

## REPORT SUMMARY

<b>REFERENCE NO -</b> 17/505995/FULL		
<b>APPLICATION PROPOSAL -</b> Erection of a detached five bedroom dwelling with associated parking.		
<b>ADDRESS -</b> Court Lodge Farm, The Street, Teston Maidstone Kent ME18 5AQ		
<b>RECOMMENDATION A-</b> GRANT PLANNING PERMISSION subject to conditions <b>RECOMMENDATION B</b> -Delegated authority be given to the head of planning to vary the Section 106 Agreement to remove the restriction on the land to the West of Court Lodge Farm House.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION -</b> The proposed development is acceptable with regards to the relevant provisions of the development plan; the NPPF and all other material considerations such as are relevant. Approval is recommended subject to planning conditions.		
<b>REASON FOR REFERRAL TO COMMITTEE –</b> Teston Parish Council have requested that the application is reported to the Planning Committee if Officers are minded to recommend approval.		
<b>WARD</b> Barming and Teston	<b>PARISH/TOWN COUNCIL</b> Teston	<b>APPLICANT</b> Mr Colin King <b>AGENT</b> Mark Carter Design
<b>DECISION DUE DATE</b> 11/01/18	<b>PUBLICITY EXPIRY DATE</b> 22/12/17	<b>OFFICER SITE VISIT DATE</b> 24/11/2017 and 9/05/2018
<b>RELEVANT PLANNING HISTORY</b>		
MA/99/0037	Demolition of existing farm buildings and 1no. existing cottage and erection of 6 new dwellings (providing 7 on site in total) with garaging and parking (including parking for the existing dwelling that remains) and alterations to existing site access track	PERMITTED

### 1.0 MAIN REPORT

1.01 This application was deferred at the meeting of the Planning Committee on the 22. February 2018 (Committee Report and urgent updates for this meeting are attached as Appendix 1 to this report).

1.02 Members resolved that consideration be deferred to:

- Amend the application to extend the site area (red line application site boundary) to include the private road up to the point where the private road meets the public highway
- To submit Certificate of land ownership B which involves notifying all persons that have an interest in the private road providing site access of the planning application;
- Seek details of the earlier S106 agreement that seeks to restrict further development on the application the site; and
- Enable the Conservation Officer to be in attendance when the application is discussed a second time.

## **2.0 LOCAL REPRESENTATIONS:**

2.01 Following consideration of the application on the 22 February 2018 further consultation has been carried out and 23 additional representations have been received from local residents (8 objections and 1 letter in support previously received) raising the following (summarised) issues:

- Harm to landscaped setting of listed buildings
- Harm to character of the area
- Design not in keeping with existing dwellings
- Harm to conservation area
- Impact on residential amenity
- Loss of trees
- Commercial use of existing dwelling
- Adverse impact on highway safety

2.02 **Teston Parish Council:** Teston PC have written in restating previous objections to the application on grounds that the development would have a significant adverse impact on the remaining garden of Court Lodge Farmhouse and impact on visual amenity of the area.

## **3.0 APPRAISAL**

3.01 At the meeting on the 22 February 2018 members resolved that consideration be deferred to:

- Amend the application to extend the site area (red line application site boundary) to include the private road up to the point where the private road meets the public highway
- To submit Certificate of land ownership B which involves notifying all persons that have an interest in the private road providing site access of the planning application;
- Seek details of the earlier S106 agreement that seeks to restrict further development on the application the site; and

- Enable the Conservation Officer to be in attendance when the application is discussed a second time.

3.02 Taking each of these points in turn

- Amend the application to extend the site area (red line application site boundary) to include the private road up to the point where the private road meets the public highway

3.03 In response to the above, the applicant has submitted a revised site location plan. The red line application site boundary has been extended to include the access from the site to the public highway along the private road serving the Court Lodge Farm complex.

- To submit Certificate of land ownership B which involves notifying all persons that have an interest in the private road providing site access of the planning application;

3.04 As the application site boundary now includes land not in the applicant's ownership, certificate of ownership B has been completed (to replace the previously submitted certificate A) and parties with an interest in the access road have been notified of the planning application.

- Seek details of the earlier S106 agreement that seeks to restrict further development on the application the site; and

3.05 Planning permission was granted on the 8 July 1999 (reference 99/0037) for the demolition of existing farm buildings and an existing cottage and erection of 6 new dwellings (providing 7 on site in total) with garaging and parking (including parking for the existing dwelling that remains) and alterations to existing site access track.

3.06 A Section 106 agreement appended to the permission precludes any further development on the land to the west of Court Lodge Farmhouse or the open land to the south west of the farmhouse bounded to the west by public footpath KM2 and to the south by the A26 Tonbridge Road. Details are attached as Appendix 2 to this report. It is understood that the intention of the agreement is to prevent harm to the character of the area and landscaped setting of the grade II listed building and heritage assets in the vicinity of the site in order to safeguard their significance in the local area.

3.07 In the 19 years since the signing of the Section 106 agreement, the national and local planning policy context has changed considerably. Guidance for determining planning applications affecting designated heritage assets was published in the National Planning Policy Framework NPPF (2012) and this is a key material consideration in determining the current planning application. Paragraph 132 and 134 of the document provides guidance on assessing the potential harm to heritage assets. It requires (para 134) that where the development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum use.

- 3.08 In addition to the publication of the NPPF, Maidstone Council has adopted two local Plans (Maidstone Borough-Wide Local Plan in 2000 and Maidstone Borough Local Plan in 2017) since the planning permission in 1999. Key relevant considerations in the current adopted local plan (2017) include policy DM4 which allows some flexibility for the re-use and conversion of historic assets. It states that in assessing applications which would result in the loss of, harm to the significance of a heritage asset, the Council has a duty to apply the relevant test and assessment factors specified in the NPPF. Therefore, the heritage impact of providing a new dwelling at this site needs to be balanced against the benefits of the proposal.
- 3.09. The guidance in the NPPF and adopted local plan (2017) provides reasonable planning grounds for revisiting the planning justification given for the Section 106 agreement appended to the previous grant of planning permission for the site.
- 3.10 The s106 agreement relates to land to the west of Court Lodge Farmhouse and the open land to the south west of the farmhouse bounded to the west by public footpath KM2 and to the south by the A26 Tonbridge Road. The development is proposed on the triangular shaped part of the land on the western flank of the listed building and sufficient separating distance would be retained with this heritage asset to safeguard its significance. The larger area of land to south west of the farmhouse bounded to the west by public footpath KM2 and to the south by the A26 Tonbridge Road would not be affected by this proposal.
- 3.11 At paragraph 6.05 of the report to the meeting on the 22 February (appendix 1) stated that *“The harm posed by the new development is ‘less than substantial’ (NPPF 134) and the public benefits of the proposal in the provision of a new dwelling in a sustainable location weigh in favour of approving the application. This view is supported by the Council’s Conservation Officer who has confirmed that the application land is not critical to the curtilage of Court Lodge Farm which will retain a sizeable garden. The proposal would make a positive contribution to local character and distinctiveness in accordance with the NPPF (paragraph 131) which again weighs in favour of the approval of the application”*.
- Enable the Conservation Officer to be in attendance when the application is discussed a second time.
- 3.12 The Conservation Officer has confirmed that he will be available to attend the committee meeting on the 14 June 2018.
- Other matters
- 3.13 The consultation responses received since this case was first reported to members have been addressed in the original committee report.

- 3.14 The highways safety implications of the proposal and use of the private road serving Court Lodge Farm were assessed as part of the previous report. It is not considered that the inclusion of the private road up to the point where it meets the public highway in the redline site boundary raises any new highways safety implications. The scale of the development proposed is unlikely to have a significant highways impact. KCC Highways and Transportation have commented on the application and raises no objection on grounds of highways safety.

#### **4.0 CONCLUSION**

- 4.01 Members resolved to defer consideration of this application for the site area to be extended to include the private road serving the Court Lodge Farm complex. The redline boundary have been extended up to the point where the road meets the public highway with no additional highway safety issues identified. The relevant certificates notifying all persons having an interest in the private road have been duly served.
- 4.02 The objective of the section 106 agreement is to safeguard the character of the area and landscaped setting of the listed building have been taken into account in accordance with the requirements set out in the NPPF, as confirmed by the Conservation Officer, the benefits of allowing this development outweigh any harm that would result to the significance of the heritage asset, and as such it is recommended that planning permission be granted for the development.

#### **RECOMMENDATIONS**

**Recommendation A** -GRANT PLANNING PERMISSION subject to the following conditions:

**Recommendation B** - Delegated authority be given to the head of planning to vary the Section 106 Agreement to remove the restriction on the land to the West of Court Lodge Farm House.

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. Notwithstanding the information on the approved plans, no development shall take place until written details of samples of materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The details shall include cast aluminium rain water goods, aluminium windows, Kent peg roof tiles, brick and mortar masonry sample and either cedar or patinated copper as finishing surface for the front portico. The details shall also specify window sections show that the new windows are set back into the reveals to create the depth in the elevations that is suggested on the planning drawings. The details of the material shall also include sparrow boxes/bricks incorporated into the development. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of amenity and to ensure that the proposed development is satisfactorily integrated with its immediate surroundings.

3. The development hereby approved shall not be occupied until the access and parking areas shown on drawing no: 3124-003 Rev C have first been provided. The approved access and parking areas 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.

4. Prior to any part of the development hereby approved reaching damp proof course details of a decentralised and renewable or low-carbon sources of energy and how they will be incorporated into the development shall be submitted for prior approval in writing by the Local Planning Authority. The approved details will be in place before first occupation of any part 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.

5. Prior to occupation of the proposed new dwelling a minimum of one electric vehicle charging point shall be installed and ready for use and in accordance with details that have previously been submitted to and approved in writing by the local planning authority that includes a programme for installation, maintenance and management with the points retained thereafter and maintained in accordance with the approved details.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 35 of the NPPF.

6. Prior to any part of the development hereby approved reaching damp proof course a scheme for the disposal surface water (which shall in the form of a SUDS scheme) shall be submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure satisfactory drainage in the interests of flood prevention.

7. Before first occupation of the development hereby approved the boundary fencing specified in on the approved plans with reference number 3124-003 Rev C. A shall have been implemented and retained at all times thereafter to the satisfaction of the Local Planning Authority.

Reason: In the interests of amenity.

8. No development shall not commence until details of soft landscaping and hard landscape works which shall include the use of permeable block paving upon the front parking area and driveway area indicated on the approved plans with reference number 3124-003 Rev C, have been submitted to and approve in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before first occupation of the building or land;

Reason: To ensure satisfactory appearance to the development

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of 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. No development shall take place until the applicant, or their agents or successors in title, have 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 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.

11. Before first occupation, the first floor window opening on the east facing elevation of the development hereby approved (as shown on drawing no. 3124-005 Rev B) shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such to the satisfaction of the Local Planning Authority.

Reason: To prevent overlooking of adjoining property and to safeguard the privacy of existing and prospective occupiers.

12. The development hereby permitted shall be carried out in strict accordance with the following approved plans/drawings received on 16 November 2017.

Plan/Drawing 3124 - 003 Rev C Site Plans

Plan/Drawing 3124 - 005 Rev B Elevations

Proposed Tree removal Plan

Proposed Tree Protection Plan

#### INFORMATIVES

- (1) 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.
- (2) The applicant is advised to carry out any work to vegetation that may provide suitable bird nesting habitats outside of the bird breeding season (bird breeding season is March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation needs to be removed during the breeding season then mitigation measures should be implemented during construction in order to protect breeding birds. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found during work, development must cease until after the juveniles have fledged.
- (3) Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228: 2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Team regarding noise control requirements.
- (4) The applicant is advised to carry out clearance and burning of existing woodland or rubbish without nuisance from smoke etc. to nearby residential properties.
- (5) The applicant is advised that in order to avoid nuisance to neighbours they should seek to only use plant and machinery used for demolition and construction between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

- (6) The applicant is advised that in order to avoid nuisance to neighbours they should seek to allow Vehicles to arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Case Officer: Francis Amekor

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