

REPORT SUMMARY

REFERENCE NO - 17/500471/FULL		
APPLICATION PROPOSAL Erection of 2 no. dwellings with associated landscaping and car parking.		
ADDRESS Land North Of Street Farm Cottages Forge Lane Boxley Kent ME14 3DR		
RECOMMENDATION – Grant planning permission		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal does not represent an isolated dwelling in the countryside while also meeting the economic, social and environmental sustainability tests. It therefore represents sustainable development in accordance with the provisions of the NPPF Will have no material impact on the landscape character of the North Down AONB, character setting or openness of the countryside or functioning of the strategic gap. Is considered acceptable in size, design and siting terms while not giving to any material harm to the outlook or amenity or adjoining residents. Is acceptable in heritage terms, impact on existing trees and wildlife while not giving rise to any material highway impact. Represents an acceptable windfall development in its own right making a modest but material contribution to meeting housing need within the Borough.		
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of Boxley Parish Council while the development is contrary to landscape and countryside protection policies contained within the development plan		
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT Rochester Bridge Trust AGENT Savills
DECISION DUE DATE 31/03/17	PUBLICITY EXPIRY DATE 29/05/17	OFFICER SITE VISIT DATE 25 th May 2017

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The application site comprises a rectangular shaped area of open land on the western side of Boxley located at the junction of Forge Lane and a private access track looping round and defining the north west extent of Boxley.
- 1.2 Abutting the application site to the south west is a pair of semi detached houses beyond which are buildings of an agricultural scale and character. Immediately

abutting the site to the east is a detached dwelling facing onto Forge Lane while on the opposite side of Forge Lane to the north is a terrace of 4 houses.

- 1.3 In a wider context the site abuts the western edge of Boxley representing an isolated hamlet lying within open countryside and falling within the North Downs AONB, a Special Landscape Area (SLA) and a Strategic Gap. The application site also immediately abuts the Boxley Conservation Area (CA) to the east.

2.0 RELEVANT PLANNING HISTORY

- 2.1 There is no relevant planning history directly relating to the application site. However there are other sites in Boxley which have been referred and these are shown on the plan attached as **Appendix 1** as follows:

- 2.2 **16/506571: The Granary, Court Lodge Farm, The Street** - Outline application for one detached dwelling (All matters reserved for future consideration). REFUSED – APPEAL DISMISSED – Decision attached as **Appendix 2**.

- 2.3 **07/0396: The Haven, Forge Lane** - Outline application for the erection of single storey detached dwelling and detached garage to serve existing dwelling with access to be considered at this stage and all other matters reserved for future consideration. REFUSED – APPEAL DISMISSED – Decision attached as **Appendix 3**.

3.0 PROPOSAL

- 3.1 The proposal as originally submitted was for two no: 3 bedroom detached houses each having a floor area of just over 130 sqm.
- 3.2 Unit 1 fronts Forge Lane with a return elevation set back just in from the access track abutting the site to the west. To the rear (south west) of this unit is a private amenity area with a single detached garage set into the site in front of which are two parking spaces.
- 3.3 Unit 2 abuts unit 1 to the south west. Unit 2, which has an integral garage with two parking spaces in front, has its main elevation fronting the access track to the east. A rectangular amenity space is sited to the rear of the proposed dwelling. Both dwellings were two storey with steeply sloping hipped and catslide roofs.
- 3.4 The size and design of both dwellings has since been amended. Unit 1 is now a bungalow with unit 2 also reduced in size.
- 3.5 Site access will be from the private road abutting the site to the west with erection of a locked gate to prevent use of Forge Lane.

A supporting statement has also been submitted and its key points are summarised below:

- The applicant is a trust and is the only surviving independent bridge trust remaining true to its original historic purpose of providing river crossings free of charge to the public.
- The trust has a long-standing interest in the area and sees the proposed development as an opportunity to provide two houses, foster their relationship with the village while furthering its charitable interests.

- Consultation took place with Boxley Parish Council on 14th November 2016 and concerns were raised over scale, design, parking and access.
- Have sought to address these concerns by providing further information on transport issues matters though design amendments have not incorporated as they would compromise the character and appearance of the proposed dwellings.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Adopted Local Plan: ENV6, ENV28, ENV31, ENV33, ENV34, T13
Draft Local Plan: SP17, DM1, DM2, DM3, DM4, DM11, DM12, DM13, DM27, DM34

5.0 LOCAL REPRESENTATIONS

5.1 18 neighbouring properties notified – 16 objections received in connection with the application as originally submitted which are summarised below:

- Already history of refusals and appeal decisions making clear that new residential development in Boxley unsustainable.
- Forge Lane is already used as an informal overflow parking area - proposal will increase parking conflict in the village.
- Neither Forge lane or the Street farm track have footpaths but are well used by walkers –additional traffic on these will harm pedestrian safety.
- No rights of way to site.
- Proposal lacks parking, is unsustainably located being poorly served by public transport while Forge Lane cannot accommodate service and emergency vehicles.
- Forge Lane consists of small houses – proposed development out of scale and keeping with the locality.
- Harm views of AONB to the detriment of the landscape quality of the area and contrary to the Kent Down AONB management plan by failing to conserve, enhance or maintain the character of the AONB.
- Site lies within AONB – proposal will extend village into undeveloped countryside.
- Harm character of the CA and lead to further pressure for infill development.
- No justification in housing need terms.
- Will lead to loss of sunlight, outlook and amenity to the occupants of Anvil Cottage and other houses overlooking and abutting the site.
- Harm function of the strategic gap.
- Will adversely affect local services.
- Does not constitute environmentally sustainable development while failing to safeguard wildlife.

5.2 Following reconsultation in connection with the revised proposal 6 objections received stating the revisions do not address the objections to the proposal set out above.

6.0 CONSULTATIONS

6.1 **Boxley Parish Council:** Objected to the proposal as originally submitted on the following grounds:

- Development will expand the built area of Boxley village into the countryside to the detriment and appearance of the Kent Downs Area of Outstanding Natural Beauty and the North Downs Special Landscape Area contrary to policy

Planning Committee Report

- Site is immediately adjacent to the Boxley Village conservation area and the design of the proposed dwellings do not enhance the local, natural or historic character of the area.
- Dwellings should enhance or respond positively to the character of the area and it is felt this standard is not reached.
- Insufficient car parking for the proposed properties resulting in overspill parking blocking it local roads.
- Unsustainable development as area poorly served by public transport.
- Support conditions recommended by Kent Highways but feel proposal is unacceptable in its impact on highway safety and the free flow of traffic.
- Local schools already oversubscribed and proposal will add to pressure on these.

6.2 In connection with the revised proposal do not feel it addresses the concerns already raised and would add that there are no retail or educational facilities in or near the school.

6.3 **Kent Highways:** Subject to a restriction on vehicles using Forge Lane as an access with vehicles routed via the Private Road approach from the south (being an existing access, with good visibility and there have been no personal injury crashes associated with the intersection of this private road and The Street, in the past 5 years) raise **NO OBJECTION** subject to the following being secured:

- any gates erected at the junction with Forge Lane should be designed to allow for pedestrian and cycle movements and incorporate a turning head for vehicles to turn safely on Forge Lane.
- Refuse collection only from private road
- On site provision for construction vehicles, personnel and visitors along with wheel washing
- On site parking and turning and provision of cycle parking.

6.4 **EHO:** No objection subject to condition to secure details of waste water drainage.

6.5 **KCC Ecology:** As suitable reptile habitat is evident require further information on the potential impact on these species. Otherwise accept the conclusions of the ecological report subject to the precautionary mitigation and enhancement measures set out.

6.6 An amended reptile report has since been submitted to and found acceptable by KCC Ecology.

7.0 APPRAISAL

7.1 As the proposal affects land falling within an AONB the Local Planning Authority must first screen the application to assess whether it should have been accompanied by an EIA.

7.2 The proposal does not fall within the categories of development where an EIA is normally required but given the sensitive nature of the AONB's higher level tests must be applied.

7.3 The main consideration is impact on the wider landscape. In assessing this it should be taken into account the development is sited abutting existing development within Boxley. Given the small scale of the development and its localised visual impact when viewed against the backdrop of existing development within the Boxley hamlet it is considered the proposal does not constitute EIA development.

- 7.4 Moving to determination of this application, 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 within the emerging local plan. The Local Plan Inspectors Final Report has been published which concludes that subject to the modifications being made the Plan is sound and capable of being taken forward to adoption. As such the emerging plan must now be given significant weight in the determination of all planning applications.
- 7.5 The key issues are therefore considered to be that of principle, whether there is any material impact on the character and setting of the AONB, SLA, strategic gap or the wider countryside, impact on the character setting and layout of this part of Boxley, heritage considerations, design and layout, impact on the outlook and amenity of properties overlooking and abutting the site, highways and wildlife, habitat and landscaping concerns.

PRINCIPLE

- 7.6 Dealing first with the adopted local plan, the proposal is specifically subject to policies ENV28 relating to countryside protection, ENV31 seeking to prevent development that would compromise the function of the strategic gap aimed at maintaining separation between built up areas and policies ENV33 and 34 relating to AONB's and SLA's where landscape protection will be take precedence over other planning considerations.
- 7.7 Regarding the emerging local plan, policies SP17 and DM34 of the emerging local plan are essentially countryside protection policies. Policy SP17 has been amended by the Local Plan Inspector and the parts considered relevant to the proposal are as follows:

The countryside is defined as all those parts of the plan area outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages defined on the policies map.

Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.

Great weight should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty ;

Proposals should not have a significant adverse impact on the settings of the Kent Downs Area of Outstanding Natural Beauty or the High Weald Area of Outstanding Natural Beauty;

Development in the countryside will retain separation of individual settlements

- 7.8 Policy DM34 (now DM30) specifically refers, amongst other things, to the need to conserve and enhance the landscape and scenic beauty of the Kent Downs AONB and its setting and in general where built development is proposed where practicable it should be located adjacent to existing buildings or unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.

7.9 In addition paragraph 55 of the NPPF also states, amongst other things, that:

Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

7.10 Paragraph 115 of the NPPF requires that great weight should be given to conserving the landscape and scenic beauty of AONB's.

7.11 In terms of other material considerations the NPPF requires the Council be able to demonstrate a 5 year supply of housing land in order for it be able to give significant weight to other policies seen to affect the supply of housing land. The Local Plan Inspectors Final Report concludes that subject to the modifications the Plan is sound and capable of being taken forward to adoption while also concluding the Council has an adequate 5 year supply of housing.

7.12 Given this confirmation on the 5 year supply of housing land the rural, landscape protection and anti coalescence policies contained within the adopted and emerging local plan are considered to carry significant weight.

7.13 Turning to whether there is policy support for the proposed development, in the adopted local plan, Boxley is not identified as a settlement where minor development is considered acceptable in principle. However Policy SP17 of the draft local plan states, amongst other things, that in the countryside, proposals which do not harm the character and appearance of an area will be permitted in the countryside. It is therefore considered that acceptability of the proposal turns on its detailed impacts which will be assessed below.

SUSTAINABILITY

7.14 Concerns have been raised regarding the sustainability of the site and that Boxley is poorly served by public transport having little in the way of facilities. Section 55 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

- 7.15 Taking into account the location of the site immediately abutting Boxley with existing houses in close proximity it is not considered the proposal will result in isolated dwellings in the countryside.
- 7.16 Nevertheless the Inspector in connection with the dismissed appeal for the application at The Granary, Court Lodge Farm, The Street (ref: 16/506571) concluded the following amongst other things:

Para 7 Boxley has a church and public house but no other facilities, the nearest shops, primary school and other facilities being about 1.5 km away at Penenden Heath on the outskirts of Maidstone. Although within cycling distance these facilities are too far for convenient access by foot. There is a continuous footway along the road, but the route is quite busy and unlit at night, making walking an unattractive option, particularly at night and in winter. There is a bus stop just 100 m away with reasonably frequent services to Maidstone and Gillingham and also some local employment opportunities, but no mechanism is propose to ensure the occupiers of the dwelling would work in the village.

Para 8. A previous Inspector, when dismissing an appeal for a single dwelling in Forge Lane, Boxley in 2008, noted that "whilst... a regular bus service runs through Boxley, there are no shops or services available within the immediate area apart from a public house and a church. Maidstone town centre is about 3 km to the south and, although it could be accessed by bus or cycle... future occupiers... would be heavily reliant upon the private motor car to service their day-to-day needs". Although further details of the available bus services and evidence of local employment is provided with this appeal I see no reason to disagree with this conclusion

- 7.17 As the above appeal decision is recent its conclusion that Boxley is not sustainably sited could represent a material consideration in assessing the current proposal. Though the Inspector refers to regular bus services in the locality he concluded future occupiers would be heavily reliant on car use.
- 7.18 To place local public transport in perspective there is a bus stop just opposite the Kings Arms just over 100 metres from the application site. The Nu Venture Bus Company operates bus nos: 130 and 131. Mon – Fri services to Maidstone start at 0720 hrs with buses at 0757, 0941, 1116, 1211, 1416, 1441, 1612, 1726 and 1812. There is also a Saturday service starting at 0826 with buses at 1026, 1226, 1456 and 1726. Buses also serve Hempstead Valley shopping centre and Gillingham. Furthermore there is the parade of shops at the junction Boxley Road and Sandling Lane just over 1 mile to the south of Boxley with footpaths running the whole length of Boxley Road to this shopping parade.
- 7.19 Given the frequency of buses to both Maidstone and the Medway towns and local shopping at Penenden Heath (with footpath access to this latter facility) and proximity of the application site to the bus stop, it is considered Boxley is relatively well served by public transport and could provide a viable alternative to a reliance on cars. It is acknowledged this goes against the Inspector comments but also given these considerations it can be reasonably concluded the application site is sustainably located.
- 7.20 In addition the proposal also needs to be assessed against the economic, social and environmental sustainability roles set out in the NPPF.

Impact on the character and setting of the AONB, SLA, strategic gap and countryside.

- 7.21 Though Boxley has a village character it is not identified as a separate settlement and is washed over by AONB, SLA, strategic gap and countryside protection policies. In addition to policies ENV28 of the adopted local plan and SP17 and DM34 of the DLP the proposal is therefore also subject to policies ENV31, ENV33 and ENV35 of the adopted local plan. The policies relating to the AONB and SLA require landscape preservation to take precedence over other planning considerations. In addition paragraph 115 of the NPPF states that great weight should be given to conserving landscape and scenic beauty in National Parks. Regarding strategic gaps the requirement here is that development should not compromise their key function of maintaining separation between built up areas.
- 7.22 Dealing first with the impact on the AONB in addition to the proposal being seen to comply with local and national policy is also the need to assess it against the provisions of the Kent Downs AONB management plan.
- 7.23 In addition the Inspector in connection with the dismissed appeal for the application at The Granary, Court Lodge Farm, The Street (ref: 16/506571) concluded the following:
- Boxley is an attractive village situated on the south facing slopes below the ridge of the North Downs and the area of scattered ex-farm and other buildings to the south of the church forms an important part of its character. Increasing the concentration of residential development in this area would incrementally harm the overall character of the village and in turn erode the character of the Kent Downs AONB and North Downs SLA landscapes of which it forms part.*
- 7.23 The part of Boxley to which this appeal decision refers (and which is shown on the plan attached as **Appendix 1**) is characterised by widely spaced detached houses. That close to and abutting the application site comprises more close knit development comprising a mix of detached, semi detached and terraced houses with agricultural buildings to the south. The impact of the current proposal on its surroundings therefore requires detailed assessment.
- 7.24 Abutting Boxley to the west is a wide and open landscape with a public footpath running in an east to west direction along Forge Lane and continuing in a westerly direction. Viewed in isolation the application site could be seen as occupying an exposed position harmful to the wider landscape. However there is already development fronting the track defining the western extent of Boxley in the form of a pair of semi detached cottages abutting the site to the south west beyond which are agricultural buildings. The proposal would therefore continue the established layout pattern of frontage development onto the track to the east of which is the hamlet of Boxley. The application site, currently occupied by scrub vegetation, has a width of just over 30 metres taking it up to Forge Lane to the north of which is the terraced development of Barn Meadow Cottages. It is therefore considered that subject to any proposal respecting the grain and character of the locality development of the site can be seen to represent infill development rounding off the hamlet at this point.
- 7.25 It is acknowledged the Kent Down AONB management plan requires development to conserve, enhance and maintain the character of the AONB. In assessing the proposal against these priorities requires an understanding of the landscape function of the application site. It is acknowledged it is open and undeveloped. Nevertheless in the context of an area of land clearly falling within and being seen as part of Boxley hamlet (but having no formal open space function) it is considered to have a neutral landscape function. As such views of the site when seen from open land to the west and the public footpath would be against the backdrop of existing development. Subject to the design, size and siting of the development being appropriate to this

sensitive location (which will be assessed later), it is considered there will be no material impact on the landscape quality of the AONB.

- 7.26 It is acknowledged residents overlooking and abutting the site have come to accept views across the site as part of their general amenity entitlement. However there is no private right to a view as such. The maintenance of landscape quality of the AONB is exercised in the wider public interest though it in this case individual and public interests coincide. In this case for the reasons already set out it is not considered the landscape quality and setting of the AONB will be compromised and given the current condition of the site an appropriate development format could be seen as conserving, enhancing and maintaining the character of the AONB. By implication the landscape quality of the SLA and openness of the countryside will also not be materially affected
- 7.27 Turning to any material impact on the function of the strategic gap it is not considered the development is of sufficient scale to compromise the function of the strategic gap in maintaining separation between settlements.

Impact on the character, setting and layout of Boxley

- 7.28 As stated above there is already development fronting the track defining the western extent of Boxley in the form of a pair of semi detached cottages abutting the site to the south west beyond which are agricultural buildings. The proposal would therefore continue the established layout pattern of frontage development onto the track to the east of which is the recognised hamlet of Boxley. The application site, currently occupied by scrub vegetation has a width of just over 30 metres taking it up to Forge Lane to the north of which is terraced development of Barn Meadow Cottages. The proposal is therefore considered to respect the grain and character of the locality representing infill development rounding off the hamlet at this point.

Design and layout:

- 7.29 In response to concerns regarding the bulk and impact of the proposed dwellings on the character of the locality and outlook and amenity of residents of Anvil Cottage the size and design of both dwellings has been amended. The unit on plot 1 is now a bungalow while the unit on plot 2, though still a two storey detached dwelling, has had its ridge height reduced while the garage, though still attached, now appears more as a structure in its own right rather than being read as part of the dwelling.
- 7.30 The bungalow on plot 1 fronts Forge Lane and forming part of the Forge Lane 'street scene' must be seen to make its own contribution to the character of the area. Though development in the locality is two storey Anvil Cottage abutting the plot to the east steps down to single storey close to the boundary. Given the design and detailing of the proposed dwelling, which has the scale and proportions of a cottage, its impact on the street scene is acceptable. Where the bungalow flanks the track to the west a fully detailed elevation is proposed and given the low bulk and profile of the proposed dwelling and proposed planting abutting the track means its visual impact is acceptable.
- 7.31 Regarding the two storey dwelling on plot 2, the design revisions means it better reflects the scale of the pair of semi detached houses abutting the site to the south east. Furthermore its design, detailing, proportions and use of materials means it will appear in keeping in this rural setting on the edge Boxley.
- 7.32 The site layout, size and proportions of the proposed amenity areas and general site layout are considered acceptable.

Impact on the outlook and amenity of properties overlooking and abutting the site:

- 7.33 Dealing first with the impact of the bungalow described as unit 1 on houses on the opposite side of Forge Lane, given the separation distances, design and low bulk and profile of the proposed bungalow no material harm is identified to the outlook or amenity of these properties. The property most affected is Anvil Cottage immediately abutting the site to the east. The two storey dwelling originally proposed as unit 1 would have had an overly dominating and overbearing impact on this property. The proposed single storey dwelling has 'blind' elevation set just under 2 metres off the boundary with Anvil Cottage with the single storey utility room extension attached to Anvil Cottage set a further 3 metres in from the boundary. This gives a total separation distance of 5 metres. Consequently though the proposed dwelling projects just over 9 metres beyond the rear wall of Anvil Cottage taking into account a 5 metre separation distance and that the dwelling is now single storey it is considered the impact on the outlook and amenity of Anvil Cottage is acceptable.
- 7.34 Regarding loss of sunlight the proposed dwelling lies to the west of Anvil Cottage and the size and siting of the proposed dwelling and will result in loss of some sunlight to the rear of Anvil Cottage for the latter part of the day. However given the width of Anvil Cottage and its plot size it is not considered loss of sunlight to part of the garden represents a sustainable objection to the proposed dwelling. In connection with any material interference to the access of daylight to Anvil Cottage, this would only occur if the bulk and impact of the proposed dwelling was deemed to be excessively overbearing. As this is not the case no harm is identified on access of daylight grounds.
- 7.35 Turning to the impact of the two storey dwelling proposed on plot 2, its 'flank to flank' relationship with Street Farm Cottages to the south west along with a separation distance of just under 7 metres ensures no material harm to the outlook or amenity of these properties.

Heritage considerations

- 7.36 The site in its current form as an undeveloped area covered by scrub with some small trees is considered to have a neutral impact on the character and setting of the CA with the adjoining site boundary within the CA occupied by sheds and a house.
- 7.37 It is therefore considered that given the size design and siting amendments that have been secured the character and setting of the CA at this point will be improved. As such no objection is raised to the proposal on heritage grounds.

Highway considerations:

- 7.38 Despite the objections raised on highway grounds traffic generated by two dwellings is not considered significant. As such in the absence of objection by Kent Highways and subject to the imposition of the conditions recommended by it no objection is identified to the proposal on harm to the free flow of traffic or highway safety on the local road network.
- 7.39 Concerns have been raised regarding rights of way and the use of Forge Lane in gaining access to the site. It is proposed to erect a gate at the junction of Forge Lane

and the private road running along the western site boundary. In normal circumstances this gate will be locked thereby avoiding use of Forge Lane in servicing this development.

- 7.40 Objections based on lack of parking are also noted. However both units have on site parking for two cars which is acceptable.

Wildlife and habitat and landscape considerations:

- 7.41 The preliminary ecological appraisal accompanying the application states that habitats within the application site comprise semi improved grassland, ruderal vegetation, hardstanding and buildings some introduced scrub with scattered trees. It was concluded the site had the potential to support a range of protected species with the following conclusions drawn.
- 7.42 No badgers were observed during the site. However, as badger sett building can occur at any time of year and suitable badger habitats are present on site, it is recommended that a survey for badger presence is undertaken prior to the commencement of works
- 7.43 Regarding bats the three outbuildings and the scattered trees were assessed as having negligible suitability for roosting bats due to their size, species and lack of suitable roosting features.
- 7.44 To safeguard breeding birds no clearance work would be carried out in the bird nesting season.
- 7.45 The site contains potential Great Crested Newt (GCN) habitat though none were identified in the survey. Nevertheless site clearance will only be undertaken in accordance with a precautionary working method statement which will include the use of hand tools including brush cutters and chainsaws for vegetation clearance and a directional strimming scheme that will clear vegetation from the northern end of the site first to encourage any amphibians that are present to move to suitable off-site habitats adjacent to the southern site boundary. If a GCN is found all work would cease pending further ecological assessment.
- 7.46 The site also contains reptile habitat. As such a precautionary working method will be implemented during site clearance works to ensure that all site clearance work is undertaken in a sensitive manner as follows:
- directional cuts of the areas of tall ruderal vegetation and grassland from north of the site to the south, and cut to ground level in stages to encourage any reptiles which may be present to move into adjacent habitats to the gardens of residential properties to the east and south, and arable land to the west.
 - Vegetation clearance within the area of tall ruderal vegetation to be carried out in the presence of a suitably qualified ecologist who will walk the area to be cleared to check for and dismantle by hand any features that could be used for refuges for reptiles such as the areas of deadwood piles.
 - Any reptiles found will be recovered and moved to a safe area at the southern or eastern boundary to encourage dispersal into suitable off-site habitat or within the retained garden area to the south east.
 - All vegetation clearance works are to be undertaken using hand tools including brush cutters and chainsaws.
- 7.47 The following bio diversity enhancements are also proposed:

- Bird and bat boxes could be installed on proposed buildings and/or mature native trees on site.
- Where vegetation on site is removed additional boundary planting will take place with the creation of native woody species-rich hedgerows to provide additional opportunities for foraging and nesting birds. Species could include dogwood *Cornus sanguinea*, guelder rose *Viburnum opulus*, wild privet *Ligustrum vulgare*, hawthorn *Crataegus monogyna* and elder *Sambucus nigra*
- The landscaping scheme will incorporate a mosaic of habitats including areas of wildflower, grassland borders as well as the provision of open spaces to ensure that the site continues to provide feeding opportunities for bats, badgers, invertebrates and birds.
- Any trees removed to be replaced with native berry bearing species such as Rowan *Sorbus aucuparia* and hawthorn to provide additional foraging and nesting opportunities.
- Any external lighting on the site is kept to a reasonable minimum and should include downward facing lights so as not to disrupt existing flight lines.
- Deadwood habitat piles in appropriate locations or compost heaps to provide additional habitats for a range of species including reptiles, amphibians, invertebrates associated with dead or decaying wood and small mammals.
- Any fencing shall have gaps incorporated allow dispersal of species such as the hedgehog into the wider landscape.

7.48 Given the above it is considered that the interests of wildlife are being protected in accordance with the provisions of the NPPF.

7.49 Regarding landscaping the arboricultural assessment identifies five individual trees and one group of trees being a mix of deciduous and coniferous species. Only 1 tree and some shrubs are to be removed with the remainder of the trees to be safeguarded by tree protection fencing. It is considered a reasonable balance has been struck between enabling the site to be developed and tree retention. Subject to the additional tree and hedgerow planning as specified in the bio diversity mitigation measures set out above no objection is identified to the proposal on landscape grounds.

Other matters

7.50 Erection of new dwellings as proposed is contrary to the prevailing countryside and landscape protection policies and as such represents a departure from the development plan. Given the small scale and impact of the proposal, no material harm is identified to the countryside or wider landscape. Nevertheless the proposal stills need to be advertised as a departure from the development plan.

7.51 Renewable or low-carbon sources of energy within new development is considered intrinsic to high design standards and sustainable development in accordance with the provisions of the NPPF. A condition should therefore be appended to secure this as part of the proposal

7.52 There is also a requirement that surface water drainage be dealt with via a SUDS in order to attenuate water run off on sustainability and flood prevention grounds and is a matter that can also be dealt with by condition.

Conclusions:

- 7.53 The previous Inspectors comments on the unsustainable location of Boxley are noted. Nevertheless the proposal does not represent an isolated dwelling in the countryside contrary to the provisions of the NPPF. Furthermore given the frequency of bus services, footpath access to local services at Penenden Heath and proximity of the application site to a bus stop, it is considered the application site is sustainably located. Furthermore the proposal can be seen to meet the economic, social and environmental sustainability tests by contributing to the local economy in terms of employment as part of the construction process while the future occupants of the dwellings will make their own ongoing contribution to the local economy by helping to support and maintain local services. Regarding the environmental test it is considered the proposal will have no material impact on the character, setting or openness of the countryside or functioning of the strategic gap.
- 7.52 In addition the proposal is considered acceptable in size, design and siting terms, will not give rise to any material harm to the outlook or amenity or adjoining residents, is acceptable in heritage terms, its impact existing trees and wildlife while not giving rise to any material impact in highway terms.
- 7.53 It is therefore considered the proposal represents an example of sustainable development by successfully reconciling the opportunities and constraints of this sensitive site.
- 7.54 In addition notwithstanding the Councils 5 year housing supply position and that the proposal is not justified in housing terms as a consequence, the proposal nevertheless represents an acceptable windfall development in its own right making a modest but material contribution to meeting housing need within the Borough.
- 7.55 In the circumstances it considered the balance of issues fall in favour of the development and planning permission should be granted as a consequence.

8.0 RECOMMENDATION

- 8.1 Subject to the proposal being advertised as a departure from the Development Plan and no new material issues being raised as a consequence (acceptance delegated to the Head of Planning and Development) GRANT planning permission subject to the following conditions:
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
 2. Prior to the development hereby approved reaching damp proof course level details of all external materials (including surfacing for the roads, turning and parking areas) shall be submitted for prior approval in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

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3. Prior to the development hereby approved reaching damp proof course level details shall be submitted for prior approval in writing by the Local Planning Authority of a 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.

4. No house shall be occupied until the access, car parking and turning areas serving it as shown on drawing no:020 rev B have first been provided. They 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.

5. Prior to the development hereby approved reaching damp proof course level details of the size, design and siting of a gate (which should also allow for pedestrian and cycle movements and incorporate a turning head for vehicles to turn safely on Forge Lane) to be erected at the junction of the private road with Forge Lane shall be submitted for prior approval in writing by the Local Planning Authority. The approved details shall be in place before first occupation of any part of the development hereby permitted and retained as such at all times thereafter.

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

6. Refuse collection for the development hereby approved shall only take place from the private road abutting the application site to the west.

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

7. Prior to the development hereby approved commencing on site provision shall be made for (a) construction vehicles, personnel and visitor parking and (b) wheel washing. These facilities shall be retained without any impediment to their intended use throughout the construction phase of the development.

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

8. The development hereby approved shall be carried out in accordance with the timescales, safeguarding and mitigation measures set out in preliminary ecological appraisal carried out by Arbeco dated the 7th November 2016 in particular paragraphs 6.1-6.12 (inc) relating to habitat and wildlife safeguarding measures and 6.13 relating to bio-diversity enhancements.

Reason: To safeguard wildlife and their habitats in accordance with the provisions of the NPPF.

9. Prior to first occupation of the development hereby approved a native species landscaping scheme shall be submitted for prior approval in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented within the first available planting season following first occupation of any of the dwellings hereby approved. Any existing trees, hedgerows or planting becoming dead, dying or diseased within the 5 years shall be replaced with one of the same species of a size and location to be agreed beforehand with the local planning authority.

Reason: In the interest of visual amenity.

10. All trees/hedgerows to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations' and in accordance with the measures shown on the Arboriculture Impact Assessment dated the 16th November 2016 carried out by arbeco. The 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 setting and external appearance to the development in accordance with the National Planning Policy Framework (2012).

11. The development hereby permitted shall not commence until a scheme for the disposal of (a) surface water (which shall be in the form of a SUDS scheme) and (b) waste water disposal has been submitted to and approved by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

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

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no windows, or any other form of opening shall be installed above eaves level in the south east facing elevation of unit 1 without first obtaining the prior approval in writing of the Local Planning Authority.

Reason: To maintain privacy in the interests of amenity.

13. The development hereby approved shall only be carried out at the levels shown on drawing nos: 200 and 210 rev B.

Reason: In the interests of visual amenity.

14. The development hereby permitted shall be carried out in accordance with the following approved plans being drawing nos: 001 rev B, 010 rev A and 020, 200, 210 (all rev B) and 100 and 110 (both revision C).

Reason: In the interests of amenity.

INFORMATIVES:

Construction:

- (1) As the development involves demolition and / or construction the development should be carried out in accordance with the Mid Kent Environmental Code of Development Practice.

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(2) Highways:

Planning permission does not convey any approval for construction of the required vehicular crossing, or any other 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.

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 amendment, was acceptable.

Case Officer: Graham Parkinson