

REPORT SUMMARY

REFERENCE NO - 15/508298/OUT		
APPLICATION PROPOSAL Outline application with all matters reserved for the construction of 5no. dwellings with associated parking, access and landscaping works on the land to the south of Shangri-La, Horseshoes Lane, Langley		
ADDRESS Shangri La Horseshoes Lane Langley Kent ME17 3NA		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development is considered to conflict with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and Maidstone Borough Council (Submission Version) Draft Local Plan but there are overriding material planning considerations justifying a granting of planning permission, subject to the imposition of recommended conditions.		
REASON FOR REFERRAL TO COMMITTEE RECOMMENDATION CONTRARY TO THE VIEWS OF LANGLEY PARISH COUNCIL		
WARD Sutton Valence And Langley Ward	PARISH/TOWN COUNCIL Langley	APPLICANT Mr & Mrs E Goode AGENT DHA Planning
DECISION DUE DATE 16/12/15	PUBLICITY EXPIRY DATE 16/12/15	OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		

There is no relevant planning history directly relating to the application site. However there are two applications at the following sites, both refused but subsequently allowed on appeal, which are considered to represent material considerations in the determination of this application.

Land Adj 3 Old Style, Sutton Road, Langley, Maidstone, Kent, ME17 3LZ

MA/13/1965: Erection of a 4 bedroom detached dwelling and 1 bedroom integral annexe

Land South Of Horseshoes Lane, Langley. Kent

MA/15/501236: Outline application for the erection of 5no. dwellings with access, parking, landscaping and associated infrastructure on land to the south of Horseshoes Lane, Langley (all matters reserved)

The location of these sites relative to the application site are shown on plan attached as **APPENDIX 1**.

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.01 The application site, which has an area of 0.48 ha, apart from the access, is rectangular in shape and comprises the southern part of the rear garden of Shangri La, a wide frontaged detached house fronting Horseshoes Lane. The application site falls away from Horseshoes Lane in a north to south direction and is enclosed on its east, west and southern boundaries by high evergreen hedgerows.
- 1.02 Shangri La is sited just under 130 metres to the east of the junction of Horseshoes Lane with Sutton Road and is sited in open countryside forming part of the Southern Anti Coalescence Belt.
- 1.03 In a wider context Shangri La and its garden partly provides the eastern definition of an area of sporadic, widely spaced mainly housing development comprising a mix of detached and terraced houses, running up to Sutton Road to the west.

2.0 PROPOSAL

- 2.01 Outline planning permission with all matters reserved at this stage, is sought for the erection of 5 detached dwellings. In seeking to demonstrate the site is capable of accommodating this scale of development, illustrative access, site layout and design plans have been submitted. The illustrative site layout plan shows use of an existing access to service the development with provision of a new access road looping to the west of the Shangri La before entering the developed area of the site. The proposed illustrative layout shows an inward facing cul de sac of 5 houses all with detached garages. The illustrative design details show a mix of chalet style detached houses with low eaves heights with accommodation in the roof areas with small dormers and the use of half hip roof treatments.
- 2.02 The application is also accompanied by a flood risk assessment carried out in connection with development proposed at Little Court, Sutton Road, Langley which the applicants consider to be relevant to this site, a phase 1 desk study into site contamination and an ecological scoping survey.
- 2.03 The following has also been submitted in support of the application .
- The application site occupies a sustainable location given its proximity to Langley (0.4 miles); Langley Heath (0.6 mile); Leeds (1.6 miles); Five Wents (0.7 miles) and Parkwood (1.5 miles).
 - These settlements provide a number of services being Leeds Kent House B&B; Amora Flowers; St. Nicholas Church; Leeds and Broomfield Cricket Club; Leeds Village Primary School; Langley Rumwood Nurseries and Garden Centre; Langley Heath GP Surgery (The Orchard Surgery); The Village Hall and Recreation Ground and Manning Autos; Five Wents The Plough at Langley Public House; Murco Petrol Station; Warmlake Car Centre; Young and Partners Motors Limited Parkwood Parkwood Industrial Park; Morrisons Superstore/petrol station; Holy Family RC School.
 - This demonstrates there are a range of services within walking distance of the site.
 - The site is connected by local bus services nos. 12, 13 and 64 with the nearest bus stop being less than 100 metres from the application site. These buses provide services to Maidstone, Hollingbourne, Linton and other surrounding service centres.
 - At an appeal at The Oak in Sutton Valence (reference APP/U2235/A/14/2228989) the Planning Inspector acknowledged the site was located some 400 metres outside the settlement confines. He considered the appeal site was well served by bus stops

and local shops within close proximity to the appeal site and therefore sustainably located and well connected to surrounding settlements.

- An appeal at 3 Old Style, Sutton Road immediately west of the application site was allowed for the erection of a two-storey, four bedroom dwelling with associated parking and access has been allowed. The Inspector confirmed the proposed dwelling would be in a sustainable location and would not be harmful to the character and appearance of the countryside.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV32, T13,
Maidstone Borough Council (Submission Version) Draft Local Plan: SS1, SP17,
DM1, DM2, DM4, DM6, DM10, DM12.

3.01 As set out in paragraph 1.01 above the application site lies outside any defined settlement in open countryside forming part of the Southern Anti Coalescence Belt as defined in the Maidstone Borough-Wide Local Plan 2000. As such it is subject to policies ENV28 and ENV32 of the adopted local plan.

3.02 The Council has recently finished its Regulation 19 consultation on the submission version of the draft Local Plan and representations from that consultation are currently being assessed. The emerging plan is a material consideration and given the latest position on a demonstrable 5 year supply of housing land, policies which were seen to restrict the supply of housing land can now be given significantly greater weight when considering planning applications by virtue of its progress through the stages in the adoption process.

4.0 LOCAL REPRESENTATIONS

4.01 A site notice was displayed at the site on 21st January 2016.

4.02 Ten neighbouring properties were notified of the application and two objections have been received which are summarised below:

- Will harm the rural character of the area and result in loss of views across the site.
- The development allowed on appeal at 3 Old Style has had an adverse effect on the character of the area.
- Will result in harm to the free flow of traffic and highway safety along Horseshoes Lane.
- Use of the proposed access road will result in harm to aural amenity along with increased light pollution harmful to the rural character of the area.

5.0 CONSULTATIONS

5.01 **Langley Parish Council:** Object to the proposal on the following grounds:

- The village has well defined boundaries and proposal will appear as a discordant incursion into open countryside beyond the existing defined boundaries.
- The proposal is contrary to the provision of paragraph 55 of the NPPF seeking to avoid isolated residential development in the countryside.
- The proposal will significantly harm the landscape setting and character of Langley and erode the existing separation between Langley and the continuing outward

expansion of Maidstone while harming the function of the Southern Anti Coalescence Belt.

- Will generate additional traffic placing additional pressure on existing overloaded roads within the locality while the access onto Horseshoes Lane will result in harm to the free flow of traffic and highway safety.

- Housing allocation H1(10) being land to the south of Sutton Road is the subject of a formal objection from Kent Highways. No further dwellings should be permitted along the A274 Sutton Road until this has been resolved.

- There is no housing justification for the proposed dwellings given the housing provision being made within the locality.

- If permitted the proposal will set a precedent for similar harmful development in the locality while resulting in the erosion of Langley's identity as a separate rural settlement and be harmful to its setting as a consequence.

- Particularly concerned regarding the impact of application ref: 15/508415 on land At Little Court , Sutton Road, to the south of the application site being an outline application with all matters reserved for the demolition of the existing structures on the site and construction of 4no. dwellings with associated parking, access and landscaping.

5.03 **KCC Highway Services** : No objection subject to imposition of conditions to secure on site parking and turning both pre and post the construction process.

5.04 **KCC Biodiversity Officer**: Satisfied that sufficient information has been provided to determine the planning application and that the potential for Great Crested Newts (GCN) to be present within the site and the surrounding area has been properly assessed. The ecological survey carried out for the adjacent site includes an assessment of the pond which is located within 9 metres of the proposed development site. However this waterbody is a seasonal stream rather than a pond which regularly dries out and at the time of the survey was polluted by agricultural waste. Therefore satisfied that GCN are unlikely to be present within the pond.

Another other pond is located at Sheiling Hall. However are satisfied there is no requirement for an Habitat Suitability Index or GCN survey to be carried out on this pond.

To accord with the provisions of the NPPF opportunities to incorporate biodiversity in and around developments should be encouraged which should be secured by condition.

5.05 **Natural England**: Have no comment to make advising it is for the Local Planning Authority to determine whether the application is consistent with national and local policies on the Natural Environment.

5.06 **KCC Heritage**: The site lies within an area of post medieval activity. Shieling Hall, to the east, is considered to be a 15th century farmhouse and remains associated with post medieval activity may be encountered during groundworks. However raise no objection subject to imposition of a condition to secure a watching brief.

5.07 **Environment Agency**: No objection though noting that while the majority of the site lies within Flood Zone 1 proposed plots 2 and 3 are very close to Flood Zone 3. Therefore recommend condition relating to the finished floor levels of the units on plots 2 and 3.

5.08 **Maidstone Borough Council Environmental Health Manager**: No objections

5.09 **Southern Water:** No objection

6.0 BACKGROUND PAPERS AND PLANS

6.01 The development proposals are shown on drawing numbers DHA/10870/01-08 (consec).

6.02 The application is supported by a Planning Statement, Design and Access Statement, Phase 1 Desk Study ref:1465/GH/9-2015/384 and Flood Risk Assessment by Herrington Consulting Ltd both dated September 2015 and Ecological Scoping survey carried out by Martin Newcombe Wildlife Consultancy dated the 23rd August 2015.

7.0 APPRAISAL

Principle of Development

7.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000 and policies contained with the submission version of the draft local plan. As the site lies within open countryside forming part of the Southern Anti Coalescence Belt the proposal is specifically subject to policies ENV28 and ENV32 of the adopted local plan. Policy states ENV 28 states that:

“In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan.”*

7.02 In addition the Council considers it is now capable of demonstrating a 5 year supply of housing land as set out below. As such great weight can now be attached to policy SP17 of the submission version of the draft local plan (policy SP17) seeking to control development in the countryside apart from certain exceptions. Though policy SP17 is more detailed than policy ENV28 it essentially replicates the key development restraints provisions of policy ENV28.

7.03 None of the exceptions against the general policy of restraint set out in policy ENV28 of the adopted local plan and policy SP17 apply to this application which therefore represents a departure from the Development Plan. In such circumstances it falls to consider whether there are any overriding material considerations justifying a decision not in accordance with the Development Plan and whether granting planning permission would result in unacceptable demonstrable harm incapable of being acceptably mitigated.

7.03 As a further consideration the application site comprises part of the acknowledged garden curtilage of Shangri La. The definition of previously developed land (pdl) set out in the NPPF specifically excludes land in built up areas such as private residential

gardens from being pdl. The inference from this is that garden land falling outside built up areas fall within the definition of pdl and the applicants have sought to place particular emphasis on this.

7.04 Notwithstanding the above, this does not mean the presumption in favour of development on pdl overrides the provisions of policies ENV28 or policy SP17, as the commitment to existing built mass in considering development proposals in the countryside is already acknowledged. As such the approach to development in the countryside is not materially altered by the inclusion of rural residential curtilages as pdl.

7.05 In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should;

'identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;'

7.06 The Council has undertaken a Strategic Housing Market Assessment (SHMA) which was completed in January 2014. This work was commissioned jointly with Ashford and Tonbridge and Malling Borough Councils. A key purpose of the SHMA is to quantify how many new homes are needed in the borough for the 20 year period of the emerging Local Plan (2011 -31). The SHMA (January 2014) found that there is the objectively assessed need (OAN) for some 19, 600 additional new homes over this period which was agreed by Cabinet in January 2014. Following the publication of updated population projections by the Office of National Statistics in May, the three authorities commissioned an addendum to the SHMA. The outcome of this focused update, dated August 2014, is a refined objectively assessed need figure of 18,600 dwellings. This revised figure was agreed by Cabinet in September 2014. Since that date revised household projection figures have been published by the Government and as a result the SHMA has been re-assessed. At the meeting of the Strategic Planning, Sustainability and Transport Committee on 9 June 2015, Councillors agreed a new OAN figure of 18,560 dwellings.

7.07 The new Local Plan has advanced and was submitted to the Secretary of State for examination on the 20 May 2016. Examination is expected to follow in September. The Plan allocates housing sites considered to be in the most appropriate locations for the Borough to meet the OAN figure and allows the Council to demonstrate a 5 year supply of deliverable housing sites.

7.07 The yearly housing land supply monitoring carried out at 1 April 2016 calculated the supply of housing, assessed extant permissions, took account of existing under delivery and the expected delivery of housing. A 5% reduction from current housing supply was applied to account for permissions which expire without implementation. In conformity with the NPPF paragraph 47, a 5% buffer was applied to the OAN. The monitoring demonstrates the council has a 5.12 year supply of housing assessed against the OAN of 18,560 dwellings.

- 7.09 A five year supply of housing land is a significant factor and paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as policy ENV28 which seeks to restrict housing outside of settlements) should not be considered up-to-date if a five year supply cannot be demonstrated. However policy ENV28, given the housing supply position, can now be considered up to date while policy SP17 should also be given great weight for the same reason.
- 7.10 Despite this, the presumption in favour of sustainable development identified in paragraph 14 of the NPPF still means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.

Sustainability:

- 7.11 Given the presumption in favour of sustainable development set out in the NPPF, the key assessment in principle terms is whether the application site can be considered to be sustainably located in relation to public transport provision and other services. The application site lies outside any built up area in open countryside and as such would not normally fall to be considered as a candidate for sustainable development. However the recent appeal in June 2014 on land adjoining 3 Old Style, Sutton Road, Langley allowed the erection of a 4 bedroom detached dwelling and 1 bedroom integral annexe immediately abutting the application site to the west and is relevant in determining whether the current proposal can be considered to represent an example of sustainable development.
- 7.12 In allowing the above appeal the Inspector concluded, amongst other things, at paragraph 4 of the decision that:
- “The largest part of the settlement of Langley lies across the fields to the east of the appeal site and the village of Sutton Valence, with its schools and limited range of shops and services is about 2.5 km to the south. Sutton Road is on a bus route with frequent services to Maidstone and Headcorn which both have opportunities for employment, shops and services and railway stations. Taking into account the public transport links I consider that the appeal site is in a location where day-to-day journeys could reasonably be made without reliance on the private car.”*
- 7.13 It is considered the above comments represent a recent and unequivocal statement regarding the sustainability of this site. In terms of its relevance to the current application, this site immediately abuts the western site boundary while though the application site does not front Sutton Road the proposed access is just under 130metres to the east of Sutton Road. As such given this appeal decision it is considered it would be difficult to seek to argue the current application site occupies an unsustainable location given its close proximity to a site that has already been judged to be sustainable.
- 7.14 It is recognised that in reaching the above conclusion Members may be aware of the dismissed appeal in connection with land to the south of Horseshoes Lane which is referred to on the plan attached as **Appendix 1** to this report.
- 7.15 Paragraph 19 of this appeal decision is set out below
- “I have been referred to two appeal decisions by the appellant, relating to development at The Oaks, Maidstone Road, Sutton Valence and 3 Old Style, Sutton*

Road. On the evidence before me these sites appear to be in more sustainable locations, with greater accessibility to services and public transport. In the case of The Oaks, the Inspector also concluded that residents would be able to access a reasonable range of services on foot and that would not be the case here. Overall, different conclusions on the sustainability of their location were reached by the Inspectors and I also note that a different conclusion was reached in terms of the harm to the character and appearance of the area and the effect on the significance of a heritage asset was not a consideration for the Inspectors.”

- 7.16 Given the specific reference to the allowed appeal at 3 Old Style and the comments made on its sustainability, it is not considered this appeal gives any support to the view that the current application site occupies an unsustainable location.
- 7.17 In the circumstances it is considered the application site occupies a sustainable location when the applying the criteria set out in the NPPF and draft Local Plan given its proximity to a site allowed on appeal that has already been judged to be sustainable.
- 7.18 As the Council is now in a position to demonstrate a five year housing land supply the normal restraints on residential development in the open countryside now apply as the adopted Local Plan is no longer out of date. In such circumstances the NPPF advises that when planning for development through the Local Plan process and the determination of planning applications, the focus should be on existing service centres and on land within or adjoining existing settlements. Though the development does not strictly meet these siting preference, for the reasons set out above it is nevertheless still considered to represent an example of sustainable development in location terms.
- 7.19 As such despite the weight that can now be given to policies ENV28 and SP17 given the provisions of the NPPF and local planning policy supporting sustainable development the proposal remains acceptable in principle. Consideration therefore turns on its detailed impacts and whether this reveals an unacceptable demonstrable harm for other reasons outweighing the presumption in favour of sustainable development set out in the NPPF.
- 7.20 Detailed considerations in connection with this application are considered to be the visual impact of the development on the rural character of the locality including whether the function of anti coalescence belt will be compromised, design and layout considerations, residential amenity, access/highway safety and ecology.

Visual Impact

- 7.21 The proposal has been submitted in outline form with all matters reserved. However in seeking to demonstrate the site is capable of accommodating the scale of development proposed (in a manner meeting the Councils normal design and layout standards while minimising its impact on the wider landscape) illustrative design and layout plans have been submitted along with long section plans and details of the visibility splays to the access onto Horseshoes Lane to serve the development.
- 7.22 The development has two key visual impacts being those related to the access and its impact on Horseshoes Lane and the housing element of the proposal.
- 7.23 Dealing first with the impact of the access, an existing access onto Horseshoes Lane will be widened to secure improvements to visibility. Taking into account the existing nature of the frontage being a low brick wall topped by railings and based on the

submitted illustrative details, it is not considered increasing the width of the access will have any material visual impact. Turning to the line of the access road running to the west of Shangri La for over 80 metres before entering the housing sector of the proposal, subject to the use of an appropriate rural wearing surface such as gravel hot rolled into a tarmac base, it is not considered this will have any material impact though the impact of any lighting should be controlled by condition. As such it is not considered improvements to the access and provision of the access road will, on their own, or combination with the proposed housing to the rear of the site have any material significance in contributing to the overall visual impact of the proposal.

- 7.24 Turning to the impact of the proposed housing sited just under 60 metres from the rear of Shangri La, cross section details show the site falling away in a north to south direction such that the lowest part of the site is just under 3.5 metres lower than the slab level of Shangri La. The net effect of these cross falls is that when viewed from Horseshoes Lane just under 90 metres to the north, the submitted illustrative details show that glimpse views will only be available to roof profiles which by their very nature are recessive details minimising any impression of bulk. As such given (a) the set back of proposed houses from Horseshoes Lane (b) additional native species screening along the northern site boundary and (c) that the proposed houses will be built at the levels shown, it is considered the impact of the proposed development when viewed from Horseshoes Lane will not result in any significant increase impression of built mass that may be viewed as being harmful to the rural character of the area.
- 7.25 Regarding the impact of the development when viewed from surrounding land, the application site on all boundaries is enclosed by high hedgerows which are to be retained and this will be secured by condition. Taking into account the site cross-falls, enclosed inward looking nature of the development and the illustrative design and siting details showing low profile houses set on average over 10 metres from site boundaries, it is considered the impact of the development will be contained within the site. As such the limited impression of built mass outside the site will not result in material harm to the character or openness of the adjoining countryside contrary to the provisions of policy ENV28 of the adopted local plan or SP17 of the draft local plan.
- 7.26 As the development will be largely imperceptible in the wider landscape it is considered it would be difficult to sustain an objection based on any material impact on the function of the anti coalescence belt contrary to the provisions of policy ENV32 of the adopted local plan.
- 7.27 Concerns have been raised that the proposal will consolidate existing adhoc and scattered development in the locality setting a precedent for similar development resulting in the erosion of Langley's identity as a separate rural settlement and harming its setting as a consequence. Members are reminded that precedent is not a reason for objecting to an application as one of the key principles underpinning the planning process is that each application must be dealt with on its merits. When applying this test it is considered for the reasons set out the proposed development is acceptable in its own right and will not have any material impact in eroding the character, setting or settlement integrity of Langley.

Design and layout considerations

- 7.28 The illustrative design details show detached houses all with low eaves capped by pitched roofs with accommodation in the roof. The details show elements of the local rural vernacular with the use of waney edge barge boards, half hip roofs, small

dormers and the design, siting and proportions of doors and windows amongst other things. As such the submitted illustrative designs are considered acceptable.

- 7.29 The layout shows a 'typical' inward looking cul de sac which it is considered to meet the Councils normal block spacing, privacy and amenity space standards. While the layout is acceptable in its own right it has a suburban quality and density which materially departs from the more spacious character of nearby development. However the self-contained and enclosed nature of the site means the site lacks outside reference points enabling such a wider comparison to be made. In the circumstances no objection is raised to the proposed illustrative layout which is considered to show the site is capable of accommodating the scale of development sought.

Residential amenity

- 7.30 For the reasons set out above it is considered the illustrative layout is capable of achieving an acceptable residential environment for future residents. Regarding any impact on properties overlooking and abutting the site, though concerns have been raised regarding loss of views (which is not a consideration that can be taken into account), given the illustrative design and siting of the proposed houses, retention of boundary hedgerows and separation distances to houses abutting the site, it is considered that no material loss of amenity will occur.

Highways

- 7.31 Concerns have been raised (a) that the proposal will result in harm to the free flow of traffic and highway safety along Horseshoes Lane and surrounding road network due to the additional traffic generated using roads already operating over capacity and (b) that as housing allocation H1(10) (being land to the south of Sutton Road) is the subject of a formal objection from Kent Highways no further dwellings should be permitted along the A274 Sutton Road until this has been resolved.
- 7.32 Dealing with point (a) additional traffic generated by this development of 5 houses will be nominal. Furthermore adequate on-site turning will be provided enabling vehicles to leave the site in a forward direction along with the proposed improvements to the visibility splays to the proposed access. As such in the absence of objection from Kent Highways no objection is identified based on harm to highway safety and the free flow of traffic.
- 7.33 Turning to point (b) as the proposal will have little impact in traffic generation terms and again in the absence of objection from Kent Highways, such a moratorium could not be justified in the circumstances of this application.

Biodiversity

- 7.34 The application site comprises a large mown area forming part of the garden curtilage of Shangri La with the site perimeters defined by evergreen hedgerows. Given its use as a mowed, maintained and relatively level grassed area with no features which might provide wildlife habitats, in its current form the site has little/no intrinsic wildlife potential. However given its location abutting open countryside having features capable of sustaining wildlife and that it is likely to be visited by wildlife, an ecological survey was undertaken.
- 7.35 The ecological survey mainly of adjoining land revealed a total of 90 species of plants and animals. No notable species of plant were found. A total of 10 bird species were

recorded but there was localised potential nesting bird habitat in the hedges and garden shrubs on the site.

- 7.36 There was no evidence of any species which are specifically protected under wildlife legislation. However house sparrows were evident though the sites current value to this species is as a possible occasional feeding area. If appropriate mitigation measures such as house sparrow nesting boxes are incorporated into any new development there will be a slight increase in potential nesting and possibly feeding habitat of higher quality than presently exists and there would therefore be no long term impact on this species.
- 7.37 No evidence of bats were identified in nearby buildings, nor badgers, dormice or common reptiles.
- 7.38 Regarding the potential presence of Great Crested Newts (GCN) in nearby ponds one pond was more of a seasonal stream than a pond and was polluted by manure from nearby stables. As a consequence no GCN were identified nor was it considered these ponds were likely future habitats. It was therefore concluded there was little potential for protected species on the site.
- 7.39 KCC ecology are satisfied no protected species will be materially affected by the development and subject to the wildlife mitigation measures set out, being the provision of house sparrow nesting boxes and taking in to account the additional native species planting and retention of existing boundary hedgerows, it is considered the requirement to safeguard, make provision for and to improve wildlife habitats set out in the NPPF is met.

Flood risk, drainage and contaminated land

- 7.40 The EA advise that it has no objection on flooding grounds as the majority of the site lies within Flood Zone 1. However as proposed plots 2 and 3 are close to Flood Zone 3 it recommends a condition relating to the finished floor levels of the units on plots 2 and 3. Subject to this being conditioned along with the provision of a SUDS it is considered the proposal is acceptable in flood risk grounds.
- 7.41 With regards to foul drainage, Southern Water raise no objection to the proposal on these grounds though it recommends an informative advising of the possibility of a public sewer crossing the site.
- 7.42 Regarding contamination, the site survey did not reveal any obvious risk of contamination which might prove harmful to human health or be a source of pollution if disturbed. Nevertheless the report recommends that in the course of groundworks the condition of the ground is regularly checked for signs of potentially localised contamination. This reflects the possibility that past uses of the site may have resulted in some residual contamination which may be revealed as part of the construction process. In the circumstances it is considered appropriate to impose a condition to address this eventuality.

Other Matters

- 7.43 The Council now seeks to ensure that at least 10% of the energy demands of new development is met from renewable sources 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.

- 7.44 Regarding the Parish Councils concern at the impact of application ref: 15/508415 (being land At Little Court , Sutton Road lying to the south of the application site and an outline application with all matters reserved for the demolition of the existing structures on the site and construction of 4no. dwellings with associated parking, access and landscaping), this application is currently undetermined. In the event of a positive officer recommendation the application will be brought before the Planning Committee for determination.

8.0 CONCLUSIONS

- 8.01 It is acknowledged the proposal is contrary to adopted Maidstone Borough-Wide Local Plan 2000 and policy SP17. However notwithstanding that a five year housing land supply can now be demonstrated as the site is considered to occupy a sustainable location it is considered the proposal remains acceptable in principle and accords with the NPPF.
- 8.02 Turning to the details of the proposal, it is considered the submitted illustrative details demonstrate the site is capable of accommodating the scale of development proposed in a manner meeting the Councils normal design and layout standards to secure an acceptable residential environment. In addition taking into account the site topography and that it is surrounded by high existing hedgerows, it is considered the main impact of the proposal will be contained within the site. As such it will not result in any material increase in the impression of built mass harmful to the open character of the adjoining countryside or function of the Southern Anti Coalescence Belt. The proposal is also considered to be acceptable in its impact on adjoining properties, will not result in any material harm to the free flow of traffic or highway safety on the local road network while safeguarding the interests of wildlife nor contribute to or be at risk of flooding while safeguarding public safety and possible pollution risks.
- 8.03 In the circumstances it is considered that any harm that would otherwise arise from the proposal has been mitigated to an acceptable level while resulting in a contribution in towards meeting housing need in the Borough and on balance it is considered the proposal should be granted planning permission.

RECOMMENDATION:

CONDITIONS

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority for :-
 - a. Access
 - b. Layout
 - c. Scale
 - d. Appearance and
 - e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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.

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2. The details of landscaping submitted pursuant to condition 1 shall provide for the retention of existing mature hedging running along the whole length of the south, west and east site boundaries.

Reason: In the interests of visual amenity.

- 3 The development hereby approved shall not commence until details of all fencing, walling and other boundary treatments have been submitted to the Local Planning Authority and approved in writing. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

4. Details submitted pursuant to condition 1 shall show details of the access onto Horshoes Lane, sight lines to this access along with the details of internal access and highway arrangements, on site parking and turning to serve the development hereby approved. None of the dwellings hereby approved shall be occupied until the approved measures are in place which shall be retained at all times thereafter with no impediment to their intended use.

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

5. Prior to commencement of the of development hereby approved construction vehicle loading/unloading and turning, parking facilities for site personnel and visitors and wheelwashing shall be provided. These measures shall be maintained on site throughout the construction phase of the development,

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

6. No surface water shall discharge onto the public highway while a bound surface shall be provided for at least the first 5 metres of the access from the highway edge of Horshoes Lane.

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

7. The development hereby approved shall not commence until written details and samples of the materials to be used in the construction of the external surfaces, including hard surfaces, of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The materials shall include, inter alia, swift and bat bricks. The development shall thereafter be constructed using the approved materials unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to provide wildlife habitat to accord with the provisions of the NPPF.

8. Before first occupation of any of the dwellings hereby permitted a scheme of landscaping, using indigenous species shall be submitted for prior approval in writing by the Local Planning Authority. An indigenous species planting belt shall also be planted along the north site boundary of the area shown to be developed for housing. In addition all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development along with a programme for the approved scheme's implementation and long term management shall also be submitted for prior approval in writing by the Local Planning Authority.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details over the period specified.

Reason: In the interests of visual amenity.

9. All planting, seeding or turfing comprised in the approved landscaping details shall be carried out in the first planting and seeding seasons following first occupation of any of the dwellings hereby approved. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

10. The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) including details of any tree works that would be necessary to implement the proposal, which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations" has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for all buildings within root protection zones, where the AMS identifies that specialist foundations are required. 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, ensure a satisfactory setting and external appearance to the development.

11. No external lighting whatsoever shall be placed on any part of the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night-time rural environment in the interests of visual amenity.

12. The development hereby permitted shall not commence until a detailed surface water drainage scheme for the site based on sustainable drainage principles has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of sustainable development and flood protection.

13. 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 a

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remediation strategy to the Local Planning Authority for its prior approval in writing. The remediation strategy shall be implemented as approved.

Reason: In the interests of pollution prevention.

14. The development hereby approved shall be carried out at the levels shown on drawing no:DHA/10870/07. In addition the height of any buildings shall not exceed that shown on this plan.

Reason: In the interests of visual amenity.

15. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

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

16. The development hereby permitted shall not be commenced until details demonstrating the finished floor levels of plots 2 and 3 will be a minimum of 600mm above existing ground level, have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of flood protection.

17. Before first occupation of any of the houses the size, design and siting of two house sparrow boxes and two open fronted bird boxes shall be submitted for prior approval in writing by the Local Planning Authority. The boxes shall be installed within 3 months of approval and retained as such at all times thereafter.

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

18. The development hereby approved shall not commence until details have been submitted for prior approval in writing by the Local Planning Authority of decentralised and renewable or low-carbon sources of energy and how they will be incorporated into the development. The approved details will be in place before first occupation of the development hereby approved and maintained as such at all times thereafter.

Reason: To secure an energy efficient and sustainable form of development to accord with the provision of the NPPF.

19. The development hereby approved shall be carried out in accordance with the following submitted details being drawing nos: DHA/10870/01-08 (consec).

Reason: In the interests of amenity.

INFORMATIVES

Highways:

Planning permission does not convey any approval for any works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council – Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. 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.

Foul Water:

A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

Investigations indicate there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development is required. This should not involve disposal to a public foul sewer.

Due to changes in legislation that came in to force on 1 st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 3030119) or www.southernwater.co.uk.

Pollution Prevention

Please note that all precautions must be taken to avoid discharges and spills to the ground both during and after construction. 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_1

Waste

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.

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Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore its handling, transport, treatment and disposal is subject to waste management legislation which includes:

- i. Duty of Care Regulations 1991
 - ii. The Waste (England and Wales) Regulations 2011
 - iii. Hazardous Waste (England and Wales) Regulations 2005
 - iv. Pollution Prevention and Control Regulations (England and Wales) 2000
 - v. Environmental Permitting (England and Wales) Regulations 2010
- Method of Construction

As the development involves construction compliance with the Mid Kent Environmental Code of Development Practice is expected.

Wildlife:

You are reminded of the legal protection afforded to nesting birds and to ensure that no development is carried which might affect these.

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 pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application, following receipt of further information was 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.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.