 2.04 The Planning Statement states that travelling gypsies are not accepted in schools as they don't have addresses and without a permanent base for the applicant's family member's girlfriend and child, the child will not be able to be registered anywhere.
- 2.05 There are currently two vehicular access points from Lenham Road, the first access serves the current application site at Oaklands/1 Martins Gardens, with the second access serving the other 5 plots. The previously approved application in August 2019 involved the removal of the direct access from Lenham Road to the application site with access provided from the existing internal service road. The current application seeks the retention of the existing access arrangements and the two existing access points. A 5m wide native species landscaped buffer zone is shown between the caravans and the ancient woodland.
- 2.06 The plan below shows the caravans to be removed, retained and the positions of a proposed mobile home and tourer as part of the current application. The previously approved proposal for this site included on the front half of the site, 1 retained mobile, 1 retained utility block and an additional mobile and an additional tourer. The current proposal includes the same number and type of development with the proposed mobile (replacing a mobile removed from the back of the site) and tourer in slightly different locations.
- 2.07 A planning condition attached to the earlier planning permission (18/506273/FULL) was drafted so that the approval would lapse if a number of details were not submitted to the Council by the applicant within the 3 months following the decision.
- 2.08 The applicant has explained that to the best of their knowledge the required details were submitted within the required time limit, however due to a number of issues including several family bereavements the submission was not chased up.
- 2.09 The Council has no record of these details being received and the current planning application is submitted on the basis that the earlier planning permission (18/506273/FULL) is now incapable of implementation. Whilst this earlier permission cannot be implemented, the committee decision from August 2019 remains a strong material consideration in the assessment of this current planning application.
- 2.10 A similar condition (condition 4) to that referred to above is recommended to be attached to this resubmitted application with a reduced compliance time period of 6 weeks (previously 12 weeks). Whilst 6 weeks would normally be considered an unreasonably short time period for the submission of details, in this case the applicant is already fully aware of the condition requirements and has stated that a submission was previously prepared.
- 2.11 The condition requires additional detail on the, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone

**Current application - caravans to be removed, retained caravans and replacement/proposed caravans.**



- |                            |                              |
|----------------------------|------------------------------|
| 1. Removed existing mobile | 4. Retained existing utility |
| 2. Removed existing mobile | 5. Retained existing mobile  |
| 3. Removed existing mobile | 6. Proposed tourer           |
|                            | 7. Proposed mobile           |

- 2.12 including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and a timetable for implementation of these details.

**3. POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan 2017: Policies SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Planning Policy for Traveller Sites (PPTS) (2015)
- Landscape Capacity Study: Sensitivity Assessment (2015)
- Landscape Character Assessment (2012 – amended 2013)
- Landscape Character Assessment Supplement (2012)
- KCC Minerals Plan
- Gypsy and Traveller and Travelling Showpeople Accommodation Assessment January 2012
- Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)
- Draft Headcorn Neighbourhood Plan (see note below)

*NB: The Final Examiner's Report on the Headcorn Neighbourhood Plan was published on 19 March 2017. In his report the examiner set out a number of failings that were found with the submitted neighbourhood plan. As a result of his conclusions the examiner recommended, in accordance with legislation that the neighbourhood plan should not proceed to a local referendum. The neighbourhood plan has since been withdrawn.*

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

##### **Local Residents**

- 4.01 No response from local residents.

##### **Shenley Farms (Aviation) Limited**

- 4.02 No objection raised providing the development will not be in any way inconsistent with the existing and well established use of and activity at Headcorn Aerodrome.

#### **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)

##### **Ulcombe Parish Council**

- 5.01 Objection. Making the following comments:

- The Parish Council are "astonished and unimpressed" at having to revisit Martins Gardens where the positions and number of caravans are constantly changing.
- The Parish Council are "incredibly disappointed that enforcement notices were not served, and that the applicants have been able to circumvent the threat of enforcement by putting in almost identical planning applications to those submitted in December 2018".
- It must be determined whether the applicant is a gypsy or traveller in planning terms.
- Evidence that the applicant is leading a "nomadic habit of life" needs to be provided.
- There is no "unmet or proven need" for gypsy and traveller sites.
- Maidstone Borough Council now has a 5.3 year supply of traveller pitches.
- There is a high proportion of gypsy and travellers in Ulcombe
- Existing countryside protection policies should be applied in the Low Weald Landscape of Local Value.
- The Parish Council object to all proposals for Martins Gardens that exceed the permissions granted as a result of the 2009 appeals.
- long suffering residents of Lenham Road have consistently complained about the very high levels of noise, and the intrusive light pollution from Martins Gardens. This is affecting the health and quality of life of these residents, and is contrary to the NPPF 2019, paragraph 180, which states that planning policies and decisions should take into account the potential sensitivity of the site or the wider impacts.
- The conditions laid down by the planning committee have been blatantly and cynically ignored, surely it is time for MBC to make a stand and refuse permission on this site.

##### **Headcorn Parish Council (Neighbouring Parish Council)**

- 5.02 Objection, making the following comments:

- The committee expressed complete dismay that we are faced with further retrospective applications for the above sites. Very similar applications were considered and approved by MBC in August 2019.
- Despite requests, no enforcement action was taken in relation to the site delivery planning condition that was attached to earlier approvals.

- The gypsy/traveller status of the applicant
- Gypsy and Traveler housing need verses supply.
- Development in the Open Countryside and paragraph 25 of the PPTS which states that Local Authorities should strictly limit Traveler site development in open countryside.
- Particular attention drawn to the fact that the area concerned was once 80% ancient woodland and ponds and due regard must be paid to reinstating what has been lost
- Poor social cohesion with the villages settled community with many feeling unable to comment on the situation for fear of reprisals.
- Contrary to SS1, SP17, DM1, DM15, and DM30.
- The Committee wish to see these applications refused and referral to planning committee is required.

#### **Kent Highways**

- 5.03 No objection. Recommend informative about highways approvals.

#### **KCC Minerals and Waste Planning Policy Team**

- 5.04 No objection. The site is not within 250 metres of any safeguarded mineral or waste facility, and thus would not have to be considered against the safeguarding exemption provisions of Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 3013-30.
- 5.05 With regard to land-won minerals safeguarding matters it is the case that the area of the application site is entirely coincident with a safeguarded mineral deposit, that being the Paludina Limestone (a marble that is used as a specialist building stone). The application benefits from exemption criterion (6) of Policy DM 7: Safeguarding Mineral Resources and as result a Minerals Assessment is not required.

#### **Forestry Commission**

- 5.04 No objection raised. Comment that Ancient Woodland is an irreplaceable habitat. The NPPF (para. 175) states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

#### **Natural England**

- 5.05 No comment. Referral to standing advice

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

- 6.01 The key issues for consideration relate to:
- Need for Gypsy sites
  - Supply of Gypsy sites
  - Gypsy Status
  - Personal circumstances
  - Visual and landscape impact
  - Cumulative impacts
  - Design
  - Siting sustainability
  - Residential amenity
  - Parking and highway safety
  - Area of Ancient Woodland and ecological interests
  - Human Rights and Equality

### **Need for Gypsy sites**

- 6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.
- 6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

### **Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

<b>Period</b>	<b>No. of pitches</b>
Oct 2011 – March 2016	105
April 2016 – March 2021	25
April 2021 – March 2026	27
April 2026 – March 2031	30
Total Oct 2011 to March 2031	187

- 6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.
- 6.05 The target of 187 additional pitches is included in Policy SS1 of the Adopted Maidstone Borough Local Plan (Adopted October 2017).

### **Supply of Gypsy sites**

- 6.06 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.07 The following table sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.

### **Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

<b>Type of consents</b>	<b>No. of pitches</b>
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.08 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate an 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.

- 6.09 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".
- 6.10 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

### **Gypsy Status**

- 6.11 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*.
- 6.12 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.13 The Planning Statement submitted in support of the application states that the additional mobile home will be occupied by a member of the applicant's close family and their partner who have one young child and who need a stable base.
- 6.14 The Planning Statement states the occupant of the caravan who is a member of the applicant's close family has always led a nomadic life and has travelled with the applicant across the country for work in landscaping and horse dealing. The Planning Statement further comments that they always attend the horse fayres at Appleby, Cotswolds, Kent and Stow on the Wold (Gloucestershire) where they also seek work and deal in horses. The occupier of the caravan has no intention of giving up this life but needs his child to be settled.
- 6.15 The plot forms part of an established Gypsy and Traveller site at Martins Gardens and the proposed mobile home is to accommodate a family member of the established occupiers of the site, the partner and a young child. A condition is recommended on any grant of planning permission to ensure that the proposed mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).
- 6.16 The gypsy status of the occupiers of the caravan were accepted as part of the assessment of the earlier application and there has been no change in circumstances. Personal details provided in this report have been anonymised in line with guidance from the Council's Data Protection Officer.

**Personal circumstances**

- 6.17 The current application is submitted to provide a settled base for the applicant's oldest son and his girlfriend who now have one young child and who need a stable base to enable the child to be enrolled in main stream school in the future. The personal circumstances are considered to outweigh the limited visual and landscape impact in the countryside location resulting from the development.

**Visual and landscape impact**

- 6.18 The site lies in the open countryside to the north-east of the Headcorn village settlement. The open countryside location forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan. Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value.
- 6.19 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six sites and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017).
- 6.20 Policies SP17 and DM30 of the Local Plan require that landscape protection should be given significant weight in considering development in the Low Weald Landscape of Local Value. In accordance with the Maidstone Landscape Character Assessments, the Low Weald generic guidelines seek to *"...conserve the largely undeveloped landscape with its scattered development pattern and isolated farmsteads"*; and more specifically, Landscape Area 43 (Headcorn Pasturelands) is an area being of *high* overall landscape sensitivity and is *sensitive to change*.
- 6.21 The plot, in this case, benefits from the planning permission granted on appeal on 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and a utility room. The site is predominantly hardsurfaced and enclosed by close boarded fencing. The site is seen in the context of the neighbouring Gypsy and Traveller plots in Martins Gardens to the north-east and south-west. Some of the development on these plots is currently unauthorised.
- 6.22 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or discreetly located in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.23 The originally permitted plot extends significantly back (north-westwards) from Lenham Road, extending into the area of land designated as Ancient Woodland on the Policies Map to the adopted Local Plan. This resulted in a significant loss of trees and ponds from the woodland area. The applicant in the Planning Statement have said "Any trees that have been lost or fallen has been due to natural deterioration and have not been removed by the applicant for him to live on the site" The applicant also points out that none of the trees in question were the subject of a Tree Preservation Order.

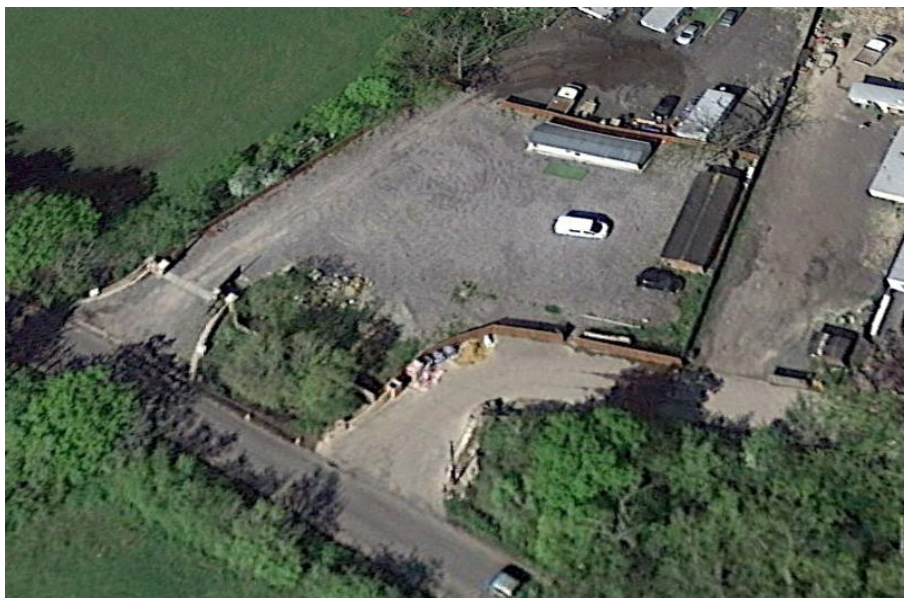


- 6.24 There are currently two vehicular access points from Lenham Road, the first access serves the current application site at Oaklands/1 Martins Gardens, with the second access serving the other 5 plots. The previously approved application in August 2019 involved the removal of the direct access from Lenham Road to the application site with access provided from the existing internal service road.
- 6.25 In contrast to the earlier approval the current application seeks the retention of the existing access arrangements and the two existing access points on to Lenham Road (albeit only one relates to the current application site being considered with the second used to access the other five adjacent plots). The applicant states that the caravans on all 6 plots need to exit through the Oaklands/1 Martins Gardens entrance when leaving the site to be serviced.
- 6.26 Apart from the access, the remaining boundary of the application site fronting Lenham Road is defined by a timber boarded fence set behind what remains of the former more extensive trees and hedgerows to the road frontage. It appears that the fence was installed at the same time as the new entrance and the Council's records also show that this timber boarded fence is likely to be immune from planning enforcement action.
- 6.27 The site forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan and it is considered that the entrance and timber fence results in harm to the visual amenities, landscape and rural character of the area. Notwithstanding this identified harm, the benefits from the current proposal with the removal of the caravans on the northern part of the site and the introduction of a 5m wide native species landscaped buffer zone between the caravans and the ancient woodland outweigh this identified negative visual harm. The proposal does not conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.

**Cumulative impacts**

- 6.28 Guidance set out in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and/or place undue pressure on local infrastructure.
- 6.29 Adopted Local Plan policy DM15 states, amongst other criteria to be met in Gypsy and Traveller development, that permission will be granted if a site would not significantly harm the landscape and rural character of an area due to cumulative effect.
- 6.30 There are various gypsy and traveller sites in the vicinity of the current application plot – both authorised and unauthorised, including the five neighbouring plots in Martins Gardens to the north-east of the current application plot. The collective presence of these mobile home sites, together with the development on the current application plot and in Martins Gardens generally, is considered to erode the visual amenity and rural character of the area, particularly when viewed from Lenham Road in the case of the plots at the south-western end of Martins Gardens. Plots at the north-eastern end of Martins Gardens are viewed from the public footpath running north-west from Lenham Road adjacent to the plot at the north-eastern end of the row of six gypsy sites.

**Retained access arrangements (left hand side of the photo)**



- 6.31 In the context of the existing mobile home development in Martins Gardens generally, an additional mobile home and touring caravan on the current application plot is not likely to result in any significant additional cumulative effect in terms of its impact on the countryside and landscape. There will be some increased cumulative effect as a result of the combined effect of other current mobile home applications for the neighbouring Gypsy and Traveller plots in Martins Gardens but with the implementation of the landscape buffer and removal of caravans any additional impact will be mitigated. The combined cumulative effect in terms of impact on the countryside and landscape would not be in conflict with this aim of Local Plan Policy DM15. The visual impact of the proposed caravans was considered by officers and members in the assessment of the earlier planning application and found to be acceptable.

**Design**

- 6.32 The assessment below is structured around the categories used to assess proposals in design and access statements which are 'Use', 'Amount', 'Layout', 'Scale', 'Landscaping' and 'Appearance'.

Use

- 6.33 The use of the site and the status of the occupants of the caravans is considered earlier in this statement.

Amount

- 6.34 The current retrospective application involves the siting of 1 additional mobile and 1 additional tourer. The development description is identical to the earlier approval under application 18/506270/FULL and the amount of development is acceptable for this plot.

Layout

- 6.35 The proposed site layout is comparable to the layout previously considered acceptable by officers and members in the assessment of the earlier planning application.
- 6.36 The layout is considered acceptable in terms of the relationship between dwellings, internal circulation space and amenity.

Scale

- 6.37 Whilst slightly raised off the ground, the proposed caravans are single storey. The width can be seen in the plans provided earlier in this statement and in the photograph below. As set out earlier in this report, the scale of the caravan is considered acceptable for the site, especially with the screening that is currently available.

**Photograph from the front boundary.**



Landscaping

- 6.38 The applicant has submitted written information on landscaping in the Planning Statement referring to the potential provision of Hawthorn, Field Maple, Plum Cherry, Hazel, Blackthorn, Crab Apple, Privet, Dogwood, Rowan, Holly and Spindle. A planning condition is recommended seeking further details of landscaping and a timetable for the implementation of the agreed details.

Appearance

- 6.39 The appearance of the caravan can be seen in the photograph below. With the single storey height and the screening from public views the appearance of the buildings is acceptable and it is not considered reasonable to request alternative external facing materials. If thought necessary by members the painting of the caravan a darker colour could be considered and included as part of a planning condition.

**Siting sustainability**

- 6.40 Gypsy and traveller sites will almost inevitably be located in countryside locations, and in this case the site is less than 2km from the edge of Headcorn village (to the south-west of the site) with its local services, amenities and public transport links.

- 6.41 Whilst located within part of the open countryside where residents would be reliant on the use of a car, the site is not so far removed from basic services and public transport links as to warrant a refusal of planning permission on grounds of being unsustainable, particularly given the nature of the development and development in the vicinity generally.

**Residential amenity**

- 6.42 The site is adjoined to the north-east by neighbouring gypsy and traveller sites in Martins Gardens (Plots 1A, 1B, 2, 3 and 4 Martins Gardens). The application site and the neighbouring gypsy and traveller sites in Martins Gardens are not adjoined by residential properties and the closest neighbouring properties are on the opposite side of Lenham Road.
- 6.43 Given the nature of the neighbouring development and the separation between the gypsy and traveller development in Martins Gardens and the closest neighbouring residential properties on the opposite side of Lenham Road, it is not considered that the use of the current application plot for the stationing of one additional mobile home and one additional touring caravan (two mobile homes and two touring caravans in total) results in any unacceptable unneighbourly impact.
- 6.44 Given the scale of development on the plot, vehicular and pedestrian movements to and from the site via the proposed new access to the plot off the existing shared accessway serving the five neighbouring plots in Martins Gardens to the north-east are not likely to significantly impact on neighbouring property on the opposite side of Lenham Road. No overriding residential amenity issues are considered to be raised in the application.

**Parking and highway safety**

- 6.45 The current application seeks to retain the existing access arrangements with a separate access provided from the application site on to Lenham Road. This access is considered acceptable in relation to highway safety.
- 6.46 Adequate hard surface space is available within the plot for the parking of vehicles associated with the proposed mobile home use of the site and for vehicle manoeuvring enabling vehicles to enter and leave the site in a forward gear.
- 6.47 The level of additional vehicle movements to and from the site resulting from the additional mobile home and additional touring caravan on the plot is not likely to be so significant as to raise any overriding highway safety issues.
- 6.48 The impact of the development on the local highway network including access and parking arrangements have been considered by KCC as the Local Highways Authority. KCC Highways raise no objection to the planning application.

**Area of Ancient Woodland and ecological interests**

- 6.49 The land to the rear of the plots at the south-western end of the row of Gypsy and Traveller sites in Martins Gardens, including the rear half of the current plot at The Oaklands, is designated as Ancient Woodland.
- 6.50 The current application involves the removal of three caravans shown as being located in ancient woodland and the depth of the current mobile home plot reduced by around a half with a 5m wide native species landscaped buffer zone planted across the middle of the existing lot to mark the extent of the ancient woodland and to separate the retained and currently proposed caravans from the ancient woodland.



- 6.51 Whilst the proposed reduced depth of the current mobile home plot still encroaches into the 15m buffer zone normally required between the proposed development and the Ancient Woodland, this was the case with the approval considered acceptable by members and officers in terms of the applications considered in 2019. The imposition of the 15 metre buffer would in addition leave little to no developable area on the site.
- 6.52 It is considered that the landscaped 5 metre wide buffer with native species tree and hedgerow planting will provide some mitigation for the harm which has taken place.
- 6.53 The plot is predominantly hardsurfaced and enclosed by close boarded fencing. The stationing of an additional mobile home and a touring caravan on the plot has limited potential to impact on any ecological interests at the site. Any impact on ecological interests at the plot would have already taken place.
- 6.54 Records show that Great Crested Newts have previously been recorded within this area and there is no reason to suggest that they are not still present within the surrounding area. However, as the quality of habitat has significantly declined, there has been a reduction in foraging and commuting habitat for terrestrial species such as (but not necessarily limited to) the Great Crested Newt to and from surrounding habitats. As such, the loss and deterioration of habitat as a result of the Gypsy and Traveller use of the plots in Martins Gardens which has taken place would be considered to have a negative impact on the wildlife and ecological interests of the site and immediate surroundings.

**Relationship of the application site to designated Ancient Woodland  
(Ancient Woodland shown as green hatching)**



- 6.55 The implementation of a scheme of native species tree and hedgerow planting to provide a landscaped buffer will enhance the ecological/biodiversity interests at the site. As such, a grant of planning permission for the additional mobile home and touring caravan on the current application plot, together with native species landscaping/planting to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF (para. 175).

### **Human Rights and Equality**

- 6.43 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.
- 6.44 Apart from the desire to provide additional mobile home accommodation for a family member of the established occupiers of the site, the partner and a young child, no other health, education or personal circumstances have been presented as part of the application in order to justify the siting of the additional mobile home on the land in the open countryside location. The needs of the existing family members, including children, in this instance, are considered to outweigh the limited visual harm to the countryside landscape.

## **7. CONCLUSION**

- 7.01 The plot, the subject of this application, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) for the stationing of 1 static caravan, 1 touring caravan and a utility room. A previous recent application (18/506273/FULL) for one additional mobile home and one tourer was approved by members with the decision issued on the 12.08.2019. The current application involves the same number of caravans in a revised layout.
- 7.02 The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The plot is at the south-western end of the six plots.
- 7.03 The current application for one additional mobile home and one touring caravan represents the same number of caravans as was previously approved in 2019. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of existing caravans in the rear part of the site and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer, will not have a significant and unacceptable harmful visual and landscape impact in the locality.
- 7.04 The current plot extends significantly into the designated area of Ancient Woodland to the rear of the plot. The proposed reduction in the depth of the current plot will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. Full details and implementation of the landscaping/planting scheme can be secured by planning condition.

- 7.05 The native species planting proposed will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements can be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).
- 7.06 The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The additional mobile home and tourer hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document)  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. The two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (Proposed Block Plan) hereby approved.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of: the external appearance of the mobile home means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone to the repositioned north-western boundary of the plot including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and, the said Scheme shall include a timetable for its implementation.

- (ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- (iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.

Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- (5) At the same time as the Site Development Scheme required by condition 4 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for the proposed planting within the 5m wide landscape buffer zone for a period of 5 years, the 5 years beginning on the date of the completion of the implementation of the planting as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- 5) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.

Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.

- 6) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the Local Planning Authority other than as expressly permitted by this decision;

Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.

- 7) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.

Reason: In order to safeguard residential and local amenity generally.

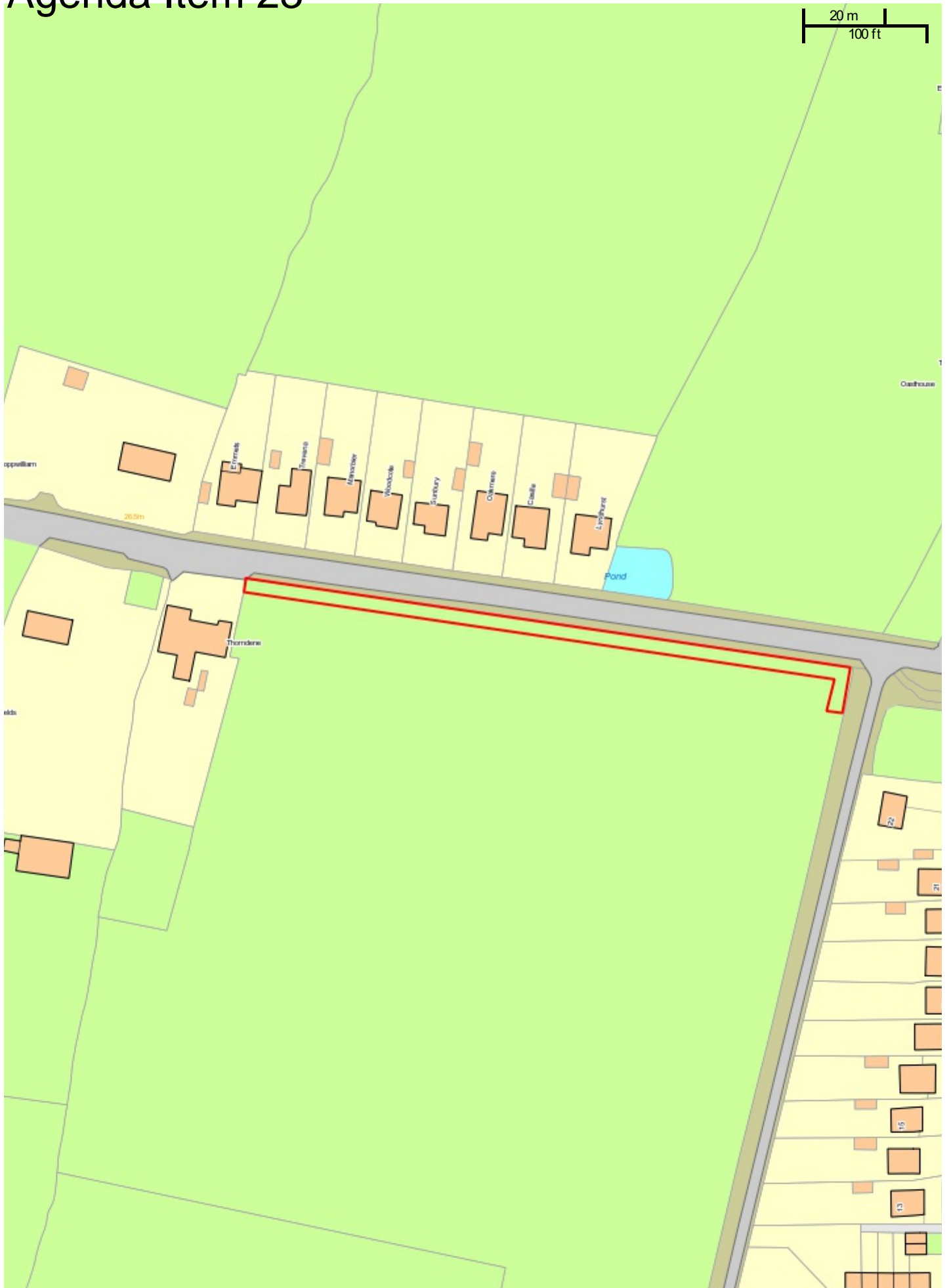
- 8) The development hereby permitted shall be carried out in accordance with the following approved plans and information: Site Location Plan, Proposed Block Plan and Planning Statement

Reason: To clarify which plans have been approved.

Case Officer: Tony Ryan



# Agenda Item 23



## REPORT SUMMARY

<b>REFERENCE NO - 20/503956/HEDGE</b>			
<b>APPLICATION PROPOSAL</b> Hedgerow Removal Notice - Temporarily fully remove a 6m section of hedgerow, partly adjacent to the southern side of Marden Road and partly from an adjoining track with associated peripheral hedgerow plants to enable temporary construction access.			
<b>ADDRESS</b> Land South Of Marden Rd - Staplehurst Marden Road Staplehurst Kent TN12 0PE			
<b>RECOMMENDATION</b> Raise no objection			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The hedgerow is considered to satisfy the criteria for importance, but it is considered that there are circumstances that justify the temporary removal of parts of the hedge and it is therefore recommended that the Council raise no objection to the proposal and do not issue a Hedgerow Retention Notice			
<b>REASON FOR REFERRAL TO COMMITTEE</b>  The application has been called in by Staplehurst Parish Council			
<b>WARD</b> Staplehurst		<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Southern Water <b>AGENT</b> Clancy Docwra
<b>DECISION DUE DATE</b> 03/07/20	<b>PUBLICITY EXPIRY DATE</b> 30/03/20		<b>OFFICER SITE VISIT DATE</b> 25/03/2020
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
20/501035/HEDGE	Hedgerow removal notice -To establish access and working area for southern water sewer connection for a development.	Hedgerow Retention Notice Issued	03/07/2020

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The hedge is adjacent to the northern boundary of a large field fronting Marden Road. The length of the frontage is approximately 160m.
- 1.02 The proposal itself is one section of this hedgerow of approximately 6m length (approximately 38m<sup>2</sup> of vegetation), plus an additional area of 18m<sup>2</sup> of immature vegetation adjacent to the hedge at the eastern end and an area of 12m<sup>2</sup> of immature vegetation adjacent to the hedge at the western end. All areas of vegetation to be removed are shown on the submitted Temporary Hedgerow Removal Plan in light grey shading.
- 1.03 The hedge does not appear to have been subject to recent management as a stockproof hedge and as such now resembles a line of small trees and understorey

plants of up to approximately 10m in height, with further naturally regenerating vegetation peripheral to the main hedge line.

## **2.0 PROPOSAL**

- 2.01 This proposal is a resubmission of 20/501035/HEDGE, previously considered by the Planning Committee meeting on 25<sup>th</sup> June 2020. A Hedgerow Retention Notice was issued in response to 20/501035/HEDGE and a decision notice issued with the following informative:

*The Committee considered that by designating the hedge as important, a less damaging approach to achieving the sewer connection can be progressed.*

The proposed works in 20/501035/HEDGE were the removal of one section of approximately 24m length at the western end (parallel to the road) and one section of approximately 30m length at the eastern end (perpendicular to the road).

The effect of the Hedgerow Retention Notice issued is to prevent the works notified from being carried out.

- 2.02 This proposal, as stated on the application form, is to temporarily fully remove a 6m section of hedgerow, partly adjacent to the southern side of Marden Road and partly from an adjoining track with associated peripheral hedgerow plants, to allow entry of large vehicle (particularly box culvert section deliveries) directly into the working area off Marden Road. Works required for connection at the western end of the tank have been reviewed. The revised design requires only peripheral hedge plants to be removed, preserving the integrity of the hedge at this location.

All hedgerow will be fully reinstated upon completion of the works by replanting using appropriate species. Reinstatement works will be supervised by a suitably qualified ecologist with the necessary knowledge of the native woody species which are to be planted as well as an understanding on how these species should be planted and maintained for growth. Clancy Docwra will also contract a two year maintenance programme to their vegetation specialist or seek agreement with the council for a two year maintenance programme to facilitate successful re-establishment.

- 2.03 Note that the proposal for consideration is the hedgerow removal only. The associated foul drainage works which the hedgerow removal will facilitate do not require planning permission and are not, therefore, directly under consideration.

## **3.0 SUMMARY INFORMATION**

- 3.01 The proposal in front of the Council is a 'Hedgerow Removal Notice' under the Hedgerow Regulations 1997 ('the regulations'). It is considered that the hedge is subject to the regulations, being a hedgerow growing in, or adjacent to, any common land, protected land, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys, and having a continuous length of, or exceeding, 20 metres.
- 3.02 For the purposes of section 97 (hedgerows) of the Environment Act 1995 and the regulations, a hedgerow is "important" if it, or the hedgerow of which it is a stretch,—  
(a) has existed for 30 years or more; **and**  
(b) satisfies at least one of the criteria listed in Part II of Schedule 1.

- 3.03 The Local Planning Authority may either raise no objection to the Hedgerow Removal Notice, or give notice that the work must not be carried out by issuing a 'Hedgerow Retention Notice'. A Hedgerow Retention Notice must be issued within six weeks of receiving a hedgerow Removal Notice, or within such longer period as may be agreed between the person who gave the notice and the authority. In this case, the applicant has agreed to an extension of time to allow for the proposal to be considered by the Planning Committee.
- 3.04 A Hedgerow Retention Notice may not be issued for a hedgerow that is not "important".
- 3.05 The Local Planning Authority should issue a Hedgerow Retention Notice for a hedgerow that is considered important "unless satisfied, having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow's removal."
- 3.06 The regulations allow certain Permitted Work to a hedgerow to which the regulations apply if it is required in certain circumstances. In this case, it was suggested to the applicant that, in their capacity as a Statutory Undertaker, that one of the Permitted Work categories may apply.

The applicant did not think that any of the categories fully applied in this case and therefore proceeded with the submission of a Hedgerow Removal Notice.

#### **4.0 PLANNING CONSTRAINTS**

None relevant

#### **5.0 POLICY AND OTHER CONSIDERATIONS**

The Hedgerow Regulations 1997

#### **6.0 LOCAL REPRESENTATIONS**

- 6.01 No formal objections from local residents were received in response to this revised notification, but note that four neighbour objections were received in response to the previous notification 20/501035/HEDGE

#### **7.0 CONSULTATIONS**

- 7.01 KCC Biodiversity Officer

"We have reviewed the ecological information submitted in support of this application and advise that additional information is sought.

Whilst both hedgerows to be affected are considered 'important' according to the Hedgerow Regulation Assessment, we are satisfied that only small sections of hedgerow will be removed and that these sections can be adequately replaced. We are also satisfied with the proposed mitigation measures for protected species (identified as potentially present) and that adequate consideration has been given to presence of invasive species on-site. However, we highlight concern over the presence and lack of associated mitigation proposals regarding True Fox Sedge (*Carex vulpina*).

**True Fox Sedge**

Listed under Schedule 8 of the Wildlife and Countryside Act (1981), considered a priority species under the NERC Act (2006) and described as 'very rare' within the Collins Wildflower Guide (2009), True Fox Sedge is of high conservation concern in the UK. This species has been identified in an area to be directly impacted by the proposed development.

Although the seeding of True Fox Sedge has been proposed as an enhancement (which we are supportive of), no methodology for the acquisition of wild seed and associated sowing/establishment of this species has been proposed. In the first instance, the area of True Fox Sedge should be protected. For example, turf removal/relaying and translocation are options if the current area containing True Fox Sedge cannot be retained during works. Any re-seeding should derive from native (preferably locally-sourced) populations of this species so as not to compromise genetic integrity.

Its loss from site would be incongruous to the above policy aims and contravene both section 40 of the NERC Act (2006) and policies within section 15 of the National Planning Policy Framework (2019). For these reasons, we advise that mitigation measures/further details are provided for True Fox Sedge prior to determination of the application."

7.02 Staplehurst Parish Council:

Staplehurst Parish Council made the following comments:

"Councillors recommend REFUSAL and referral to MBC Planning Committee were the Planning Officer minded to approve the application. Councillors commented that a hedge retention notice was in place and that the hedgerow represented an important habitat for wildlife. They supported the comments of the KCC Biodiversity Officer about the need to protect True Fox Sedge of which the loss would contravene both section 40 of the NERC Act (2006) and policies within section 15 of the National Planning Policy Framework (2019). They wished to draw MBC Planning Committee's attention to their continuing concerns about the drainage project related to the hedge application, which had deviated from the initially submitted plan to drain foul water away to the north of Hen & Duckhurst Farm. They observed that the direction of flow of water from the storage tank at Jeffery Close-Marden Road needed to be ascertained. They stated that Councillor Bowden's report for the Parish Council, compiled following discussions with Southern Water, must be essential reading for all involved in evaluating or making decisions on the proposal."

## **8.0 BACKGROUND PAPERS AND PLANS**

8.01 Submitted documents:

- Temporary Hedgerow Removal Plan
- Hedgerow Land Entry Notice Plan 01 – Drawing No. 670601-LE01
- Hedgerow Regulations Assessment
- Ecological Impact Assessment 670601 Hen and Duckhurst

8.02 Additional information submitted by the applicant:

- True Fox Sedge Mitigation Plane 670601 Hen and Duckhurst
- Southern Water Report to Staplehurst Parish Council – August 2020
- Copy of Staplehurst Parish Council Report on Hen and Duckhurst Foul Drainage (14/09/2020) with Southern Water's responses to Staplehurst Parish Council feedback on the report

- 8.03 Additional information provided on request by Staplehurst Parish Council:
- Staplehurst Parish Council Report on Hen and Duckhurst Foul Drainage (14/09/2020)

## 9.0 APPRAISAL

### Criteria for “Importance”

- 9.01 This application is supported by a comprehensive ‘Hedgerow Regulations Assessment’ carried out by an ecologist on behalf of the applicant. It concludes that the hedgerow(s) are considered ‘important’ in the non-technical summary of the document:

*It was determined that the both the hedgerow along the north of the proposed works area (Hedgerow 1) and the hedgerow along the east of the proposed works area (Hedgerow 2) are ‘important’ under Criteria 6 by containing great crested newt and red listed birds (linnet and house sparrow). Hedgerow 1 also supported one vascular plant species listed as vulnerable on the red data list (true fox sedge) making it ‘important’ under Criteria 7. Neither hedgerow meets the ‘important’ classification under Criteria 8.*

- 9.02 This conclusion is not challenged by the KCC Biodiversity Officer or the case officer. The hedgerow(s) are therefore considered to meet the criteria for importance.

### Whether a Hedgerow Removal Notice should be issued

- 9.03 The Hedgerow Regulations state that the Local Planning Authority should issue a Hedgerow Retention Notice for a hedgerow that is considered important “unless satisfied, having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow’s removal.”
- 9.04 The applicant has sought to demonstrate that this hedgerow removal proposal is significantly less harmful in terms of a greatly reduced amount of proposed hedgerow removal in comparison to the previous proposal. In addition, the Hedgerow Regulations Assessment and Ecological Impact Assessment seek to demonstrate that harmful impacts will be minimised and mitigated as far as possible, with mitigation measures to ensure successful reinstatement following completion of works.
- 9.05 The KCC Biodiversity Officer’s response to the revised proposals and supporting information is generally positive (“*we are satisfied that only small sections of hedgerow will be removed and that these sections can be adequately replaced. We are also satisfied with the proposed mitigation measures for protected species (identified as potentially present) and that adequate consideration has been given to presence of invasive species on-site.*”) except for a lack of associated mitigation proposals regarding True Fox Sedge (*Carex vulpina*). The applicant has provided further information to address this concern and this has been sent to the Biodiversity Officer for further comment. Any response received will be reported via Urgent Update.
- 9.06 It is clear that there is local concern and disagreement with the approach being taken by Southern Water in providing a foul sewer connection to the Hen and Duckhurst development. The merits of the scheme proposed by Southern Water are not being

directly considered in the determination of this Hedgerow Removal Notice, but they become relevant due to the need for the Council to be satisfied that there are circumstances which justify the hedgerow's removal, if a decision not to issue a Hedgerow Retention Notice is made.

- 9.07 The proposed hedgerow removal is necessary for Southern Water to be able to access the field to construct a large, below ground attenuation tank and to be able to connect this to the Hen and Duckhurst development. The submitted report to Staplehurst Parish Council and the copy of Staplehurst Parish Council Report on Hen and Duckhurst Foul Drainage (14/09/2020) with Southern Water's responses to Staplehurst Parish Council feedback on the report set out the reasoning behind why this is the preferred option of the applicant as the Statutory Undertaker with regulatory obligation to provide access to the Waste Water system.
- 9.08 The issuing of a Hedgerow Retention Notice would prevent the implementation of the applicant's preferred option, as it would prevent access to the site. Whilst there is clear opposition to the scheme, a Hedgerow Retention Notice should not be issued on the sole basis that it would prevent a foul drainage scheme from being implemented, on the grounds that the Statutory Undertaker's preferred option is not agreed with. The issues of how the foul drainage system is designed and operated are a separate matter beyond the considerations of this application and are currently under discussion elsewhere.
- 9.09 In practice, the hedgerow removal proposed would only be carried out in the event that the preferred option went ahead. The applicant has redesigned the working methodology to minimise the extent of hedgerow removal necessary, with detailed consideration of the ecological impacts. Mitigation measures and reinstatement of the hedgerow following completion of works are clearly set out and are to the satisfaction of the Biodiversity Officer. Subject to confirmation by the Biodiversity Officer that the proposed mitigation measures for the protection and reestablishment of True Fox Sedge are appropriate, the extent of harm resulting from the proposed hedgerow removal is considered low, and suitably mitigated against.

## **10.0 CONCLUSION**

- 10.01 The Statutory Undertaker advises that the works are necessary to carry out their obligation to provide access to the waste water system. It is demonstrated that the proposed temporary hedgerow removal will be adequately replaced, with appropriate measures for the protection of protected species during works. It is therefore considered that there are circumstances that justify the hedgerow's removal and it is recommended that the Council raise no objection to the proposal and do not issue a Hedgerow Retention Notice.

## **11.0 RECOMMENDATION – Raise no objection:**

### **CONDITIONS**

Cannot be applied to decisions of this application type.

### **INFORMATIVES**

- (1) The Council's decision does not override the need to obtain the landowner's consent for works on land which you do not own.

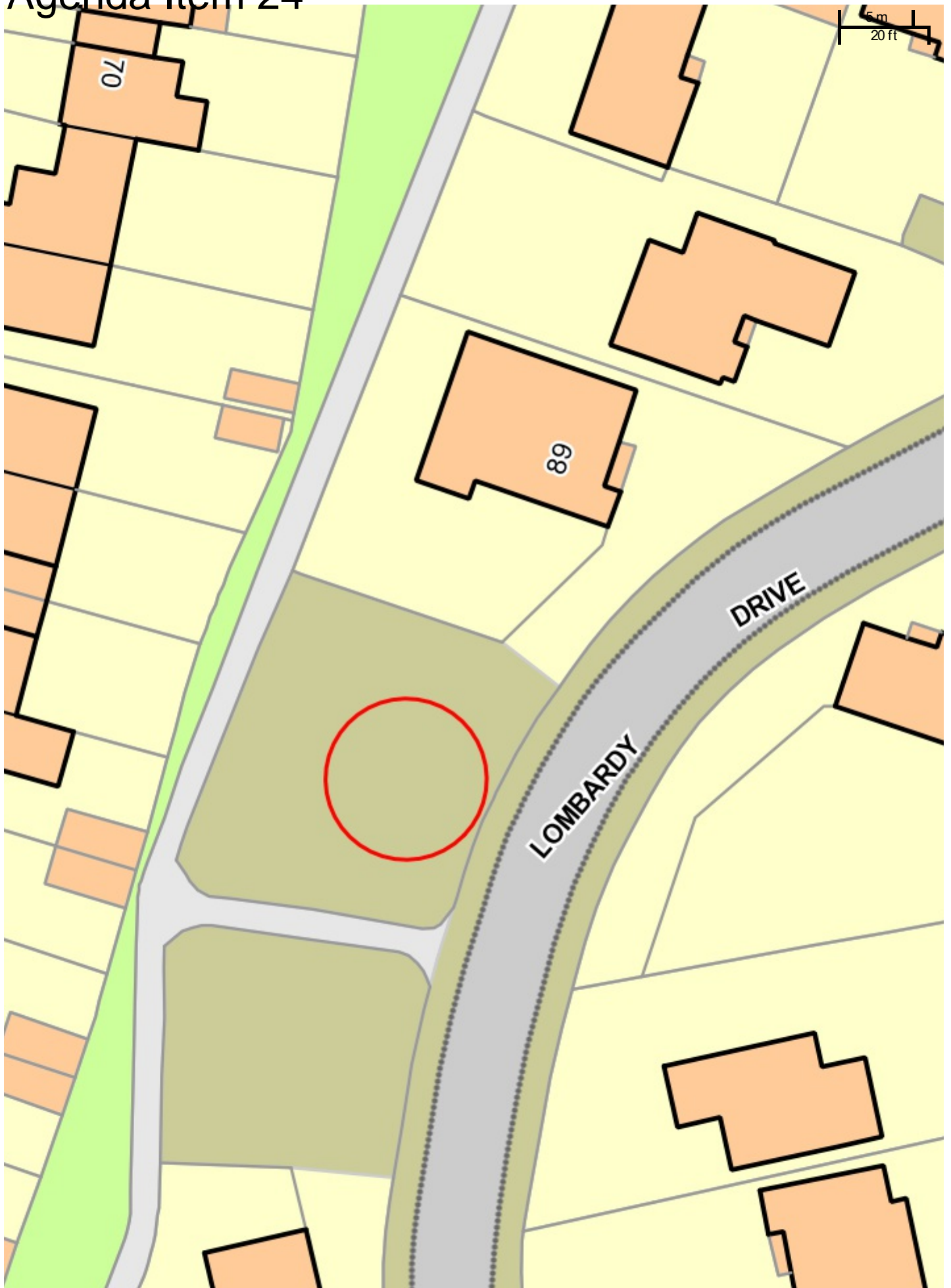
(2) Works to hedgerows could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

Case Officer: Nick Gallavin

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



# Agenda Item 24



## REPORT SUMMARY

<b>REFERENCE NO - 20/504434/TPOA</b>		
<b>APPLICATION PROPOSAL</b> TPO Application - T1 Holm Oak - inspect with endoscope on day of works and fell pending clear of bats. The tree has defects (cavities/decay).		
<b>ADDRESS</b> Land Near 87 Lombardy Drive Maidstone ME14 5TB		
<b>RECOMMENDATION</b> PERMIT subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The tree exhibits significant structural defects that are considered to represent an unacceptable risk of failure, with risk to members of the public that outweighs amenity considerations.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The application is made by an agent on behalf of Maidstone Borough Council		
<b>WARD</b> East	<b>PARISH/TOWN COUNCIL</b> Boxley	<b>APPLICANT</b> Alan Frith <b>AGENT</b> Caroline Everest
<b>DECISION DUE DATE</b> 20/11/20	<b>PUBLICITY EXPIRY DATE</b> 20/10/20	<b>OFFICER SITE VISIT DATE</b> 08/11/20
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> No relevant history		

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The tree subject to this application is located/growing on public open space to the west side of Lombardy Drive. The land is in the ownership of Maidstone Borough Council. The land is grassed with mature trees and hard surfaced footpaths, with open public access.

### 2.0 PROPOSAL

- 2.01 Fell one Holm Oak tree

### 3.0 PLANNING CONSTRAINTS

- 3.01 Tree Preservation Order No.23 of 1981; T134 Quercus Ilex (Holm Oak)  
3.02 Tree Preservation Order No.1 of 1954; A1 (all species)

### 4.0 POLICY AND OTHER CONSIDERATIONS

*(In deciding a tree works applications the LPA are not required to have regard to the development plan).*

- 4.01 Government Policy:  
National Planning Policy Framework (2019)

Ministry of Housing, Communities & Local Government, Planning Practice Guidance, Tree Preservation Orders and trees in conservation areas, March 2014

4.02 Local Policy:

Maidstone Borough Local Plan October 2017 - Policy DM 3

Maidstone Landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012- Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000)

4.03 Compensation:

A refusal of consent to carry out works to trees subject to a Tree Preservation Order can potentially result in a claim for compensation for loss or damage arising within 12 months of the date of refusal. The applicant is Maidstone Borough Council, so it is unlikely that such a compensation claim would arise as a result of a refusal of this application, but the Council could be liable to claims for damage or injury as a result of tree failure if identified hazards are not addressed.

## 5.0 LOCAL REPRESENTATIONS

5.01 9 representations objecting to the proposal were received from 8 properties.

5.02 The grounds of objections are combined and summarised as follows:

- The tree is a mature evergreen specimen that provides a positive contribution to the character and amenity of the area and is valued by the community.
- “The green area is established with the holm oak taking prime position. Removing the tree from this space will fundamentally change the appearance of the green to its detriment.”
- It provides year-round shelter for wildlife, which is observed and enjoyed by local residents.
- Trees are vital to slowing global warming
- Even if another tree were to be planted in its stead, it would take many years to reach an equivalent stature.
- “My children love this tree and are very upset about its potential felling. I urge you to get a second independent opinion as to its safety and consider all other avenues of action before felling.”
- “Large cavities in Holm Oaks are not always detrimental to the structural integrity of the tree. Can you monitor the tree rather than just fell it?”
- “Has a bore test been carried out to evaluate the decay? Can the decaying area mentioned in the application be cut back and thinned out?”
- “The Holm Oak is a fantastic example of a fine tree providing a visual amenity benefit and should be retained if possible. The last resort should be felling. The fact Maidstone B.C own the land and yet have given me the opportunity to comment on the felling of the Holm Oak infers that the tree is in fact not a

danger to life, otherwise the tree would be felled regardless and Maidstone B.C. would not have an interest in my views.”

- “The Holm Oak shows no sign of malnutrition, as most of the leaves are green. There are no signs of foliage loss and no open missing foliage gaps. There are no signs of decaying bark which is falling off.”
- “This tree certainly looks healthy but your application suggests that it will be felled regardless of the endoscopy result. It is not a huge tree and small portions dropping off it would not be a danger to the public due to its position. I hope that its condition will be thoroughly reviewed as it is a great benefit to the surroundings and I regularly see bats flying around it . If it is found to be much decayed then I do hope that a replacement will be planted.”
- “Will we be left with another ugly stump like the trees which have been felled along the footpath along the back of the estate?”

## **6.0 CONSULTATIONS**

- 6.01 Boxley Parish Council neither object or support the proposal and defer to the views of the Tree Officer

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Location plan submitted

## **8.0 APPRAISAL**

- 8.01 ‘T1 Holm Oak’ on application form (T134 in TPO).

Contribution to public visual amenity:  
Good – clearly visible to the public

Condition:  
Poor – obvious decline/ health and/or structural integrity significantly impaired

Useful life expectancy:  
Short – safe useful life expectancy of less than 10 years

- 8.02 The tree is a mature Holm Oak growing in a prominent location. It reaches an estimated height of 10 metres with a crown spread of 10 metres. It exhibits a dense crown with good leaf coverage and is a tree of good aesthetic form. It is therefore considered to make a positive contribution to the character and amenity of the area.

Inspection of the tree revealed that it has a number of significant defects in both the main stem and main scaffold branches:

- The main stem has a large historic vertical wound on the eastern side from ground level to a height of approximately 1.4m with exposed and weathered sapwood. Sounding with a mallet indicates that the exposed wood is a few centimetres thick at best, loose and hollow behind. The base of the wound is an open cavity into which a probe was inserted to full depth with no

resistance. A further large historic wound is present above this, from 1.5m to 1.8m height.

- A further vertical wound is present on the south side of the tree extending from just above ground level to a height of about 1.4m. No exposed wood is visible, but insertion of a probe into the wound was possible to full depth (25cm) with no resistance at several points.
- A large open cavity is present at the main fork / base of one of the main ascending limbs at 2m height. The cavity extends vertically downwards through the centre of the main stem and laterally into the base of the main ascending limb.
- Other smaller wounds are visible on the main stem and on a number of main scaffold limbs in the centre of the crown.

No specialised decay detection has been carried out to determine the exact extent of decay present in the tree. However, the above observations and simple decay detection tests indicate that the centre of the main stem is almost certainly hollow from ground level to the main fork and that the amount of residual wood remaining is less than the minimum ratio that is normally considered acceptable (one-third thickness of the radius), which is weakened further by the open cavities – the one-third ratio assumes that an intact cylinder of sound wood remains. Although Holm Oak is generally better at resisting the spread of decay and tends to retain structurally sound wood for much longer than other species, this tree has now reached a point where it is considered to be at high risk of catastrophic failure due to the main stem hollowing alone.

In addition, the base of one of the main ascending limbs is significantly compromised by the large decay cavity and several other scaffold limbs display decay cavities that could lead to crown breakage in adverse weather.

The tree is therefore considered to represent a current identifiable hazard. Given its location in a public open space adjacent to a highway, there is increased risk of 'target' presence in the event of failure and it is considered that the proposed felling is appropriate arboricultural management.

The felling of the tree will have a detrimental impact on the character and amenity of the area, but this is considered to be outweighed by the public safety considerations. To mitigate the detrimental impact on amenity, it is recommended that a replacement Holm Oak tree is required by condition to replace the lost amenity in the long term and to ensure ongoing tree cover in the area. In addition, it is recommended that cord wood from the tree is not removed from the site but retained in a suitable nearby location for the benefit of wildlife.

## **9.0 CONCLUSION**

- 9.01 The felling of the tree will have a detrimental impact on amenity, but this is outweighed by public safety considerations due to the poor structural condition of the tree. Felling is therefore considered necessary and appropriate management but should be mitigated by the planting of a replacement tree and the retention of cord wood near the site.

## **11.0 RECOMMENDATION – GRANT Subject to the following conditions**

#### CONDITIONS to include

(1) One (1) replacement *Quercus ilex* (Holm Oak) tree shall be planted on or near the land on which the felled tree stood during the planting season (October to February) in which the tree work hereby permitted is substantially completed or, if the work is undertaken outside of this period, the season immediately following, except where an alternative proposal has been submitted to and approved in writing by the local planning authority one month prior to the end of the relevant planting season. The replacement tree shall be of not less than Nursery Standard size (8-10cm girth, 2.75-3m height) or equivalent, conforming to the specification of the current edition of BS 3936, planted in accordance with the current edition of BS 4428 and maintained until securely rooted and able to thrive with minimal intervention;

Reason: To safeguard the amenity and nature conservation value of the tree/s that has/have been removed and to maintain and enhance the character and appearance of the local area

#### INFORMATIVES

(1) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

(2) All cut timber/wood between 15cm and 60cm in diameter, together with any senescent and rotting wood, should be retained and stacked safely on site for the colonisation of saproxylic organisms, except where an alternative proposal has been submitted to and approved in writing by the local planning authority.

Case Officer: Nick Gallavin

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

# Agenda Item 25

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 26<sup>th</sup> November 2020**

### **APPEAL DECISIONS:**

#### **1. MA/19/502470/OUT DESCRIPTION**

Outline application for redevelopment of land to the west of White Heath, including demolition of existing buildings and erection of new 3 storey building to form a care home (Use Class C2) for residents requiring nursing, dementia and residential care, with new access, car parking, landscaped gardens and a separate refuse/recycling facility (Access, Appearance, Layout and Scale being sought). Modified access to White Heath.

**APPEAL:** Dismissed

White Heath, Ashford Road, Hollingbourne ME17 1XG

(Delegated)

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#### **2. MA/19/505684/FULL DESCRIPTION**

Erection of part single, part two storey side and rear extension. (Revised scheme to 19/501914/FULL)

**APPEAL:** Dismissed

31 Cherry Orchard Way, Maidstone, Kent, ME16 8TJ

(Delegated)

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**3. MA/19/505411/FULL DESCRIPTION**

Removal of existing fence and shed. Erection of garage with store. (Resubmission to 19/502524/FULL)

**APPEAL:** Dismissed

Sunflower Cottage, Maidstone Road, Sutton Valence, Maidstone, Kent, ME17 3LS

(Delegated)

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**4. MA/19/505434/OUT DESCRIPTION**

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

**APPEAL:** Allowed Subject to Conditions, Costs Awarded

Teiseside Nurseries, Lees Road, Laddingford, Maidstone, Kent, ME18 6BP

(Delegated)

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**5. MA/19/503771/FULL DESCRIPTION**

Demolition of existing two storey garage/workshop building and erection of new single storey 2no. bed house with associated parking and landscaping.

**APPEAL:** Allowed Subject to Conditions

The Haven, Forge Lane, Boxley, Kent, ME14 3DU

(Delegated)



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**6. MA/20/500428/FULL DESCRIPTION**

Installation of electronic communication apparatus on the public footpath.

**APPEAL:** Dismissed

Adj Metro Bank, junction of Week Street and High Street, Maidstone ME14 1RN

(Delegated)

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**7. MA/20/500430/FULL DESCRIPTION**

Installation of electronic communication apparatus on the public footpath.

**APPEAL:** Allowed Subject to Conditions

Adj Sue Ryder, 96-98 Week Street, Maidstone ME14 1RL

(Delegated)

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**8. MA/20/500439/FULL DESCRIPTION**

Installation of electronic communication apparatus on the public footpath.

**APPEAL:** Dismissed

OS CEX, 84 Week Street, Maidstone ME14 1RJ

(Delegated)

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**9. MA/20/500432/FULL DESCRIPTION**

Installation of electronic communication apparatus on the public footpath.

**APPEAL:** Dismissed

Adj 29 High Street, Maidstone ME14 1JF

(Delegated)

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**10. MA/20/500426/FULL DESCRIPTION**

Installation of electronic communication apparatus on the public footpath.

**APPEAL:** Dismissed

OS Poundland 52-56 Week Street, Maidstone  
ME14 1RR

(Delegated)

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