

## REPORT SUMMARY

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| <b>REFERENCE NO - 13/2079</b>  |  |  |
| <b>APPLICATION PROPOSAL</b><br>Outline planning application with all matters reserved for the demolition of existing structures and erection of up to 80 dwellings with associated works for access, parking, infrastructure, open space and landscaping.  |  |  |
| <b>ADDRESS</b> Land South West Of, Oakapple Lane, Maidstone, Kent  |  |  |
| <b>RECOMMENDATION</b> Amend S106 contributions as set out in report  |  |  |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b><br>The proposed development does not conform with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000. However, the development is in a sustainable location; is identified under policy H1 (3) in the emerging Local Plan as a housing allocation and complies with the criteria set out in the relevant policy; and would not result in significant planning harm. In this context, and given the current shortfall in the required five year housing land supply, the low adverse impacts of the proposal are considered to be outweighed by the benefits of the scheme. As such the development is considered to be in compliance with the National Planning Policy Framework, and this represents sufficient grounds for a departure from the Local Plan. |  |  |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>To seek the agreement of Members of the Planning Committee to amend the S106 contributions being sought.  |  |  |
| <b>WARD</b> Heath Ward   | <b>PARISH/TOWN COUNCIL</b> Not In Borough Area | <b>APPLICANT</b> Mr & Mrs Sunnuck & Mrs Foster-Crouch<br><b>AGENT</b> Dha Planning |
| <b>DECISION DUE DATE</b><br>03/03/14   | <b>PUBLICITY EXPIRY DATE</b><br>03/03/14       | <b>OFFICER SITE VISIT DATE</b><br>Various  |

## MAIN REPORT

### 1.0 BACKGROUND

- 1.01 The current application seeks outline planning permission for the demolition of existing buildings and the erection of up to 80 dwellings and associated works for access, parking, infrastructure, open space and landscaping, with the matter of access to be considered at the current time and all other matters reserved on a site to the north west of Maidstone.
- 1.02 The application was reported to the Planning Committee meeting held on 27<sup>th</sup> November 2014. Members resolved to give the Head of Planning and Development delegated powers to grant planning permission subject to conditions and the prior completion of a S106 legal agreement prior legal agreement in such terms as the Head of the Legal Partnership may advise to secure the following:
- *The provision of 40% percent affordable residential units within the application site; and*
  - *Contribution of £4,000 per 'applicable' house and £1,000 per 'applicable flat' on the assumption that land will be transferred to KCC for a nominal sum for the provision of a Primary School on land to the east of Hermitage Lane.*

*Should this not be the case, an additional £2701.63 per 'applicable' house and £675 per 'applicable' flat ('applicable' meaning all dwellings, excluding 1 bed units of less than 56sqm GIA, and sheltered accommodation) towards the provision of a new primary school in west Maidstone; and*

- Contribution of £106.37 per dwelling to be used to address the demand from the development towards additional bookstock and services at Maidstone library; and*
- Contribution of £47.44 per dwelling to be used to address the demand from the development towards the provision of adult social care facilities within 3 miles of the application site; and*
- Contribution of £30.70 per dwelling to be used to address the demand from the development towards the provision of new/expanded facilities and services both through detailed adult education centres and through outreach community learning facilities within 3 miles of the application site; and*
- Contribution of £8.44 per dwelling to be used to address the demand from the development towards youth services within 2 miles of the application site; and*
- Contribution of £67,392 towards extensions and works to Barming Surgery, Blackthorn Medical Centre, Alyesford Medical Practice and Allington Park Surgery; and*
- Contribution of £400 per dwelling towards offsite highway works for improvement works to the A26/Fountain Lane; and*
- Contribution towards off site highway works to the A20/Coldharbour Lane junctions (to be negotiated); and*
- Contribution of £86 per dwelling towards offsite highway works for improvement works to junction 5 of the M20; and*
- Contribution towards the improvement and maintenance of open space within 1km of the application site, or offset against the complementary enhancement of the unmade section of Oakapple Lane, retaining the features that are integral to its character, to provide a secondary access, used by emergency vehicles, pedestrians and cyclists (to be negotiated).*

- 1.03 The Committee report and urgent updates to the Committee report are attached as Appendix A to this report.

## **2.0 REASON FOR REFERRAL BACK TO PLANNING COMMITTEE**

- 2.01 As Members will be aware, S123 of the CIL Regulations came into force on 6<sup>th</sup> April 2015. Prior to this date, all contributions subject to a S106 agreement were required under the terms of S122 of the CIL Regulations to be tested in respect of being necessary to make the application acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Subsequent to this date, S123 of the CIL Regulations additionally requires all contributions being sought by way of S106 agreements to relate to the funding or provision of an infrastructure project or type of infrastructure, and further that no more than five separate planning obligations can contribute towards the funding or provision of a project or type of infrastructure. As such, the scope of contributions that can be sought in respect of new development is restricted, although affordable housing is excluded from the pooling restriction on contributions.
- 2.02 In the circumstances of this case, the amendment of S123 directly effects and changes the Heads of Terms of the S106 agreement in respect of the quantum of contributions requested in respect of primary education and libraries. Further clarification of the projects to which the monies would contribute has been received in

relation to the contributions sought in respect of primary education, community learning; youth services; parks and open spaces; and health services.

- 2.03 Kent County Council have reassessed their requests in light of S123 of the CIL Regulations, and in particular in relation to the limitation on the pooling of contributions, and as a result they are no longer seeking a contribution towards adult social services or the improvement of the A20/Coldharbour Lane junction. This reassessment has also resulted in a change in the contribution being sought in relation to land acquisition costs for the Hermitage Lane Primary School site from a flat rate of £2,701.63 per applicable house and £675.41 per applicable flat to a sliding scale dependent on the actual price to be paid for the land with the previously stated sums representing maximum rates within the calculation. In addition, the contribution towards library services has been reduced to £48.02 per dwelling, and it has been specified that this will be used to provide additional bookstock at Maidstone library. Kent County Council
- 2.04 Kent County Council have provided further details of the contributions sought towards adult education and youth services, and confirm that these requests satisfy the tests in relation to pooling set out in the CIL Regulations; these contributions therefore remain in place.
- 2.05 The relevant consultees have confirmed that the contributions sought in relation to public healthcare and public open space (which remain unchanged in terms of their quantum, which in the case of public open space is to be finalised under delegated powers as per the original recommendation) will be directed towards the improvement of Barming Medical Centre and Barming Heath respectively, and that these requests fall within the five obligation limitation on pooling.
- 2.06 In addition, as Councillors will be aware, the Ministerial Statement of 25th March 2015 precludes Local Planning Authorities from imposing conditions requiring compliance with technical housing standards in cases where there are no relevant existing policies, and withdrawing the Code for Sustainable Homes from the scope of planning control.
- 2.07 As such, conditions can no longer be imposed on planning permissions seeking compliance with the Code for Sustainable Homes and other technical housing standards, and these matters will henceforth be dealt with under Building Regulations. I therefore propose to delete condition 15.
- 2.08 Kent County Council have requested an additional condition requiring the development to be built to accommodate modern telecommunications technology, and I therefore propose an appropriately worded additional condition.
- 2.09 The Heads of Terms as set out below have been amended in accordance with the changes to the requests, including specific reference to the destination of the contributions, as set out in paragraphs 2.03 – 2.06 above. In addition, the additions and amendments agreed at the Planning Committee at the meeting on 27<sup>th</sup> November 2014 are included, as well as the deletion of the Code for Sustainable Homes condition and re-numbering of subsequent conditions accordingly.

### **3.00 RECOMMENDATION**

- 3.01 The recommendation, as amended by this report and the previous resolution of the Planning Committee, is set out in full below for the purposes of clarity:

SUBJECT TO THE PRIOR COMPLETION OF A LEGAL AGREEMENT, IN SUCH TERMS AS THE HEAD OF THE LEGAL PARTNERSHIP ADVISES, TO PROVIDE THE FOLLOWING:

- *The provision of 40% percent affordable residential units within the application site; and*
- *A contribution of £4,000 per 'applicable' house and £1,000 per 'applicable' flat towards the build cost of phase two of the Hermitage Lane Primary School; and*
- *A contribution of a MAXIMUM of £2,701.63 per 'applicable' house and £675.41 per 'applicable' flat (to be reduced if appropriate in accordance with the actual price paid by Kent County Council for the Hermitage Lane site) towards the land acquisition costs of the Hermitage Lane Primary School; and*
- *Contribution of £48.02 per dwelling to be used to address the demand from the development towards additional bookstock and services at Maidstone library; and*
- *Contribution of £30.70 per dwelling to be used to address the demand from the development towards new IT equipment at the St Faiths Adult Education Centre; and*
- *Contribution of £8.44 per dwelling to be used to address the demand from the development towards equipment and services at Maidstone for youth workers and groups local to the development; and*
- *Contribution of £67,392 towards the improvement (refurbishment and reconfiguration) of healthcare facilities at Barming Medical Practice ; and*
- *Contribution of £400 per dwelling towards offsite highway works for improvement works to the A26/Fountain Lane; and*
- *Contribution of £86 per dwelling towards offsite highway works for improvement works to junction 5 of the M20; and*
- *Contribution of £1,757 per dwelling towards the improvement and maintenance of open space within 1km of the application site, or offset against the complementary enhancement of the unmade section of Oakapple Lane, retaining the features that are integral to its character, to provide a secondary access, used by emergency vehicles, pedestrians and cyclists (to be negotiated by the Head of Planning under delegated powers).*

THE HEAD OF PLANNING AND DEVELOPMENT BE GIVEN DELEGATED POWERS TO GRANT OUTLINE PLANNING PERMISSION SUBJECT TO THE CONDITIONS SET OUT BELOW:

CONDITIONS to include

(1) The development shall not commence until approval of the following reserved matters has been obtained, in writing, from the Local Planning Authority:

A. Layout b. Scale c. Appearance d. Landscaping e. Access

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. Such details shall be based on a masterplan which shall show a density of no more than 25 dwellings per hectare in the southern half of the site.

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: 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 details submitted in pursuance to condition 1 shall not show Oakapple Lane as a primary access which shall only be used for access purposes by pedestrians, cyclists and emergency vehicles;

Reason: In the interest of pedestrian and highway safety and amenity.

(3) The development shall not commence until, written details and samples of the materials to be used in the external surfaces of the buildings 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

(4) The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details before the occupation of the buildings hereby permitted and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development.

(5) The development shall not commence 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. The approved facilities shall be provided before the first occupation of the buildings hereby permitted and maintained thereafter;

Reason: In the interests of amenity.

(6) An Arboricultural Implications Assessment (AIA) and tree protection measures in accordance with the recommendations of BS5837:2012, Trees in relation to design, demolition and construction - recommendations. The AIA shall include a realistic assessment of the probable impact of any proposed development on trees and vice versa, together with details of any tree works that would be necessary to implement the proposal.

Where the AIA identifies a conflict between the proposal and retained trees, details should be provided to demonstrate that the trees can be successfully retained;

Reason: To ensure that the proposed development is satisfactorily integrated with its immediate surroundings and provides for the adequate protection of trees.

(7) No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority a scheme of landscaping, using indigenous species and a programme for the approved scheme's implementation and long term management.

The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

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

(8) 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 buildings or the completion of the development, whichever is the sooner, 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 a similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development.

(9) A landscape and ecological management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development for its permitted use. The landscape and ecological management plan shall include measures to protect and enhance the sylvan and rural character of the north western extent of Oakapple Lane. The landscape management shall be carried out in accordance with the approved plan over the period specified.

Reason: To ensure satisfactory maintenance and management of the landscaped areas.

(10) The development shall not commence until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, and the design of kerb-stones/crossing points which shall be of a wildlife friendly design, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the subsequently approved details;

Reason: To ensure a high quality external appearance to the development.

(11) The development shall not commence until details of any lighting to be placed or erected within the site have been submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall include, inter alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details;

Reason: To prevent light pollution in the interests of the character and amenity of the area.

(12) The development shall not commence until details of foul and surface water drainage have been submitted to and approved, in writing, by the Local Planning Authority in consultation with Southern Water. The submitted details shall incorporate, inter alia, wildlife friendly drainage gullies and design features. The approved details and off site works shall be implemented in full prior to the first occupation of the development;

Reason: In the interests of pollution and flood prevention.

(13) If, during the development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The implementation strategy shall be implemented as approved;

Reason: To protect vulnerable groundwater resources.

(14) Development shall not begin until a sustainable surface water drainage scheme for the site has been submitted to and approved, in writing by, the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year critical storm (including an allowance for climate change) will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding both on and off site.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed;

Reason: To prevent flooding by ensuring satisfactory storage of/disposal of surface water from the site.

(15) No development shall take place until the applicant has secured and had implemented a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved, in writing, by the Local Planning Authority;

Reason: To ensure that features of archaeological interest are properly examined and recorded.

(16) The commitments explicitly stated in the Sustainable Travel Plan (included in the Transport Statement) shall be binding on the applicants or their successors in title. The measures shall be implemented upon the first residential occupation of the development hereby permitted and shall be permanently kept in place unless otherwise agreed in writing with the Local Planning Authority. Upon written request, the applicant or their successors in title shall provide the Local Planning Authority with written details of how the measures contained in the Sustainable Travel Plan are being undertaken at any given time;

Reason: To reduce reliance on the use of private cars, in the interests of sustainability, highway safety and amenity.

(17) No development shall commence until the developer has developed a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The report shall be submitted to and approved, in writing by, the Local Planning Authority;

Reason: In the interests of amenity.

(18) No development shall take place until details of the proposed dormice mitigation has been submitted to, and approved in writing by, the Local Planning Authority. Mitigation will be carried out in accordance with the approved details, and include utilisation of planting and other landscape features within the proposed open space to deter access by cats and other domestic pets into the ancient woodland.

Reason: To ensure that adequate mitigation for dormice is provided on site.

(19) If the development hereby approved does not commence (or having commenced, is suspended for more than 12 months) within 2 years from the date of the planning consent, the approved ecological measures secured shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable;

Reason: In the interests of biodiversity protection.

(20) No development shall take place until a scheme for the incorporation of bird nesting boxes and swift bricks has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as agreed prior to the first occupation of the residential units hereby permitted and thereafter permanently retained;

Reason: In the interests of supporting and promoting the biodiversity interests of the site.

(21) The development shall be designed taking into account the Noise and Vibration Assessment carried out by Grant Acoustics, dated October 2013, and shall fulfil the recommendations specified in the report;

Reason: In the interests of residential amenity.

(22) No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority a scheme to show how the Oakapple Lane emergency access will be restricted to emergency vehicles only and cyclist/pedestrians. The approved details shall be implemented in full prior to the first occupation of the development;

Reason: To ensure a satisfactory appearance to the development.

(23) The development shall be carried out to allow for the provision of the installation of fixed telecommunication infrastructure (including high speed fibre optic [minimum speed of 100mb] connections) to all dwellings hereby permitted;

Reason: to prevent visual harm and allow delivery of high quality communications networks within communities.

## INFORMATIVES

(1) The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21, 2SW (0330 3030119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

(2) Attention is drawn to Sections 60 and 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 and you are advise to contact the Environmental Health Manager regarding noise requirements.

(3) The Council wishes to see no burning on site.



- (4) Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 and 1900 hours Monday to Fridays and between 0800 and 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.
- (5) Vehicles may only arrive, depart, be loaded or unloaded within the general site between 0800 and 1900 hours Monday to Fridays and between 0800 and 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.
- (6) Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.
- (7) The applicant should have regard to the Environmental Services guidance document "Planning Regulations for Waste Collections" which can be obtained by contacting Environmental Services. This should ensure that the facilities for the storage and disposal of waste and recycling generated by this development, as well as the site access design and arrangements for waste collection are adequate.
- (8) Recommend 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.
- (9) All nesting birds are legally protected under the Wildlife and Countryside Act 1981 (as amended), as we recommend that all suitable habitat is removed outside of the breeding bird season (March - August inclusive). If that is not possible there is a need for an ecologist to examine the site prior to works starting and if any breeding birds are recorded all works in that area must cease until all the young have fledged.
- (10) The granting of planning permission confers on the developer no other permission or consent or rights to close or divert any Public Right of Way at any time without the express permission of the Highway Authority.
- (11) The developer should provide evidence that the development conforms with Approved Document E Building Regulations 2003 "Resistance to the Passage of sound to the Local Planning Authority.
- (12) The developer should have regard to the DEFRA guidance from the document Low Emissions Strategy - using the planning system to reduce transport emissions January 2010.
- (13) The Bat Conservation Trusts Bats and Lighting in the UK guidance is adhered to in the lighting design.
- (14) There is likely to be a need for a European Protected Species Mitigation Licence in relation to the potential presence of dormice within the application site.
- (15) Under the terms of the Flood & Water Management Act 2010, each Lead Local Flood Authority will set up a Sustainable Drainage Advisory Board (SAB). Kent County Council (KCC) has been identified as the lead Flood Local Authority for this area and will be responsible for approval of surface water drainage infrastructure for new development. SAB approval will be required in addition to planning consent. We therefore recommend the applicant makes contact with the SAB at KCC to discuss details of the proposed surface drainage infrastructure. Enquiries should be made to Kent County Council via email at [suds@kent.gov.uk](mailto:suds@kent.gov.uk).

(16) The applicant is advised to ensure that parking space is provided within the site for all vehicles associated with the construction of the development including operatives and delivery vehicles.

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Case Officer: Catherine Slade

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.