

## REPORT SUMMARY

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| <b>REFERENCE NO - 15/505317/OUT</b>  |  |  |
| <b>APPLICATION PROPOSAL</b>  |  |  |
| Outline application considering access arrangements in respect of the demolition of existing buildings and construction of four detached chalet bungalows (Matters of appearance, landscaping, layout and scale reserved for future consideration)   |  |  |
| <b>ADDRESS</b> 3 Blind Lane, Bredhurst, Kent, ME7 3JR  |  |  |
| <b>RECOMMENDATION:</b> Grant Planning Permission subject to no new issues being raised from outstanding consultations (Acceptance delegated to Head of Planning and Development) and subject to the planning conditions  |  |  |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION</b>   |  |  |
| The proposal is considered to be acceptable in principle for the following reasons.  |  |  |
| <ul style="list-style-type: none"> <li>- Part of the site represents previously developed land having</li> <li>- The current buildings and use are unsightly and unneighbourly especially in relation to neighbouring residential properties.</li> <li>- The proposal involves replacement of what is currently an unconstrained and unneighbourly land use with one more appropriate to this location.</li> <li>- The proposal will make a contribution to meeting acknowledged housing need in the Borough.</li> <li>- The extent of built development has been reduced from the earlier refused proposal with the existing open land at the eastern end of the site now remaining open as garden land.</li> <li>- The proposal will have no adverse effect on the landscape quality of the area, the character or openness of the countryside or the functioning of the strategic gap.</li> <li>- The proposal will not harm the character or setting of the village of Bredhurst.</li> <li>- The submitted illustrative details demonstrate that the site can be developed in a manner that is acceptable in terms of layout, character and residential amenity.</li> <li>- The proposal is acceptable in terms of aural amenity and highway and parking impact.</li> <li>- The proposal will safeguard existing wildlife while delivering habitat improvements in accordance with the provisions of the NPPF.</li> <li>- The proposal represents sustainable development in accordance with the provisions of the NPPF</li> </ul> |  |  |
| <b>REASON FOR REFERRAL TO COMMITTEE</b>  |  |  |
| Contrary to the views of Bredhurst Parish Council  |  |  |
| <b>WARD</b> Boxley   | <b>PARISH/TOWN COUNCIL</b><br>Bredhurst  | <b>APPLICANT</b> Mr Dick Hales<br><b>AGENT</b> Bloomfields |
| <b>DECISION DUE DATE</b><br>04/09/15   | <b>PUBLICITY EXPIRY DATE</b><br>04/09/15 | <b>OFFICER SITE VISIT DATE</b><br>14/10/15                 |

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 The majority of the application site is located adjacent to the Bredhurst settlement boundary, with the settlement boundary wrapping around the western end of the site. The entrance to the application site is located between the residential properties at 2 Blind Lane and the property called Elspeth that also includes outbuildings that provide a cattery. The residential property at 3 Blind Lane is located to the rear of Elspeth and whilst outside the application site boundary this property shares the access on to Blind Lane. The site lies within the Kent Downs Area of Outstanding Natural Beauty, within the North Downs Special Landscape Area (SLA) and part of the Strategic Gap.
- 1.02 The application site comprises 2 distinct areas. The north west part of the application site is occupied by a yard and buildings used by a vehicle repair and maintenance use. The south east part of the site is a largely open piece of land with a single storey building on the southern boundary.
- 1.03 The existing repair and maintenance use is located to the north west part of the application site. The repair and maintenance use is located to the rear of mainly detached dwellings fronting Blind Lane to the north west and Forge Lane to the north east. Apart from the access from Blind Lane and the properties called Elspeth and 3 Blind Lane, the south east boundary of the maintenance yard abuts open countryside.
- 1.04 The open area of land at the eastern end of the site abuts the rear gardens of adjacent houses that front Forge Lane to the north east and Dunn Street to the south east.
- 1.05 In the wider context, though the surrounding area is rural in character the north west, north east and south east application site boundaries are adjacent to existing residential development located within the settlement boundary of Bredhurst.

### **2.0 PROPOSAL**

- 2.01 Outline planning permission is sought to redevelop the site for 4 detached chalet bungalows with access arrangements to be considered at this stage with appearance, landscaping, layout and scale reserved for future consideration. In order to demonstrate that the site is capable of accommodating the scale of development proposed an indicative site layout and indicative elevations and floorplans has been submitted as part of the application.
- 2.02 The indicative site layout plan shows access to the 4 detached chalet bungalows from Blind Lane using the existing access to Blind Lane. The indicative plan shows the proposed bungalows sited on land currently used by the vehicle repair and maintenance use. The existing open area of land at the eastern end of the site will be used to provide amenity space for two of the

proposed bungalows in this location. The indicative elevations and floorplans show two different four bedroom chalet bungalow designs.

### **3.0 RELEVANT HISTORY**

- 3.01 A certificate of lawfulness was issued in March 2001 (ref: MA/00/1542) confirming the lawful use of part of the current application site for the repair and maintenance of trucks, tractors, agricultural plant and equipment. The area covered by the certificate of lawfulness is shown on the plan attached as **Appendix 1**.
- 3.02 In 2002 planning permission was granted for the demolition of the existing buildings and for the erection of a new building for general industrial purposes (Class B2) (MA/02/1402). This permission appears to have not been implemented.
- 3.03 In 2003 outline planning permission (MA/03/2206) for residential development of the application site was refused on the grounds that it represented unjustified residential development in the open countryside resulting in loss of openness and detracting from the character of the countryside and the Kent Downs AONB. An indicative plan showing a layout for 7 units was submitted as part of this application with the development covering the whole of the application site.

### **4.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan (2000): ENV28, ENV31, ENV33, ENV34 and H31

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 16 neighbours notified of the application as originally submitted and notified again on receipt of indicative layout details. 5 objections have been received which are summarised as follows:
- Part of the site is agricultural land that does not fall within the village envelope and should not be considered as previously developed land.
  - Having gardens abutting adjoining land is no different than having the land built on particularly as planning permission has already been refused to develop this land.
  - All development, including the gardens, should be confined to the area covering the former built up area.
  - Two storey development as proposed will overlook adjoining properties resulting in loss of privacy.
  - The proposed number of dwellings and notwithstanding the Councils housing land shortfall, is not sufficient to justify the harm that will be caused to the locality by permitting the proposal.
  - Will result in loss of outlook and privacy to houses overlooking and abutting the site while the use of the gardens will result in additional disturbance.

- Given the setting of the site it is not appropriate to deal with this application in outline form.
- Proposal will increase traffic in the locality resulting in harm to the free flow of traffic and highway safety in the locality.
- Insufficient on site parking proposed resulting in displaced parking taking place in the locality harming its character while being detrimental to the free flow of traffic and highway safety.
- Do not accept that the proposal will bring a reduction in traffic as little vehicular movement currently takes place at the site.
- Will change character of the village lying in quiet secluded countryside while further eroding area available for wildlife. As such will appear completely out of character with the locality.
- The submitted indicative layout details do not address any of the concerns raised above.
- Noted that the application has been the subject of pre-application advice and it is hoped it was made clear that the agricultural land should not form part of any application site.
- The traffic impact of the proposal should be taken into account with the developments approved under refs: 15/505317 and 15/506472.
- Given the lack of facilities within the area along with poor bus services car use is likely to be high
- Concern raised in connection with previous applications in the area that the area is subject to a poor aural environment due to proximity to the M2. This applies equally to this site.

## 6.0 CONSULTATIONS

- 6.01 **Bredhurst Parish Council:** Objects to the application. Comments on the application as originally submitted were as follows: *The site may be considered a brown field site due its current use but consider the number of dwellings proposed is excessive. Bearing in mind this is an outline application it is difficult to make substantive comments at this stage until such time as a full application is received. Would also like to raise concerns that the building plot in its entirety is outside the village envelope and part of the site is agricultural land.*

Comments on the additional details were as follows: *Aware of the NPPF and Maidstone's lack of land supply and housing needs within the Borough. However, this is an extremely sensitive site and considers insufficient information has been submitted on which to base an objective decision since this is an outline planning application. Consider a full planning application would allow assessment of the totality of the proposed application regarding design, landscaping and the ecological impact. Basically an infill site and also concerned the character of the Village could be compromised while there could be possible highway issues at the Junction of Forge Lane and Blind Lane.*

- 6.02 **Environmental Health:** No objection is raised subject to conditions relating to site contamination. It is noted that the site is about 80 metres from the M2 to the north.

- 6.03 **Southern Water:** No objection subject to a condition requiring details of foul and surface water drainage. In addition the applicant's attention needs to be drawn to the possible location of a public sewer crossing the site and the need to ensure the SUDS is properly maintained.
- 6.04 **Kent Highways:** No objection. Analysis of existing and proposed trip generation rates indicates the proposed use will result in a reduced number of trips with a similar number of trips occurring in peak hours. It is also likely that the proposal will result in fewer trips by large vehicles.

Site access is via the existing access onto Blind Lane. Although visibility is limited this is a lightly trafficked road with low vehicle speeds with no history of injury crashes along Blind Lane. Sufficient on site parking and turning is also shown to be provided.

- 6.05 **Environment Agency:** No objection. The site lies on source protection zone 3 and above a major aquifer, however due to the surface there is no objection subject to a condition relating to site contamination.
- 6.06 **KCC Ecology:** No objection. KCC Ecology advise that sufficient information has been submitted to determine the current planning application.

Reptiles: As the garden area will remain undeveloped there is no requirement for reptile surveys to be carried out. This is because there is only a small area of suitable reptile habitat is to be impacted by the proposed development.

No specific map has been provided demonstrating where the reptile habitat is located within the development footprint. However from reviewing the phase 1 map it is presumed it is the area of tall plants growing in the waste ground behind the buildings.

As this area is very small in relation to the retained garden area KCC Ecology are satisfied that the proposed precautionary mitigation is appropriate on this occasion.

Bats: The survey shows it is likely bats are foraging within the proposed development site, particularly the retained garden area. Lighting can be detrimental to foraging and commuting bats and any lighting must be designed to minimise the impact on bats.

Breeding Birds: The buildings and the trees/hedges on the site have the potential to be used by breeding birds and all nesting birds and their young are protected. As such the demolition of buildings and removal of vegetation should only take place outside the breeding bird season.

## 7.0 APPRAISAL

- 7.01 As the application site lies within an AONB it is necessary to consider whether the proposal should have been accompanied by an Environmental Impact Assessment (EIA). The proposal is not Schedule 1 development and does not

fall within any of the categories referred to in Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011(as amended). In the circumstances it is considered the impact of the application is not sufficient to trigger the need for an EIA.

### **Determining issues**

- 7.02 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 7.03 In 2003 outline planning permission (MA/03/2206) for residential development of the application site was refused on the grounds that it represented unjustified residential development in the open countryside resulting in loss of openness and detracting from the character of the countryside and the Kent Downs AONB. An indicative plan showing 7 residential units was submitted as part of this outline planning application, with this plan showing development covering the whole of the application site.
- 7.04 The applicant has sought to address the Council's concerns about the earlier proposal with the current resubmitted planning application. The changes include the retention of open land on the eastern part of the site and consolidating built development at the western end of the site where existing buildings are located. It therefore remains to assess whether excluding built development from this open area has any material bearing on the acceptability of the development that would justify a different decision.
- 7.05 In summary the key issues in relation to this proposal are considered to be (a) the principle of development, (b) the impact on the AONB, SLA, the rural character of the area and the strategic gap (c) the impact on the character and setting of Bredhurst village (d) design and layout (d) impact on the amenity of neighbouring residential properties (e) highways and parking impacts (f) aural amenity (g) site contamination and drainage and (h) wildlife and habitat considerations.

### **Principle of Development and Impact on AONB, SLA and Strategic Gap.**

- 7.06 The NPPF at paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 55 of the NPPF states that housing should be located where it will enhance or maintain the vitality of rural communities and that development in one village may support services in a village nearby. With the application site located directly adjacent to Bredhurst village and the proximity to the built up area of Hempstead (just over 1 kilometre to north east) it is considered that the application site is in a sustainable location.
- 7.07 Whilst directly adjacent and partially enclosed by Bredhurst Village, the application site is located outside the settlement boundary and therefore policy ENV 28 of the Local Plan is considered relevant. In this location and with the presence of existing buildings it is considered that the development will not

harm the character and appearance of the area or the amenities of surrounding occupiers, and development will ensure that there is no net loss of wildlife resources. The proposal is therefore considered in accordance with policy ENV28.

- 7.08 The application site comprises two separate parts being (a) land with lawful use for the repair and maintenance of trucks, tractors, agricultural plant and equipment (granted under ref: MA/00/1542), and (b) the open area to the south east of the site which would appear to have lawful use for agricultural purposes.
- 7.09 **Area (a):** This land is located at the front and north western part of the site. This land is occupied by a number of buildings and shipping containers with the majority of this area covered in hard surfacing and used for vehicle parking. At the time of the officer site inspection a number of coaches, and large and heavy goods vehicles were parked in this area. The use clearly has unneighbourly and intrusive elements especially given the location next to residential properties.
- 7.10 The current use for the repair and maintenance of trucks, tractors, agricultural plant and equipment is the historic land use, and as a result it is unconstrained by planning conditions (for instance restrictive conditions designed to protect amenity). The site also benefits from permitted development rights that would allow changes to other similar uses.
- 7.11 The definition of previously developed land given in the NPPF includes land which is, or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. As such in terms of the current application it is considered that the area of land at the western end of the site (Area (a)) can be considered to fall within the definition of previously developed land.
- 7.12 Paragraph 17 of the NPPF provides 12 core planning principles. The NPPF states that these principles should underpin all decision making on planning applications. These principles include the need to make effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. It is considered that the current proposal that involves residential development on land currently used for the repair and maintenance of vehicles and equipment is in line with this planning principle.
- 7.13 The site is located within the Kent Downs Area of Outstanding Natural Beauty (AONB). Policy ENV33 of the Local Plan states that in the AONB the conservation of the natural beauty of the landscape will be given priority over other planning considerations. Policy ENV34 states that in the North Downs Special Landscape Area (SLA), particular attention will be given to the protection and conservation of the scenic quality and distinctive character of the area and priority will be given to the landscape over other planning considerations.

- 7.14 The views of the application site from the open countryside to the south west are in the context of existing residential properties, including the property called Elspeth and the property at 3 Blind Lane that are located at the front of the site.
- 7.15 The current proposal will result in the removal of existing unsightly commercial buildings and the removal of large prominent commercial vehicles that are currently parked on the site awaiting repair. In these circumstances it is considered that the proposal will enhance the appearance of the site in the context of the AONB and the North Downs Special Landscape Area.
- 7.16 Policy ENV31 of the Local Plan states that within the strategic gap development which significantly extends the defined urban areas or the built up extent of any settlement will not be permitted. With the majority of the application boundary shared with existing residential properties and the development replacing existing commercial buildings the proposal is considered in line with policy ENV31.
- 7.17 Paragraph 51 of the NPPF states that Local planning authorities should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area. There is an identified need for new housing and there are no strong economic reasons for the retention of the commercial buildings on the application site.
- 7.18 In conclusion, it is considered that the principle of development on this land is acceptable for the following reasons (a) the status of this part of the site as previously developed land (b) its context abutting residential properties on its north west and north east boundaries within Bredhurst Village (c) replacing what is currently an unconstrained and potentially unneighbourly land use in close proximity to existing dwellings with one compatible in a residential context (d) will make a minor but nevertheless still significant contribution to meeting acknowledged housing need in the Borough and (f) represents sustainable development in line with the provisions of the NPPF.
- 7.19 **Area (b):** This land appears to have formally been in agricultural use and is located at the rear and south eastern part of the application site. It is intended to remove the only existing single storey building and use this area as domestic garden land with no built development.
- 7.20 Policy H31 of the Local Plan states that planning permission will not be granted for the change of use of agricultural land to domestic garden if there would be harm to the character and appearance of the countryside; and/or loss of the best and most versatile agricultural land.
- 7.21 This part of the application site is currently enclosed by the existing commercial use to the north west, housing to the north east and south east and is separated from open country to the south east by high hedging. Given this context, it is considered that the land makes little contribution to the character and appearance of the countryside. The land is of a limited size, separated from

other agricultural land and is not considered to be the best or most versatile agricultural land.

- 7.22 In conclusion, it is considered that the principle of development on this land with the change from agricultural use to provide domestic garden land is acceptable and in line with policy H31 of the Local Plan.

#### **Impact on the character and setting of Bredhurst Village.**

- 7.23 The front part of the application site is currently used for the repair and maintenance of trucks, tractors, agricultural plant and equipment. The use includes a number of commercial buildings and large commercial vehicles are routinely parked on the site.
- 7.24 Given its current unsightly and unneighbourly character, the existing site does not make any positive contribution to the setting of Bredhurst Village. The current proposal will involve the removal of the existing commercial buildings and the commercial vehicle parking which will improve the visual appearance of the site.
- 7.25 The indicative layout plan submitted with this outline planning application shows the removal of the existing single storey building on land to the rear of the site and the use of this area as open domestic garden land. In the event that planning permission is approved, the future occupiers of houses on the application site would normally have permitted development rights to build outbuildings or fencing on this land. It is recommended that a restrictive planning condition is attached to a planning permission that would remove these permitted development rights and allow the Council to assess the impact of any outbuildings or fencing.
- 7.26 The application site is almost entirely surrounded by residential properties located within the Bredhurst Village settlement boundary. In addition to other positive results, such as provision of new housing and removal of an incompatible use, the current proposal will provide a more defined and defensible transition between the settlement and adjoining countryside.
- 7.27 In summary, the removal of the commercial vehicle parking and the removal of the existing commercial buildings to the front of the site and the single storey building to the rear can be seen to represent a positive improvement to this part of the application site and to the character and setting of Bredhurst Village.

#### **Design and layout.**

- 7.28 Outline planning permission is sought to redevelop the site for 4 detached chalet bungalows. Access arrangements are to be considered at this stage with appearance, landscaping, layout and scale reserved for future consideration.
- 7.29 In seeking to demonstrate that the site is capable of accommodating the scale of development proposed, indicative elevations and floorplans of the chalet

bungalows have been submitted as part of the application. The indicative elevations and floorplans show two different designs of four bedroom chalet bungalow, with plots 1 and 4 of the same design and plots 2 and 3 of the same design.

- 7.30 The submitted proposal is for backland development with the majority of the site being set behind existing houses on Blind Lane and without a street frontage. There is some variety in local building designs with the existing properties in Blind Lane designed as chalet bungalows and the properties at the rear of the site in Forge Lane mainly detached bungalows with steeply sloping roofs with rooms in the roof space. With this variety in design locally, the set back from a street frontage and the traditional appearance and scale of the illustrative proposed buildings the submitted illustrative details are considered generally acceptable.
- 7.31 In seeking to demonstrate that the site is capable of accommodating the number of dwellings an indicative site layout of the chalet bungalows has been submitted as part of the application. The site layout shows two chalet bungalows (plots 1 and 2) located behind 1 and 2 Blind Lane with the rear elevations orientated towards existing properties in Forge Lane. The two other chalet bungalows (plots 3 and 4) are located at the rear of the site with the rear elevations orientated towards Dunn Street Road.
- 7.32 The illustrative layout shows a development providing a reasonable standard of amenity space, adequate separation between dwellings, along with acceptable on site car parking and turning space. It is considered the illustrative details demonstrate the application site is capable of accommodating four dwellings in manner that will not harm the character or layout of the immediate locality.

#### **Impact on residential amenity.**

- 7.33 The potential impact needs to be assessed in terms of the change in the use of the land and in terms of the potential impact of the buildings on overlooking, daylight, sunlight and noise and disturbance to adjoining properties.
- 7.34 The proposal will remove the existing unrestricted commercial use that is generally incompatible with adjoining residential uses. The existing use would be the source of noise and disturbance from the use itself and from disturbance generated by the activity on the site such as vehicles arriving or leaving the site. The removal of the existing commercial use therefore represents a general improvement in residential amenity for adjoining houses.
- 7.35 The properties at 2 and 3 Blind Lane and Elspeth currently adjoin the site vehicle access onto Blind Lane. These houses are currently exposed to noise, disturbance and visual intrusion due to the use of this access in connection with the existing commercial use. It is considered that the general use of this access to serve 4 residential dwellings is likely to result in a material improvement to these properties.

- 7.36 On the submitted indicative layout the front elevations of the proposed properties annotated as plots 1 and 2 are orientated towards the side elevation of the existing property at 3 Blind Lane. This side elevation of 3 Blind Lane has no windows above ground floor level. With the proposed separation distance of 15 metres and the absence of windows it is considered that in relation to 3 Blind Lane the proposal is acceptable in terms of the impact on privacy, overlooking, daylight and sunlight.
- 7.37 On the illustrative plans, the side elevation of the proposed property annotated as plot 1 faces towards the rear elevation of the existing properties at 1 and 2 Blind Lane with a separation distance of 10 metres. This separation distance is slightly below that normally required (11 metres). The submitted plans are indicative only and it is considered there is sufficient space on the site to provide this separation distance when layout is assessed formally at the reserved matters stage. The proposed building has no windows on the elevation facing 1 and 2 Blind Lane.
- 7.38 The rear elevation of the proposed properties at plots 1 and 2 and the side elevation of the property annotated as plot 3 face towards the rear of existing properties in Forge Lane. The side elevation of plot 3 does not include any windows and will be separated from these existing properties by a distance of 27 metres). A distance of 39 metres will separate the rear elevation of plots 1 and 2 from existing properties in Forge Lane. It is considered that the proposal is acceptable in terms of the impact on properties in Forge Lane and matters of privacy, overlooking and daylight and sunlight.
- 7.39 In conclusion it is considered that the illustrative details are sufficient to demonstrate that the site can be developed without resulting in any material loss of outlook or amenity of existing dwellings overlooking and abutting the site.

### **Highways and access considerations**

- 7.40 The NPPF states (paragraph 32) that a development site should have safe and suitable access for all people; and should not have any significant impact on the transport network. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 7.41 In terms of vehicle movements, Kent Highways advise that the analysis of existing and proposed trip generation rates indicates that the proposed use will result in a reduced overall number of vehicle trips; though there will be a similar number of trips occurring in peak hours. It is also likely that the proposal will result in fewer trips by large vehicles.
- 7.42 In terms of access arrangements, it is considered that although the existing access onto Blind Lane has limited visibility it is a lightly trafficked road with low vehicle speeds with no history of injury crashes. The existing access arrangements are considered acceptable for the proposed development

- 7.43 In the circumstances, it is considered that the proposal by reducing HGV movements on narrow country roads is likely to secure betterment in highway safety and the free flow of traffic on local roads. In the absence of any concerns from Kent Highways, the proposal is considered acceptable in relation to highways and access matters.
- 7.44 Objectors contend that the traffic impact of recent developments approved in the locality should be taken into account in assessing the traffic impact of this proposal. However as in traffic generating terms the proposed development will not exceed that generated by the existing lawful use of the site (and may well result in an improvement by reducing HGV movements) there is no highway justification for requiring such a cumulative assessment.

**Standard of the proposed residential accommodation.**

- 7.45 Concern has been raised that the proximity of the application site to the M2 motorway will expose the site to an unacceptable aural environment. It should be noted that the M2 motorway is located over 80 metres to the north west of the site with the bulk of existing dwellings fronting Blind Lane located closer to the motorway than the application site. With the separation distance from the motorway and the absence of objection from the Environmental Health Officer it is considered that the site can provide an acceptable standard of residential accommodation in terms of aural amenity.
- 7.46 The submitted illustrative plans show a proposed development that will provide a good standard of residential accommodation. The layout of the accommodation makes good use of the space available with an appropriate internal layout, good provision of natural light to habitable rooms and adequate private amenity space.

**Site contamination.**

- 7.47 Given the use of the site for commercial purposes it is likely to have been exposed to ground contamination. Following consultation the Council's Environmental Health Officer and the Environment Agency have advised that they have no objection to the planning application. Environmental Health and the Environment Agency advise that a planning permission should be subject to planning conditions that require a site investigation to be carried out and any necessary mitigation works to be completed.

**Wildlife and habitat considerations.**

- 7.48 The NPPF requires development to make provision for wildlife where possible. The submitted ecological appraisal identified the possibility of reptiles, bats and breeding birds being directly affected by the proposed development.
- 7.49 The submitted appraisal recommends carrying out a reptile survey. Should the presence of reptiles be confirmed by the survey it recommends that mitigation should be used involving the installation of reptile exclusion fencing, and the trapping and translocation of reptiles to a receptor habitat.

- 7.50 In connection with bats, no further work was recommended, though reference was made to the impact of lighting and measures to mitigate its impact. A planning condition is recommended to ensure that any lighting does not have an adverse impact on bats.
- 7.51 Regarding breeding birds, any work affecting these would only be carried out outside the bird nesting season unless circumstances dictated otherwise. If work was carried out within the bird nesting season an ecologist would inspect the site and if an occupied nest was discovered work would cease until the birds had fledged.
- 7.52 Reference was also made to the possibility of hedgehogs being present on site. As such no areas of possible shelter would be disturbed before being hand searched. In addition all excavations would be covered but a means of escape such as plank of wood would also be provided. It is recommended that a planning condition is used to ensure that this work is carried out.
- 7.53 In addition to the above, wildlife enhancement measures are also proposed including the provision of hedgehog nesting boxes, provision of 12cm square gaps under any new fencing to allow hedgehogs access into all garden areas, provision of bird boxes, creation of a drought-resistant wildflower garden to attract invertebrates and reduce need for water and use of native species planting. It is considered that slow worms may be present in the short mowed grass and vegetable patch at the back of the site. No work other than removal of buildings and equipment and landscaping is to take place in this area.
- 7.54 As such in the absence of a KCC Ecology objection to the proposed wildlife mitigation and enhancement measures, it is considered the development pays sufficient regard to the needs to wildlife in accordance with the provisions of the NPPF.

#### **Other matters.**

- 7.55 The Council now seeks to ensure that at least 10% of the energy demands of the development are met from renewable sources. The application has not been accompanied by a sustainability statement. Nevertheless in order to secure a more sustainable form of development in accordance with the provisions of the NPPF it is appropriate to address this matter by condition.

## **8.0 CONCLUSIONS**

- 8.01 Although the planning application is in outline form with an illustrative layout, the size and shape constraints of the site would suggest that any reserved matters application would follow this layout. In the circumstances it is appropriate to assess the impact of the indicative layout.
- 8.02 Based on the submitted illustrative design and layout details the development is acceptable and the application is recommended for approval for the following reasons:

- The proposal represents sustainable development in accordance with the provisions of the NPPF
- Part of the site represents previously developed land
- The lawful use of part of the site is unsightly and unneighbourly in the mainly residential context of the site.
- The proposal involves replacement of an unconstrained and potentially unneighbourly land use with one more appropriate to the mainly residential context of the site.
- The proposal will make a contribution to meeting an acknowledged housing need in the Borough.
- The open area of land is to remain undeveloped thereby representing a material amendment to the previous refusal to develop the whole of the application site for housing.
- Will have no adverse effect on the landscape quality of the area or the character or openness of the countryside with while no material impact on the function of the strategic gap.
- Will not result in harm to the character or setting of Bredhurst while realigning the western boundary of Bredhurst in a more defensible position.
- The illustrative details demonstrate it is possible to develop the site in a manner that will deliver an acceptable layout that will not harm the character or layout of the area or result in material harm to the outlook or amenity of properties overlooking or abutting the site.
- Is acceptable in aural amenity and highway and parking terms.
- The proposal will safeguard existing wildlife while delivering habitat improvements in accordance with the provisions of the NPPF.

8.03 The application has been advertised as a departure from the development plan with the consultation period expiring on the 22<sup>nd</sup> January 2016. The application is recommended for approval subject to no new issues being raised as a result of this consultation.

**9.0 RECOMMENDATION** – Subject to no new issues being raised from outstanding consultations (Acceptance delegated to Head of Planning and Development) – **GRANT PLANNING PERMISSION** subject to the following conditions

(1) The development hereby approved shall not commence until approval for the following reserved matters has been obtained in writing from the Local Planning Authority being:-

(a) appearance (b) landscaping (c) layout and (d) scale

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.

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.

- (2) Prior to the development reaching damp proof course level details of all external materials (including wearing surfaces for the roads, turning and parking areas, shall have been submitted in writing for the approval of the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

- (3) Prior to the development reaching damp proof course level, details of renewable energy generation shall have been submitted in writing for a scheme of renewable energy to ensure that at least 10% of the energy requirements of the development hereby approved are derived from renewable sources. The approved measures shall be in place before first occupation of any of the units hereby approved and retained as such at all times thereafter.

Reason: To ensure a sustainable and energy efficient form of development in accordance with the provisions of the NPPF.

- (4) Within the area identified as garden land shown on drawing no:1240 SK02 and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A,D, E and F and part 2 Class A to that Order shall be carried out without first obtaining permission in writing of the Local Planning Authority.

Reason: To safeguard the open character of this part of this site in the interests of visual amenity.

- (5) Any fencing erected within the area identified as garden land shown on drawing shown no: 1240 SK02 shall be no more than 1 metre in height and be of post and rail construction.

Reason: To safeguard the open character of this part of this site in the interests of visual amenity.

- (6) The development hereby approved shall not be occupied until the parking and turning areas shown on the approved plans have first been provided and shall be retained at all times thereafter with no impediment to their intended use.

Reason: In the interests of highway safety and the free flow of traffic.

- (7) Before first occupation of the development hereby permitted (a) the access onto Blind Lane and (b) on site parking and turning shall both be provided. They shall thereafter maintained at all times thereafter with no impediment to their intended use.

Reason: In the interests of the free flow of traffic and highway safety.

- (8) Before commencement of the development hereby approved on site provision shall be made for construction vehicle loading/unloading and turning along with parking for site personnel and visitors. These measures shall be retained until the development phase of the development hereby approved is completed.

Reason: In the interests of the free flow of traffic of traffic and highway safety.

- (9) No surface water shall discharge onto the public highway.

Reason: In the interests of the free flow of traffic of traffic and highway safety.

- (10) In the event of reserved matters submitted pursuant to condition 1 reflecting the layout details shown on drawing no: 1240 SK02 and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no first floor windows shall be installed on the north west elevation of the units shown on plot 1 or the north east elevation of the unit shown on plot 3 without first obtaining the prior approval in writing of the Local Planning.

Reason: In the interests of privacy.

- (11) The wildlife safeguarding and habitat improvement measures set out in the Preliminary Ecological Appraisal undertaken by KB Ecology dated the 11th May 2015 shall be carried out in accordance with the submitted details.

Reason: To ensure that adequate provision is made for wildlife in accordance with the provisions of the NPPF.

- (12) Any trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a high quality development.

- (13) Landscaping details submitted pursuant to condition 1 shall be implemented in the first available planting season following first occupation of the development hereby approved. Any part of the approved landscaping scheme that is dead, dying or diseased within 5 years of planting shall be replaced with a similar

species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity.

- (14) The development hereby permitted shall not commence until a scheme for the disposal of (a) surface water (which shall in the form of a SUDS scheme) and (b) waste water 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 and retained permanently thereafter.

Reason: To prevent pollution of the water environment and to ensure satisfactory drainage in the interests of flood prevention.

- (15) No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reasons: To protect groundwater and comply with the NPPF.

- (16) Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing by the local planning authority:

1) A preliminary risk assessment which has identified:

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

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

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: In the interests of public safety and pollution protection.

- (17) If, during 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 remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

Reason: In the interests of public safety and pollution protection.

- (18) Prior to occupation of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, if appropriate, and for the reporting of this to the local planning authority. Any long-term monitoring and maintenance plan shall be implemented as approved.

Reason: In the interests of public safety and pollution protection.

- (19) No external lighting shall be installed anywhere on site without first seeking the prior approval in writing of 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 lighting shall only be installed and maintained thereafter in accordance with the approved details. In designing a lighting scheme you should take into account the advice given in informative 6 below.

Reason: To safeguard the night-time rural environment and in the interests of nature conservation.

- (20) The development hereby permitted shall be carried out in accordance with the following approved plans being drawing nos: 1240 SK01 amplified by 1240 SK01A, 02 and 03.

Reason: To ensure the quality of the development is maintained in the interests of visual amenity.

### **INFORMATIVES**

- (1) The applicant is advised that it is their responsibility to ensure that before the development hereby approved is commenced all necessary highway approvals and consents are obtained and that the limits of highway boundary are clearly established so as to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the

approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- (2) The applicant is advised that the normal measurements for car parking spaces are a minimum of 4.8 metres by 2.4 metres.
- (3) The applicant is advised to include the following within the Welcome Pack provided by the developer for each new dwelling (a) information on sustainable transport such as local pedestrian, cycle, bus, and train routes, car sharing ([www.kent.liftshare.com](http://www.kent.liftshare.com)) and car club schemes ([www.carplus.gov.uk](http://www.carplus.gov.uk)) and (b) incentives to encourage the use of sustainable transport modes, such as secure bicycle storage, free taster bus tickets along with one free membership per household for the local Car Club.
- (4) The applicant is advised that in carrying out the development they should take into account the requirements of Southern Water set out in its letter dated the 5th August 2015.
- (5) The applicant is advised of the Mid Kent Environmental Code of Development Practice in relation to demolition and construction works.
- (6) The applicant is advised that the design of any lighting scheme should take account of the advice in the KCC Ecology letter dated the 11th December 2011 in order to minimise the impact on bats.
- (7) The applicant is advised of the following guidance from the Environment Agency that is applicable where soakaways are proposed:
  - No soakaway should be sited in or allowed to discharge into land impacted by contamination or land previously identified as being contaminated.
  - Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks.
  - Clean uncontaminated roof water should drain directly to soakaways entering after any pollution prevention methods. For advice on pollution prevention, the applicant should refer to our guidance "PPG1 – General guide to prevention of pollution", which can be found at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/290124/LIT\\_1404\\_8bdf51.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290124/LIT_1404_8bdf51.pdf)
  - There must be no direct discharge to groundwater, a controlled water.
  - An unsaturated zone must be maintained throughout the year between the base of soakaways and the water table.
  - A series of shallow soakaways are preferable to deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.
- (8) The applicant is advised of the following guidance from the Environment Agency in relation to foul drainage: The granting of planning permission does

not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. A permit will be granted where the risk to the environment is acceptable. Applicants must assess the environmental impact of their proposal to demonstrate an acceptable environmental outcome at the site. If no foul sewer is available, we advise the applicant to refer to our Pollution Prevention Guidelines (PPG) 4: Treatment and Disposal of Sewage where no Foul Sewer is available which can be found at:

<https://www.gov.uk/government/publications/sewage-treatment-and-disposal-where-there-is-no-foul-sewer-ppg4>

- (9) The applicant is advised of the following guidance from the Environment Agency in relation to fuel, oil and chemical storage. Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.

The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

- (10) The applicant is advised of the following guidance from the Environment Agency in relation to waste on the site. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website <https://www.gov.uk/government/organisations/environment-agency> at further guidance.

(11) The applicant is advised of the following guidance from the Environment Agency in relation to waste to be taken off site. Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

**Note to Applicant**

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by offering a pre-application advice and duty desk service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants/agents of any issues that may arise in the processing of their application. In this instance, and following clarification the submitted planning application was considered acceptable.

Case Officer: Graham Parkinson

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