

REPORT SUMMARY

REFERENCE NO - 14/503957/FULL		
APPLICATION PROPOSAL Application for permanent change of use to a free school (Class D1)		
ADDRESS Gatland House Gatland Lane Maidstone Kent ME16 8PF		
RECOMMENDATION – APPROVE SUBJECT TO CONDITION LIMITING SIZE OF SCHOOL TO 240 PUPILS UNTIL JULY 2022 AND 210 PUPILS FROM SEPTEMBER 2022 (EQUIVALENT OF 1 FORM ENTRY WITH INTAKE OF 30 PUPILS PER YEAR, BUT ALSO ALLOWING THE CURRENT 2015-5016 YEAR R TO PROGRESS THROUGH THE SCHOOL)		
SUMMARY OF REASONS FOR RECOMMENDATION		
<input type="checkbox"/> The proposal will increase the choice of schools to meet the needs of the community and will provide much needed additional year R places.		
<input type="checkbox"/> The provision of new free school buildings is supported by the NPPF.		
<input type="checkbox"/> Development supports the provision of new and expanded schools and the NPPF advises local authorities to use their planning powers to support schools applications.		
<input type="checkbox"/> The proposal will not result in negative local impacts which substantially outweigh the desirability of establishing a new school as outlined in this assessment of the planning proposal.		
<input type="checkbox"/> The Development Plan supports the provision of new and expanded schools.		
<input type="checkbox"/> There are no significant arboricultural or ecological issues with this case. There are no significant highways issues and the development is too far removed from neighbouring residential properties to significantly affect neighbours' amenity.		
REASON FOR REFERRAL TO COMMITTEE		
<p>The application was deferred at Committee on 19th March 2015. There were three reasons for deferral:</p> <ol style="list-style-type: none"> 1) Safety Issues relating to the collection and drop-off of children in a narrow lane (at busy periods) and highway issues caused by an increase in vehicle movements as a result of the wider catchment area for this type of School. Further information is required to satisfy Members that this would be safe. 2) The extent of the properly managed play areas within the boundaries of the site, taking account of the size standard and separation of Key Stages 1 & 2. 3) Whether there is a need for this development – the area is not understood to have been identified as having a need for infant/primary school facilities. 		
WARD Fant Ward	PARISH/TOWN COUNCIL	APPLICANT Education Funding Agency AGENT Emily Cochrane
DECISION DUE DATE 07/11/14	PUBLICITY EXPIRY DATE 07/11/14	OFFICER SITE VISIT DATE Various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining		

sites) are set out in original committee report attached as appendix one to this report.

MAIN REPORT

1.0 REASONS FOR DEFERRAL

- 1.1 The application seeks permission for the permanent change of the use of the site for educational purposes. The school was opened in September 2014 as the Jubilee Free School. All the details of the proposal are contained in the original Committee report of 19th March, which is attached in appendix one to this report. The main assessment for the proposal remains as set out in the original committee report. The remainder of this report sets out the additional information required to address the reasons for deferral.
- 1.2 The agents, Jones Lang LaSalle, provided further information to address the reasons for deferral in a letter dated 12th May, 2015. A copy of the letter and amended plan are enclosed in appendix two. A picking up and dropping off point was proposed to be provided in front of the School. After further negotiations and the submission of a revised plan on 19th October 2015, it is intended that this dropping off point be used only for school minibuses, taxis and emergency use.
- 1.3 The School, as set out in the supporting information, was intending to operate as a 2 Form Entry (2FE) primary school, admitting 60 pupils into two reception year classes each comprising no more than 30 pupils. It was proposed that the school would expand by 60 pupils per year until reaching full capacity of 420 pupils in September 2020.
- 1.4 Continuing negotiations have been carried out with the applicants and the Local Education Authority. The applicants have agreed to a condition to limit the total capacity to 240 pupils (which is the equivalent of a 1 Form Entry school (1FE) admitting 30 pupils per year, until reaching a total capacity of 240 pupils). The condition will specifically limit the annual intake of pupil numbers to a total of 30 per year, which is the equivalent of a one form entry. A restriction to limit the school to a 1FE or 2FE is not recommended as it is up to the school to decide how large the classes are in each year group. For example, it would achieve little to limit the school to a 1 form entry, as the school could decide to have two forms in each year but with each class only having a maximum of 15 pupils.
- 1.5 The description for the proposal on the application form is for a permanent change of use to a free school (Class D1). The description does not refer to overall pupil numbers or whether it is to be one form or two form entry. As a result, a restriction on pupil numbers would not require a change in the description of the proposal and would not alter the use contemplated by the applicant.
- 1.6 It will be requested via condition that the school make it clear to all new parents that there is a limit on pupil numbers at the school. Although it is up to the school to decide whether to have one class or two classes in each year, it will not be acceptable for them to exceed the pupil limit by allowing too many pupils to enter the school in the next few years and not allowing for them to either continue their education at the school until the end of Year 6 or by not providing provision for them elsewhere. The Council cannot grant permission for a school that does not have sufficient space to allow all pupils in each year group to continue through the school, or where no further information has been provided as to how this issue would be addressed once the school reached capacity. This is why a restriction is recommended on pupil intake in each new year group. The school is aware of the

pupil limit and will be entirely responsible for ensuring that it accords with the imposed limit on pupil numbers and will be responsible for the consequences of any breach in this condition and the subsequent impact that it will have on any children attending the school.

- 1.7 It has been discussed in detail with the applicants that officers do not consider the site capable of accommodating pupil numbers in excess of 240 pupils (or the equivalent of a 1 form entry of 30 pupils per year, plus an additional 30 pupils to accommodate the current 2015 Year R intake of 60 pupils), as various necessary information is lacking. No application for an extension has been submitted to provide for a larger pupil number of 420 (or a 2 Form Entry equivalent) and it is also unclear whether there would be sufficient outdoor playspace if an extension was built on the site. As no plans have been provided for the design and layout of any extension that would enable the school to cater for 420 pupils (or 2FE equivalent), it is impossible to determine whether such an extension would also be acceptable in terms of impact on the character and appearance of the surrounding area.

2.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) March 2012
National Planning Practice Guidance (NPPG)
Development Plan: Maidstone Borough Wide Local Plan 2000, Policies CF2 and CF3
Supplementary Planning Documents: Maidstone Borough Local Plan Regulation 18 Consultation 2014
Communities and Local Government, Policy Statement – Planning for Schools Development. August 2011.
Department for Education, Advice on Standards for School Premises, March 2015.
Department of Education, Area Guidelines for Mainstream Schools, Building Bulletin 103. June 2014.
Department for Communities and Local Government. Plain English Guide to Planning for Free Schools. January 2015.

3.0 LOCAL REPRESENTATIONS

- 3.1 Further letters both in support and objecting to the proposal have been received (8 objections and 1 in support). A further objection has been submitted by a local resident, which included a Barrister's opinion. The main issues raised are set out below:
- The Council should decide whether a free school use of the existing buildings would be acceptable.
 - No mention is made of needing or seeking planning permission for a significant new building on the site.
 - The school aspires to a two form entry and to permit the current application would put the Council under intolerable pressure to permit an extension to enable the School to continue to admit pupils into year 5.
 - To impose a condition limiting pupil numbers would fundamentally change the use contemplated by the applicant.
 - The outcome of the application for an extension must not be a foregone conclusion.
 - The extension is likely to lead to a reduction in the existing car park and KCC rely on the full extent of the existing car park to satisfy its parking standards.
 - The present application is for only part of the overall development being planned and is essentially meaningless on its own. By making a piecemeal

application, an attempt is being made to deprive the Council of the opportunity to assess the full impact of the relevant development at the outset. It is not appropriate to assess the overall development in the staged fashion suggested by officers.

- The Council should be informed about the nature and implications of the overall development in order to assess properly whether the first part of it should be permitted. Even if the Council cannot insist that the present application should include proposals for the extension, the accumulation of the present proposal with the rest of the development is a material planning consideration which is wholly overlooked in the report.
- The problem would not exist if the applicant were to abandon its aspiration for an extension.
- There is no information about the parking demand generated by the mental health use of the building. There is no survey of existing highway conditions. There have been no traffic counts at junctions. The only statistical data presented is the prediction of traffic attracted to the site, a straightforward matter of applying a factor to the number of pupils. It is concluded that 137 parking spaces will be needed in the morning peak and again in the afternoon peak.
- The effects of the highway mitigation measures would be to merely displace parking pressure to other locations, possibly other junctions. The conclusion that the proposal will not have a significant effect on residential amenity is unjustified.
- A new school would normally require a car park of sufficient size to allow picking up and dropping off to be undertaken off the highway. This would rule out a one form entry size. KCC state that they cannot insist on this as these restrictions apply to new schools only. But taking advantage of permitted development right should not affect the consideration of an application for permanent planning permission and should certainly not create a factor in favour of a permanent planning permission.
- The physical implications for highway safety of a free school operating without adequate provision for dropping off/picking up are exactly the same (and just as harmful) as the implications of any other kind of school operating in this way.
- KCC stated at the March committee that the traffic attracted to a 1 FE school would be on the highway network in any event. This is irrelevant, the issue is whether that traffic can be acceptably attracted to this location.
- KCC consultation response contains no quantified assessment of existing conditions, no quantified assessment of the impact of any proposal without mitigation and no quantified assessment of the reduction expected from mitigation measures. KCC do not explain why highway conditions with mitigation would be acceptable, but highway conditions without mitigation would not.
- NPPF does strongly encourage the grant of planning permission for new schools, but there is nothing to suggest that development which produces unacceptable highway impacts should be permitted – or that normal rules about material considerations and the proper assessment of applications do not apply.

3.2 The Save Fant Farm Community Group has also commented on the agent's (JLL's) letter and plan dated 12th May. They responded on 15th July and stated as follows:

- This is not a catchment school and pupils travel from further afield;

- Assumptions are made as to the method of transport, which are not considered to be true;
- Very few parents walk their children to school, but park along Gatland Lane twice a day;
- The references to the frequency of accidents are queried;
- Gatland Lane and surrounding roads are totally incapable of absorbing the number of vehicles involved in this proposed use;
- The traffic will still be there, despite tinkering with minor matters such as traffic patrol;
- Meagre amount of play space provided per child;
- Site is only 1 acre and out of this they expect to provide for an extension to accommodate the full allocation of 420 pupils, a playground and recreational area and parking for staff. This will exceed the amount of space that the school has by some 500 sq.m.;
- 'Bower Grove/Jubilee Primary School' agreement for use of playing field is on the basis that Jubilee can only use its playing fields if Bower Grove is not using them. This haphazard provision is no basis for the planning of outdoor activities and thus must be considered of little or no benefit and thus the site exists inadequate for its purpose;
- The Group maintain their objections and consider that this building in this location is not suitable for a school.

4.0 CONSULTATIONS

Highways

- 4.1 The Development Planner from Kent County Council's Highways and Transportation Department provided further comments on the proposal on 24th July. It is stated that *"the assertion that more traffic equals more danger is not a given rule. It is more often the case that the reverse is true. Low traffic volumes are conducive to higher traffic speeds and the most widespread and an every day form of traffic calming is in fact traffic itself"*.
- 4.2 The Highways Officer comments go onto state that *"studies of crash records outside schools have repeatedly shown that road safety concerns and fears are often unfounded in terms of resulting injury crashes"*. The Highways Officer states that he is *"confident that the issue here could not be an assertion that this proposal will create a discernible severe road safety hazard"*.
- 4.3 It is stated that the *"issue is rather one of delays, congestion and inconvenience and in this regard the periods and times of the day that congestion will occur, needs to be considered. It is usually helpful that the end of a school day does not coincide or clash with the traditional evening or rush hour peak period and I do not consider that in this case from the school times proposed that this will be any different. Nearly all school start and finish drop off and pick up periods effectively occur over a half hour period and again in this case it is not considered that this will be materially unusual"*.
- 4.4 The Highways Officer states that *"my conclusion is that this proposal will create additional delays, congestion and inconvenience for a limited period of time at the start and end of the school day. Subject to the implementation of the traditional school zone traffic management measures required in my response of 7th November 2014, I do not consider however that this will create a discernible road safety impact or that a severe impact reason for refusal could be successfully sustained at an appeal in the context of current government policies"*.

- 4.5 The Highways Officer goes onto state that *“as indicated at the beginning of my response of 7th November, my only doubt and uncertainty is whether this proposal can be defined as a new school in the context of it already existing under a temporary permission. The County Council’s car parking standards (July 2006) require under note 3 for land use class D1, that for new schools ‘appropriate provisions should be made for the setting down and picking up of children in a safe environment in a manner that does not unduly interfere with the operation and use of the public highway. Exact details should be agreed with the Local Planning Authority’. In this regard the application fails. The LPA may wish to review government policies regarding free schools and consider whether technically this application is deemed to be for a new school”*.

Parks and Leisure

- 4.6 The Parks and Leisure Manager has confirmed that the school has not been granted permission for Gatland Park to be used as playing fields or formal play space by the school. For use for PE lessons and as a playing field, the area would have to be fenced off, which would restrict public access and so this would not be acceptable. However, many schools do visit Parks for trips and lessons on habitats etc. On this basis, the school has as much right as any other school or member of the public to visit Gatland Park. Given the agreement to use the playing fields at Bower Grove, the need to use the playing fields at Gatland Park should not exist.
- 4.7 A briefing note was prepared by Parks and Leisure on 22nd April 2015 to Committee. This Gatland Park Motion stated that:

“Gatland Lane playing field is located in Fant Ward. It is approximately 3.2 Hectares in size has a play area and has three football pitches. This playing field is used mostly by local residents and is a very popular and important open space. The council has not agreed or made any arrangement for Jubilee Free School, or any other organisation, to use the open space for anything other than informal recreation. The playing field is publicly accessible, with the only exception to this being football teams who book the football pitches for matches at the weekend during the football season.

Gatland Lane playing field like many other council parks and spaces across the borough are used informally by local schools and this is viewed positively by the council.

Maidstone Borough Council will continue to provide and maintain Gatland Lane playing field as a public open space and will not be restricting access to the local community.”

5.0 APPRAISAL

- 5.1 The key issues are:

- Principle of the Development.
- Safety issues relating to the collection and drop-off of children in a narrow lane (at busy periods) and highway issues caused by an increase in vehicle movements as a result of the wider catchment area for this type of school.
- The extent of the properly managed play areas within the boundaries of the site, taking account of the size standard and separation of Key Stages 1 & 2.

- Whether there is a need for this development – the area is not understood to have been identified as having a need for infant/primary school facilities.

Principle of Development

- 5.2 I have re-assessed the principle of the development as there are a number of documents produced by the Department for Communities and Local Government and also the Department of Education, which place a great importance on the provision of free schools. The Council needs to be fully aware of the strength of the advice in these documents before proceeding to any decision.
- 5.3 The National Planning Policy Framework states in paragraph 72 that *“the government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted”*.
- 5.4 The Communities and Local Government Policy Statement on Planning for Schools Development (Aug 2011) is an earlier document, which sets out the Government’s Commitment to support the development of state-funded schools and their delivery through the planning system. The policy statement advises that *“it is the Government’s view that the creation and development of state-funded schools is strongly in the national interest and that planning decision makers can and should support that objective, in a manner consistent with their statutory obligations”*. It encourages collaborative working, which *“would help to ensure that the answer to proposals for the development of state-funded schools should be, wherever possible, “yes”*”. It states that *“the Government believes that the planning system should operate in a positive manner when dealing with proposals for the creation, expansion and alteration of state-funded schools, and the following policies should apply with immediate effect:*
- ***There should be a presumption in favour of the development of state funded schools, as expressed in the National Planning Policy Framework.***
 - ***Local authorities should give full and thorough consideration to the importance of enabling the development of state-funded schools in their planning decisions. The Secretary of State will attach significant weight to the need to establish and develop state-funded schools when determining applications and appeals that come before him for decision.***
 - ***Local authorities should make full use of their planning powers to support state-funded schools applications. ...***
 - ***A refusal of any application for a state-funded school, or the imposition of conditions, will have to be clearly justified by the local planning authority. Given the strong policy support for improving state education, the Secretary of State will be minded to consider such a refusal or imposition of conditions to be unreasonable conduct, unless it is supported by clear and cogent evidence.”***
- 5.5 The Plain English Guide to Planning for Free Schools, produced by the Department for Communities and Local Government in January 2015, reinforces and strengthens

earlier advice. It sets out in paragraph 2 that *“the Government is committed to ensuring there is sufficient provision to meet growing demand for state-funded school places, increasing choice and opportunity in state funded education, and raising educational standards. Free schools have an important part to play in delivering this challenge.”*

- 5.6 In paragraph 18, the Guide states that *“the National Planning Policy Framework places emphasis on the need for local planning authorities to approach decision-taking in a positive way to support the delivery of sustainable development. The Policy Statement supports this by making clear that there should be a presumption in favour of schools. It is expected that any refusal of planning permission for a free school should be clearly and robustly evidenced”*.
- 5.7 In conclusion, it has to be considered that on the issue of the principle of the development, there is a very strong presumption in favour of the development of this free school. A thorough and robust assessment will need to be carried out on whether the remaining issues of safety and highways, play areas and need for the development raise any concerns that are strong enough to outweigh the strong weight to be attached to the development of free schools.
- 5.8 The Highways Officer queried whether this application is deemed to be for a new school. Although the school is already in existence, there is little advice from the government on whether applications for free schools should be assessed as a new school or an existing school. It can only be assessed in relation to the above guidance, which places a strong emphasis on the development of free schools and that decision-taking should make a presumption in favour of free schools. On this basis, it is considered that the government would expect some flexibility to be applied to the assessment of the proposal and standards not applied too rigidly.

Safety and Highway Issues

Safe Collection and Drop-Off of Children

- 5.9 One of the reasons for deferral at the last committee was the safety issues relating to the collection and drop-off of children in a narrow lane (at busy periods). The report from Jones Lang Lasalle, dated 12th May 2015, addresses this issue of road safety. It is noted that Gatland Lane already has traffic calming and mitigation measures are proposed, including physical works to the Highway. It is stated that these measures will address any residual risk in relation to accidents occurring as a result of the School.
- 5.10 The mitigation measures include timetabling measures to reduce the risk of accidents by reducing the number of vehicles approaching the school for drop-off and collection at any one time. The school is proposing to run a breakfast club, after school club and activity clubs that will reduce the numbers of children being dropped off and collected at the same time each day. Most schools find that their breakfast clubs and after school clubs are extremely popular with parents and are well used. A condition would be imposed to ensure that the breakfast club should only be for children attending the school so that no additional journeys are generated as a result of children from other schools attending.
- 5.11 A School Travel Plan will be requested via planning condition. Measures such as walking bus, school crossing patrol and encouragement within the school on teaching about sustainable travel will, amongst others, assist in ensuring that as many journeys to school as possible are not by car. An Active Access Management

Strategy will be required as part of the Travel Plan to ensure that staff will be involved in managing drop-off and collection activity at the school accesses. The proposed drop-off/pick up point will also be the subject of a planning condition. This will be for use by school vehicles, taxis and emergency vehicles only and not for use by parents. This is consistent with how most of the school's in the surrounding area operate, as few have dropping off points within the school grounds.

- 5.12 The suggested engineering measures will be secured via the S278 agreement, which will include corner protection car parking restrictions, school clearway markings, dropped kerbs for crossing movements, minor widening to the access junction on the eastern corner of Gatland Recreation Ground and school warning signage, including flashing beacons. Other mitigation measures include a school crossing patrol (as mentioned above), provision of cycle parking to encourage sustainable travel and an additional pedestrian access on the north western area of the site to allow picking up from Gatland Recreation ground and to integrate the site with its surroundings.
- 5.13 Overall, there are many schools in the Borough located in residential areas where children are dropped off and picked up safely. Gatland Lane is not considered to raise any unexpected dangers that cannot be controlled via the use of planning conditions and the proposed engineering measures. Kent Highways have not raised an objection based on safety issues or stated that any part of the proposal could put children at risk during drop off and collection times. Indeed, the Highway Engineer concluded in his latest comments that he is *“confident that the issue here could not be an assertion that this proposal will create a discernible severe road safety hazard”*. This combined with the weight in favour of allowing proposals for Free Schools leads me to consider that the proposal is acceptable on this ground.

Potential Increase in Vehicle Movements

- 5.14 The second highway issue was concern over an increase in vehicle movements as a result of the wider catchment area for this type of School. Clearly, there will be a marked increase in traffic generation in the area during drop-off and collection times. It needs to be assessed whether the level of traffic generation is acceptable given the location of the site within a residential area. In terms of trip generation, the applicant's have submitted with their letter of 12th May a Technical Note from Robert West which concludes that 137 vehicle trips will be generated, assuming shared trips with siblings. This assessment has been calculated by comparing the proposal to other 2FE schools and also other Faith Schools with a larger catchment area. Therefore, the applicant's contend that their original report provides a robust assessment and an accurate projection of trip generation.
- 5.15 There will be a potential peak demand of 138 short term parking spaces for a school with 420 pupils (the equivalent of a 2FE school), associated with drop-off and collection. However, as set out in the previous section relating to Highway Safety, a combination of timetabling measures such as breakfast and after school clubs, School Travel Plan and cycle parking should all assist in reducing peak demand. There will be disturbance to residential properties in the area due to an increase in traffic generation, but this will be limited to drop-off and collection times only. Many schools, in order that they can serve the local community, are located in residential areas and disturbance is caused. The important issue is to ensure that the amount of disturbance is limited to an acceptable level and that as much as possible is done to limit and manage traffic generation at peak times.
- 5.16 The limitation of the school to 240 pupils (the equivalent of a 1FE) will further reduce the total amount of vehicle movements on the surrounding area and reduce the

amount of parking in the surrounding streets. As Kent Highways did not object to a pupil number of 420 (equivalent of a 2FE proposal), clearly this smaller scale of 240 pupils (1FE equivalent) will be more acceptable on highway grounds and in terms of impacts on residential properties. Indeed, the Highways Officer concludes in his additional comments of July 2015 that *“this proposal will create additional delays, congestion and inconvenience for a limited period of time at the start and end of the school day. Subject to the implementation of the traditional school zone traffic management measures required in my response of 7th November 2014, I do not consider however that this will create a discernible road safety impact or that a severe impact reason for refusal could be successfully sustained at an appeal in the context of current government policies”*.

- 5.17 The nearest school to Jubilee is Bower Grove in the adjacent Fant Lane, which is a school that caters for special needs. There are many differences in the operation of the two schools, which will reduce the number of pupils leaving school at the same time. Although the two schools have the same start times of 8.55am, doors open at Jubilee from 8.40am and it also has a breakfast club which opens at 7.40am. Jubilee finishes at 3pm and Bower Grove finishes at 3.10pm. Jubilee has an after school club and various activity clubs that finish at 4pm. Bower Grove runs minibuses for many of its pupils, as does Jubilee for pupils attending its after school club. Bower Grove also finishes early at 2pm on a Wednesday and Youth Clubs that finish at 4.45pm on Mondays and Tuesdays. These numerous differences between the schools further staggers the collection times and reduces the peak traffic flows that could be expected with the proposal.
- 5.18 Details were requested from the agents on the catchment area for pupils at the school. This was provided in plan format and most of the pupils are located on the western side of Maidstone and there are none outside of the Borough. Out of the pupils located to the east of the A229, most of these are existing (year 1) pupils. The intake for year R in September 2015 is more concentrated around the Jubilee school than the previous year R intake. Many of the schools in the immediate vicinity are either at capacity or only have a few spaces, certainly not sufficient to provide for the level of demand. A good proportion of the pupils would be able to walk to school, being based along the Tonbridge Road and Fant area. Those pupils nearer the far eastern end of Fant and in the town centre would be likely to be travelling via bus or car journeys whatever school they attended, as the nearest school in that area is St. Michaels, which is a very popular school that normally has no spare capacity. As such, it is considered that Jubilee school would not generate any more car journeys than any other school with a similar pupil number. All schools normally promote sustainable travel, with pupils encouraged to walk to school, if not all of the way, then at least some of the way by parking further away.
- 5.19 It is noted that the application would fail in relation to car parking standards for new schools, where dropping off and picking up is done in a manner that does not interfere with the operation of the Highway. However, the advice on whether a Free School is regarded as an existing or new school is unclear. What is very clear is the Government’s advice that there is a clear presumption in favour of schools, a clear need for the additional school places and that any refusal of planning permission for a free school should be clearly and robustly evidenced. As there are a number of school’s in the area that are safely operating without off-road drop-off and pick up points, it is considered that the proposal could not reasonable be refused on this ground. The implementation of the traditional school zone traffic management measures are considered to address the issue of road safety and to my mind there is no reason for refusal on this ground that could successfully be sustained at appeal as set out in paragraph 5.16.

Play Areas

- 5.20 The second reason for deferral at the last committee was the extent of the properly managed play areas within the boundaries of the site, taking account of the size standard and separation of Key Stages 1 & 2. There are several relevant documents that provide guidance on this issue. The most recent document entitled Advice on Standards for School Premises, produced by the Department of Education in March 2015, sets out that outdoor space is needed for PE, which includes the provision of games and also for pupils to play outside. There are two types of outdoor space used for PE, sports pitches (such as grass and/or all weather) used for team games such as football, hockey and cricket and hard surfaced games courts (such as MUGA's) used for netball, tennis etc. Outdoor space is also needed for informal play and socialising, which is usually both hard and soft surfaced.
- 5.21 Page 14 deals with the issue of outdoor space in terms of on-site and off-site provision. It advises that *"Schools often need to maximise the use of their sites in order to provide the variety of spaces needed. Advice on the sizes of spaces can be found in the 'Area Guidelines for Mainstream Schools' in Building Bulletin 103".* It also states that *"some schools will be on restricted sites and will not have enough outdoor space to meet requirements. In these situations, pupils will need to be provided with access to suitable off-site provision".*
- 5.22 Department of Education published its 'Area Guidelines for Mainstream Schools, Building Bulletin 103' in June 2014. It states on page 36 that *"some schools will be on restricted sites and will not have enough outdoor space to meet requirements on site. In these situations pupils will need to be provided with access to suitable off-site provision. On restricted sites, where space will be at a premium, a flexible approach to the site area and the management of the use of that area will be needed, and consideration should be given to providing the following, in priority order:*
- *Firstly, space for hard informal and social area including outdoor play area immediately accessible from nursery and reception classrooms;*
 - *Then hard outdoor PE space, to allow some PE or team games to be played without going off site, ideally in the form of a multi-use games area that can also be used as hard informal and social area;*
 - *Then soft informal and social area for wider range of outdoor educational opportunities and social space;*
 - *Finally some soft outdoor PE can be provided. If this is in the form of an all weather pitch, it can count twice towards the recommended minimum."*
- 5.23 The bottom graph of Figure 20 of the BB103 sets out the recommended minimum areas and related formulae. The outdoor space for the school has been provided in the priority order suggested by BB103. It provides a total area of 2312 sq.m. of outdoor space, which is just above the minimum requirement for 210 pupils of 2160 sq.m. and would be acceptable for 240 pupils (or the equivalent of a 1FE school). It includes hard informal and social area, hard outdoor PE and soft informal and social area. It is considered that there would be sufficient space for properly managed play areas within the site and that key stages 1 and 2 could be kept separated. The provision of soft outdoor PE has been provided through an arrangement with the nearby Bower Grove School, which accords with the flexible approach to site area and management recommended by BB103.

- 5.24 I have a strong concern that part of the soft informal and social area will be lost if the school requires an extension to be able to operate as a larger 420 pupil school (or the equivalent of a 2FE school). At this stage, it is impossible to effectively assess this issue as an extension does not form part of this proposal. The school would be 800 sq.m. below the minimum recommended standards for a 2FE School with 420 pupils for the provision of the hard informal area, hard outdoor PE space and soft informal, even before the area proposed for the extension is removed. Therefore, at this stage, it is impossible to conclude whether this would provide sufficient play space or allow key stages 1 and 2 to be separated during playtimes, especially with increased pupil numbers.
- 5.25 Even allowing for a flexible approach as recommended in the various guidelines for Free Schools, to my mind it would not be acceptable to allow a 420 pupil or 2FE school to operate if the children could not have access to a suitable area of outdoor space, with the key stage 1 and 2 year groups separated. It is accepted that the presumption in favour of free schools and the advice to allow flexibility in terms of outdoor space provision can allow for the children to go off-site for soft outdoor PE activities, including games on grass on all weather pitches. However, it is not reasonable for the site to have insufficient space for outdoor play during lunch and play times. On this basis, I consider that it is unacceptable to grant planning permission for a school with 420 pupils (or the equivalent of a 2FE school). At this stage, it can only be demonstrated that there is sufficient space for a maximum of 240 pupils (1FE equivalent).
- 5.26 I would also query the double counting of the MUGA in JLL's letter dated 12th May and I have not included this in my calculations. It is all weather pitches contributing towards soft outdoor PE space that can be double counted as part of the BB103 guidelines. MUGA pitches contribute towards Hard Outdoor PE areas and the guidelines do not suggest that this can be double counted. On such a tightly constrained site, it is in the best interests of the children to ensure that they at least have sufficient outdoor space for play at break times and lunch times.

Need for Development

- 5.27 The third reason for deferral relates to the need for infant/primary school facilities in area. There is a demonstrated need for infant/primary school places in the area. As set out by Jones Lang Lasalle, the Maidstone West Primary area will have a growing need for reception year places over the next three years, with a shortfall of 32 spaces in 2017/18 and 22 spaces in 2018/19. Therefore, at the current time, it is considered that the provision of a school for 240 pupils (equivalent to a 1FE entry) is sufficient to meet the demand in the primary planning area.
- 5.28 There is clearly a strong presumption in favour of the development of free schools, which the Council must bear in mind when determining the application. However, careful consideration must be made of all relevant issues, including highway issues, impact upon residential amenity, the extent of play area provision within the site and the need for the development. The current application is only seeking the change of use of the planning unit, however, at the current time, it is considered that the proposal is only acceptable on the basis of a school for 240 pupils (which is the equivalent of a standard 1FE school). The classification of the school as either a 1FE or 2FE is not strictly relevant as they have the freedom to split class sizes into whatever size is deemed appropriate. As a result, the LPA is seeking to control the size of the school by total pupil numbers and not by its classification as either a 1FE or 2FE School.

- 5.29 A review has also been undertaken on the current Ofsted rating of the nearest surrounding schools. In 2012 to 2013, St. Francis, Barming and Archbishop Courtenay were all classified as 'inadequate' and placed into special measures. Therefore, when Jubilee School was being set up and parents were making their choices for the 2014 intake, many of the local schools had poor Ofsted ratings. Jubilee met the demand for infant spaces and provided an alternative choice for parents seeking to ensure a good standard of education for their children.
- 5.30 At the current time, Archbishop Courtenay has now been taken out of special measures and Barming is working towards this with its Action Plans approved, although both have yet to achieve a new rating. West Borough School is currently classified as 'requires improvement'. St. Francis has now been re-classified as a 'good' school. St. Michaels is the only school in the immediate vicinity that has had a continuously 'good' Ofsted rating. As such, the choice for parents at the time of the Jubilee School first opening was limited and this is only improving slowly. Jubilee School provided a much needed alternative for parents in an area where the Ofsted ratings for schools have been inconsistent. Over the next few years it will also make an important contribution to the shortage of school places as well as providing parents with a greater choice to ensure that their children are provided with a good standard of education, demonstrating the need for the development.

Other Matters

- 5.31 The operation of the school with 420 pupils (equivalent of a 2FE) would require an extension if it is to meet the space standards set out within document BB103. Until such an application for an extension has been submitted, it is considered premature for planning permission to be granted for a school with 420 pupils (2FE equivalent). A number of issues will need to be considered for any proposal for a school with 420 pupils (equivalent of 2FE) to be acceptable, including the design, siting and appearance of the proposed extension, whether it meets internal spacing standards and whether the additional building would leave sufficient outdoor space for the increased number of pupils.
- 5.32 I have looked at other applications for Free Schools, including adjacent local planning authorities such as Ashford. Where they have required extensions, the planning application for the new school has included the extension at the same time to avoid the issue of prematurity or pre-judging an application that has not yet been submitted. On applications where extensions have not been included as part of the proposal, conditions have been imposed to limit overall pupil numbers and with a restriction on the intake of pupil numbers each year. On this basis, only a school with a maximum of 240 pupils (1FE equivalent) is considered to be acceptable and appropriate conditions will be imposed to ensure this. If a 2FE school is to be considered, an application will need to be submitted which provides the appropriate accommodation and play space to support the intended increase to the number of pupils.
- 5.33 Submissions from local residents have raised concerns over the whether the granting of a smaller (1FE equivalent) school would put pressure on the Council to grant consent for a new extension to provide for an increase in pupils. It has been communicated to the applicants, agents and school that any planning application for an extension has not been pre-judged and no grant of consent is guaranteed. The only proposal that officers currently regard as acceptable is a school for 240 pupils (1FE equivalent). It is not considered that the Council would be under any pressure or obligation to grant consent for an extension unless it was thoroughly demonstrated in an application that this could be provided in a way that did not cause any

unacceptable harm to interests of acknowledged importance. It has made been quite clear to the school as to why the restrictions on the size I have been put in place and that this is to be communicated to all parents of pupils at the school and secured by the recommended conditions.

6.0 CONCLUSION

- 6.1 There is a presumption in favour of granting permission for Free Schools, wherever possible. In this instance, it is considered that consent can be granted for a school with 240 pupils (equivalent to a 1FE school), but not a school with 420 pupils (2FE equivalent). A limit on pupil numbers alone is not considered to be acceptable as when the pupil limit of 240 is reached, the children will not be able to move on to years 4, 5 and 6. A combination of a pupil limit and a restriction on the number of pupils that can be admitted each year will ensure that all the pupils who enter the school can be guaranteed to continue their education at the school until the end of Year 6, whilst also preventing the adverse impacts that potentially would result from a school with 420 pupils (2FE equivalent).
- 6.2 It has been demonstrated that the provision of a suitable standard of play areas cannot be guaranteed for 420 pupils (2FE equivalent) and no extension has been included within the application to provide sufficient floor space for 420 pupils. A school with 240 pupils is considered to provide suitable outdoor space that can be segregated into the required key stage 1 and 2 areas. The building space is also of sufficient size for 240 pupils.
- 6.3 The proposal will generate an increase in highway traffic generation. It is important for the pupils attending the school, nearby residents and existing road users that any potential safety issues are highlighted and addressed. Kent Highways is satisfied that the combination of mitigation measures and School Travel Plan will ensure that the school can operate safely with no adverse highway impacts. It has been demonstrated that the school catchment does spread over the Maidstone area, but it does not extend outside the Borough and many pupils are within walking distance of the school.
- 6.4 The impact of the additional traffic on neighbouring properties has been considered and clearly there will be limited disturbance to local residents by vehicle trips during drop-off and collection times. Many schools are located in residential areas, as it increases the sustainability of schools to be located within an existing community. The benefits to the community of education provision has to be balanced against the harm to residential amenity caused by additional traffic generation. The proposed highway mitigation measures are considered to ameliorate some of the disturbance in front of the nearest properties, to reduce the total number of vehicle trips occurring at the same time and to ensure the safety of the highway for pedestrians and road users alike. On balance, it is considered that the proposal is acceptable on residential amenity and highway grounds. Any harm caused to residential amenity is limited to certain times only and that proposed amelioration measures will ensure that any disturbances is limited as far as possible. The weight to be attached to the need for additional school places and for the provision of Free Schools outweighs this limited disturbance. The reduction in the number of pupils to 240 (the equivalent of a 1FE school) will also ensure that potential disturbance to residential amenity as a result of traffic generation will be further limited.

RECOMMENDATION – GRANT planning permission subject to the following conditions:

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

Annotated site location plan, Ground Floor Plan MD-H041G-REVA, First Floor Plan MD-H0411 REV A, Proposed Ground Floor Plan, A200 REV A (all received 15/09/2014) and Proposed Site Layout Plan with car parking layout Drawing no. JPS-DMA-00-GA-A3-003 Rev.E (received 19th October, 2015).

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

2. The maximum number of students enrolled in the school shall not exceed 240 until the end of July 2022, when the current 2015-2016 Year R pupils leave the school, and shall not exceed 210 pupils from September 2022 onwards. There shall be no more than 30 pupils in any one year group, with the sole exception of the current Year R pupils admitted into the 2015-2016 year group, which shall be allowed to progress through the School until the end of their primary school education.

Reason: To enable the LPA to regulate and control the site/building in the interests of the amenity of the area.

3. The School shall inform the Council in writing at the start of each School year of the total number of pupils and the numbers of pupils in each year group.

Reason: To enable the LPA to regulate and control the site/building in the interests of the amenity of the area.

4. Within 3 months from the date of this decision a Parent and Pupil Travel Safety Document shall be submitted for approval to the Local Planning Authority. The Parent and Pupil Travel Safety Document shall set out information for parents and pupils of all parking and highway restrictions in the area, details of all existing and proposed pedestrian and vehicle access points into the School, details of the School Crossing Patrol, Walking Buses and any other measures to encourage sustainable transport choices and also the need to be considerate to all local residents when either driving and parking or walking to School. It will also clearly set out the restriction on pupil numbers that the School must adhere to and that the drop-off and pick up point at the front of the School must only be used by School buses, taxis and emergency vehicles and not by parents. The School will supply the parents of all pupils with a copy of the Parent/Pupil Travel Safety Document within 3 months of it being approved and shall permanently make a copy publicly available on-line on the school website for viewing by local residents and any other interested parties.

Reason: In the interests of highway safety, safety and amenity of the pupils, the amenity of the local residents and surrounding area.

5. The applicant shall enter into a section 278 agreement with the highway authority within 3 months of the issuing of this decision in order to establish the following:-

- a) Corner protection car parking restrictions in a variety of places to enhance and enforce guidance to not park on corners already given in The Highway code (paragraph 243).
- b) A school clearway marking shall be established between the two entrances onto Gatland Lane.
- c) Dropped kerbs between nos. 23 and 25 Gatland Lane and opposite to combine with the school clearway marking described above. There are a

number of other locations where crossing movements are made. These should be identified and dropped kerbs provided at these corner junctions should tie in with the corner protection markings also described above.

- d) The establishment of school warning signs from each approach in accordance with the statutory instrument the Traffic Signs regulations and General directions 2002. It's considered that this should include signs which incorporate school flashing beacons to operate at school start and finish times.
- e) Physical improvement and minor widening to the access junction to prevent overrunning onto the footway at the eastern corner of the entrance to the Gatland Recreation Ground.

The development shall be carried out in strict accordance with the agreed details.

Reason: In the interests of highway safety and amenities.

- 6. Within 3 months from the date of this decision a School Travel Plan shall be submitted to and approved by in writing by the Local Planning Authority. The travel plan shall include an 'Active Access Management Strategy' and introduce mitigation measures proposed in Robert West Transport Statement dated September 2014 and the additional report contained in JLL's letter dated 12th May 2015, including a School Crossing Patrol. The school shall be operated/managed strictly in accordance with the approved travel plan.
Reason: In the interests of highway safety and amenities of the area.
- 7. Within 3 months from the date of this permission, details of a cycle parking plan shall be submitted to and approved by in writing the Local Planning Authority. The approved plan shall be implemented within 6 months from the date of the approval of the plan and maintained as such.
Reason: In the interests of highway safety and amenity.
- 8. Within 3 months from the date of this permission, a plan showing details of a dropping off and picking up point shall be submitted to and approved in writing by the Local Planning Authority, including signage. The dropping off and picking up point shall only be used by School vehicles or buses, taxis and emergency vehicles. It shall not be used as a drop off and pick up point by parents. The approved plan shall be implemented within 6 months from the date of the approval of the plan and maintained as such.
Reason: In the interests of highway safety and amenity.
- 9. Within 3 months from the date of this permission, details of a new pedestrian access along the northwest corner of the school ground shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented within 6 months from the date of the approval of the plan and maintained as such.
Reason: In the interests of highway safety and amenity.
- 10. Within 3 months from the date of this permission, details of a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved lighting scheme shall be implemented within 6 months from the date of the approval of lighting scheme and maintained as such.
Reason: In the interest of safety and amenity.
- 11. Within 3 months from the date of this permission, details of a landscaping scheme for the site frontage and car parking area shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be

implemented in the first planting season from the date of the approved scheme and any trees or plants which within a period of five years from the implementation of the landscaping scheme 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 setting and visual appearance to the school grounds.

12. Within 3 months from the date of this permission, details of boundary treatment of the school grounds shall be submitted for approval by the Local Planning Authority. The approved boundary treatment shall be implemented within 6 months from the date of the approval details and maintained as such.

Reason: In the interests of safety and amenity.

13. The School's Breakfast Club shall be for the exclusive use of children attending Jubilee Primary School.

Reason: In the interests of highway safety and amenities of the area.

Case Officer: Diane Chaplin

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.