

REFERENCE NO -19/503532/OUT		
APPLICATION PROPOSAL Outline application with access matters sought for demolition of two existing buildings and erection of four residential dwellings. (Matters of appearance, landscaping, layout and scale are reserved for future considerations).		
ADDRESS 3-5 Kings Road Headcorn Ashford Kent TN27 9QT		
RECOMMENDATION Grant Outline Planning Permission subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal involves the removal of a potentially unneighbourly commercial development. It has been demonstrated that the site is capable of accommodating 4 dwellings as a minor infill in a manner that is acceptable in its amenity, highways, flooding and wildlife impacts while making a windfall contribution towards meeting housing supply in the Borough.		
REASON FOR REFERRAL TO COMMITTEE Recommendation to grant permission contrary to the views of Headcorn Parish Council		
WARD Headcorn	PARISH/TOWN COUNCIL Headcorn	APPLICANT Mr. R Hawkes and Mrs. L Alexander AGENT DHA Planning
TARGET DECISION DATE 30/11/19		PUBLICITY EXPIRY DATE 17/10/19

MAIN REPORT

1. BACKGROUND

- 1.1 Consideration of this application was deferred at the meeting on the 19th December 2019 and this report is intended to supplement the earlier committee report that is included as an appendix (**Appendix 1**).
- 1.2 The deferral decision was to enable discussions to take place with the applicant to:
 - (a) seek to secure a reduced scheme of three units and
 - (b) explore the potential for a wet woodland landscaping scheme along the rear of the site.
- 1.2 The applicant has considered the concerns expressed by members but still feels that the site can successfully accommodate 4 units with the submission of a revised indicative layout plan.
- 1.3 The revised indicative layout seeks to demonstrate compliance with the Councils normal layout, amenity, parking, access and turning standards while also making provision for a wet woodland landscaping scheme along the rear of the site.
- 1.4 The main layout changes are as follows:
 - Resiting the terraced housing forward (south) on the plot to provide further space to the rear.
 - Reconfiguring parking for the terraced units to provide improved amenity areas.
 - Amenity areas extended for the terraced units;
 - Reducing the footprint of the detached unit to provide improved space around the property and improved amenity area.

2. APPRAISAL

- 2.1 The two issues raised in the reasons for deferral were (a) seek to secure a reduced scheme of three units and (b) explore the potential for a wet woodland landscaping scheme along the rear of the site.

(a) seek to secure a reduced scheme of three units

- 2.2 The current planning application is in outline form with 'access' the only matter that is currently being considered. Matters of appearance, landscaping, 'layout' and scale are reserved for future considerations.

Layout

- 2.3 Following the deferral, a revised indicative layout plan has been submitted by the applicant which shows two main changes:

- Firstly, 2 of the 3 houses (Units A and B) are moved a further 2 metres forward towards Kings Road.
- Secondly, the rear off street parking area for units A, B and C is now accessed directly off the existing access road, with this revision allowing the removal of the large vehicle manoeuvring area.

- 2.4 In order to maintain the existing streetscene and contrary to the indicative layout plan, the front elevation of the development should not be forward of the existing building. It is considered that this can be achieved whilst meeting other planning standards. If members are minded to grant outline permission a planning condition is recommended to achieve this when layout is assessed at a later date.

External amenity space

- 2.5 One of the concerns expressed by members related to the size of external amenity space. The Council does not have any policy standard for the size of amenity space. In the absence of any guidance, a standard used elsewhere is 50 square metres for a family dwelling.

- 2.6 The revised indicative layout in this case shows in excess of 50 square metres for private rear garden areas (Unit A 78SqM; B 74 SqM; C 55 SqM; D 75 SqM) with additional garden land to the front and side of the buildings.

Off street parking

- 2.7 With on street parking controls along Kings Road (see Local Plan Appendix B), this location has characteristics in keeping with a suburban area and in these locations the proposed 4 houses require a total of 6.8 off street spaces (Residents 6 with 1.5/unit and visitors 0.8 with 0.2/unit).

- 2.8 The development will provide 8 off street car parking spaces which includes one additional space to the side of Unit C. The 5 parking spaces to the rear of units A, B and C have been reoriented next to the access road with the final two spaces retained to the rear of Unit D.

(b) explore the potential for a wet woodland landscaping scheme along the rear of the site.

- 2.9 In response to member comments, an area to the northeast of the site has been annotated by the applicant on the indicative layout plan as a '*potential area of wet woodland ecology landscape strip*'. A condition is recommended that says that the applicant should explore as part of the overall landscape scheme the provision of a wet woodland landscaped area.

3. CONCLUSIONS

- 3.1 A revised terrace (Units A, B and C) having a rectangular (not irregular footprint as shown on the latest layout plan) could be relocated back onto the line of the existing building while still securing amenity areas of a usable size and satisfactory parking areas that meet the Councils normal standards.

- 3.2 Turning to the detached dwelling (Unit D), the indicative plans show a reduced footprint and provision of rear amenity area of usable size and proportions abutting a vehicle parking area. Subject to a condition to secure no windows above first floor level on the west facing elevation (to prevent close high level overlooking into the rear amenity areas of the adjoining terrace) it is considered the revised indicative details are sufficient to demonstrate this part of the site is also capable of accommodating a detached dwelling in accordance with the Councils normal layout, amenity, parking and highway standards.
- 3.3 Members reservations over the ability of the site to accommodate 4 dwellings in an acceptable manner are acknowledged. It is nevertheless considered the revised indicative layout plans (subject to an amended siting of the terrace) demonstrate the site is capable of accommodating a balanced development meeting the Councils normal standards. With layout a reserved matter and not being approved at this time it is recommended that outline planning permission be granted subject to an informative advising the applicant of the need for the development to respect the existing building line.

4. RECOMMENDATION

GRANT outline planning permission subject to the following conditions:

1. The development shall not commence (including demolition) until approval of the following reserved matters has been obtained in writing from the Local Planning Authority: -a. Appearance b. Landscaping c. Layout and d. Scale for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The layout and appearance details submitted pursuant to condition 1 shall not include any development forward of the front elevation of the existing building on the site that fronts Kings Road.

Reason: To ensure a satisfactory appearance to the development.

3. Prior any part of the development hereby approved reaching damp proof course details of a sustainable surface water drainage scheme (including its longterm maintenance) shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out before first occupation of any of the dwellings hereby approved and retained in accordance with the approved details at all times thereafter.

Reason: In the interests of pollution prevention, sustainability and flood prevention.

4. Prior to the development hereby approved reaching damp proof course samples of materials (which shall include those to be used for parking, turning and pedestrian walkways) to be used in the construction of all external surfaces of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

5. The layout and appearance details submitted pursuant to condition 1 shall include

the windows located at (a) first floor to the west facing elevation of any dwelling abutting the boundary with 1 Kings Road and (b) at first floor to the west facing elevation of the detached dwelling D as identified on drawing no: DHA/13772/03 D, to be fitted with obscured glass and fixed shut prior to first occupation of the relevant units and maintained as such for the lifetime of the development.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.

6. Other than those shown on the drawings approved pursuant to condition 1, no additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the (a) the west facing first floor elevation of any dwelling abutting the boundary with 1 Kings Road and (b) at first floor to the west facing elevation of the detached dwelling D as identified on drawing no: DHA/13772/03 D or any replacement building in this location.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.

7. Prior to the development hereby approved commencing (including demolition) a scheme for the provision and management of an 8 metre wide buffer zone alongside the watercourse shall be submitted to and approved in writing by the local planning authority. The scheme shall include:

- plans showing the extent and layout of the buffer zone.
- details of any proposed planting scheme (for example, native species of local genetic provenance and suited to the catchment character).
- details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
- details of any proposed footpaths, fencing, lighting, etc.

The development shall be carried out in accordance with the approved scheme prior to first occupation of the approved development. The buffer zone shall be kept free from built development including lighting, domestic gardens and formal landscaping except as may be approved in connection with the management scheme.

Reason: In the interests of wildlife.

8. Landscaping details submitted pursuant to condition 1 above shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. The provision of a wet woodland landscaped area shall be explored as part of the formation of the landscaping scheme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

9. The approved landscaping associated with individual dwellings shall be in place at the end of the first planting and seeding season following occupation of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following occupation of the final unit. Any trees or plants, which, within a period of 5 years from the occupation 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.

Reason: In the interest of visual amenity of the area.

10. The development hereby approved shall not commence (including demolition) until details of an Arboricultural Method Statement (which shall include tree protection measures) prepared in accordance with the current edition of BS 5837:2012 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

11. The parking/turning areas approved pursuant to condition 1 shall be completed before first occupation of any of the dwelling hereby approved and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them or restricting the emergency access through the site.

Reason: Development without adequate parking and turning provision is likely to lead to parking inconvenient to other road users and result in conditions detrimental to the interests of road safety.

12. The development hereby permitted shall not be commenced (excluding demolition) until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall thereafter be implemented as approved.

Reason: To prevent harm to human health and pollution of the environment.

13. A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in point 3 of the preceding condition. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the

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

Reason: To prevent harm to human health and pollution of the environment.

14. Prior to the commencement of development (including demolition) hereby permitted details shall be submitted to and approved in writing by the Local Planning Authority demonstrating the bat roosting features detailed within the mitigation strategy will be incorporated into the new buildings and surrounding trees. The full bat mitigation strategy, as detailed in the Bat Emergence Survey Report dated the 22nd September 2019, along with measures to enhance the site for bats shall be implemented in full, prior to first occupation of the approved dwellings and shall be thereafter retained.

Reason: In the interests of wildlife.

15. The ecological enhancements and mitigation measures recommended specified in the preliminary Ecological Appraisal dated July 2019 shall be carried out as specified.

Reason: In the interests of wildlife.

16. Prior to any part of the development hereby approved reaching damp-proof course a bat sensitive lighting plan for the site boundaries shall be submitted to and approved in writing by the local planning authority. Lighting shall only be installed in accordance with the approved details and retained as such for the life of the development.

Reason: In the interests of wildlife.

17. Prior to any part of the development hereby approved reaching roof level details of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority to include gaps for the passage of wildlife. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of privacy and visual amenity.

18. Other than those approved as part of the preceding condition and notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road;

Reason: To safeguard the open plan character and appearance of the development.

19. Prior to first occupation of each dwelling a minimum of one electric vehicle charging point shall have been installed for the benefit of the occupier of that dwelling with the charging point thereafter retained for that purpose.

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

20. Prior to the commencement of development (including demolition), a programme for the suppression of dust during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

21. The development hereby approved shall be carried out in accordance with the following plans nos: DHA/13772/01, 03 rev D, 04- 09 (consec) and H-01 rev P1.

Reason: In the interests of amenity.

INFORMATIVES

- 1) The proposed development is Community Infrastructure Levy liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- 2) Details submitted pursuant to condition 13 will need to address the following matters:
 - The Bat Conservation Trust's Guidance Note 8 'Bats and artificial lighting' in the UK should be adhered to in the lighting design for the works undertaken and the new dwellings built.
 - Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
 - Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory (including details of light spill which shall not exceed 1LUX on the vegetated boundaries).

The mitigation strategy must be implemented as approved unless varied by a European Protected Species (EPS) license issued by Natural England.

- 3) 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. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
- 4) 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.

Case Officer: Graham Parkinson

Appendix 1 Report to Planning Committee 19 December 2019

REFERENCE NO -19/503532/OUT			
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REASON FOR REFERRAL TO COMMITTEE Recommendation to grant permission contrary to the views of Headcorn Parish Council			
WARD Headcorn	PARISH/TOWN Headcorn	COUNCIL	APPLICANT Mr R Hawkes and Mrs L Alexander AGENT DHA Planning
TARGET DECISION DATE 30/11/19		PUBLICITY EXPIRY DATE 17/10/19	

Relevant Planning History:

The application site is part of and provides emergency access from Kings Road to the main part of the allocated housing site H1(36) located to the north. The following permissions have been granted to site H1(36):

- Application 15/503325/HYBRID: Outline application for development of up to 220 houses together with areas of open space, a nature conservation area, landscaping, new access onto Ulcombe Road and improved access to Kings Road (access being sought) plus change of use of land to school playing field - hybrid application (Resubmission of application 14/505284/OUT).
- (Application 17/505499/REM: Approval of Reserved Matters following 15/503325/HYBRID (Outline application for development of up to 220 houses together with areas of open space, a nature conservation area, landscaping, new access onto Ulcombe Road and improved access to Kings Road (access being sought) plus change of use of land to school playing field - hybrid application (Resubmission of application 14/505284/OUT)) -Appearance, Landscaping, Layout and Scale being sought.

MAIN REPORT

1. SITE DESCRIPTION

- 1.1 The application site has an area of 0.11 hectares and lies on the north side of Kings Road in the Local Plan designated Rural Service Centre of Headcorn.
- 1.2 Immediately abutting the site to the west is 1 Kings Road, which is a detached residential dwelling. Further residential accommodation is located opposite the site

together with the White Horse Public House. Headcorn Primary School is to the east of the site. There is a watercourse running to the north of the site.

- 1.3 The site is occupied by two vacant commercial units (Use Class B8 Storage and Distribution - total floorspace of 457 square metres). The first building is parallel with the road (eaves height 5.1 metres, ridge height 7.7 metres), the end of the second building faces the front of the site (eaves height 4.6 metres, ridge height 7.2 metres) An access road runs between the buildings with large areas of hardstanding to the rear of the buildings with grassed areas to the front of the site.
- 1.4 The current application site and the land to the north is allocated housing site H1 (36)) with the allocation specifying that emergency/pedestrian and cycle access will be taken from Kings Road through the application site. The proposed layout replicates the existing layout retaining the current access provided between the buildings.
- 1.5 Whilst the local plan shows the site within Flood Zones 2 and 3, more precise modelling using Environment Agency data has shown the site in flood zone 1. Whilst the site is in the designated Landscape of Local Value (forming part of the Low Weald) the site is in the built up area of the Headcorn Rural Service Centre.
- 1.6 The ordnance survey map appears to show that the application site includes 3, 7 and 9 Kings Road, however the applicant has confirmed that this is incorrect. The applicant has confirmed that the address of the two buildings on the site are 3 and 5 Kings Road and that the Post Office has no record of 7 and 9 Kings Road.

2. PROPOSAL

- 2.1 Outline planning permission is sought for the demolition of the existing buildings and the erection of four no. 3 bedroom residential dwellings.
- 2.2 All matters are reserved except for access. Indicative design, siting and layout plans have been submitted seeking to demonstrate the site is capable of accommodating the scale of development in line with the Councils normal standards. The dwellings are provided on the indicative layout as a terrace of three properties with accommodation in the roofspace and a detached dwelling.
- 2.3 The proposals also remove areas of concrete hardstanding which will be replaced with permeable surfacing.
- 2.4 The application is accompanied by a Flood Risk Assessment, preliminary ecological appraisal and bat emergence report.
- 2.5 A renewables statement has also been submitted specifying the following measures:
 - PV panels on all appropriate roof slopes of the four new dwellings.
 - Energy saving measures including the use of low energy lighting, energy metering, double glazing and controls to dynamically adjust heating, ventilation, cooling, hot water generation to reduce carbon emissions and maximise energy efficiency.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017: SP5, SP7, SP22, H1(36), EMP1, DM1 and DM5

Headcorn Neighbourhood Plan

Very limited weight is attached to Headcorn Neighbourhood Plan for the reasons set out below.

At a meeting of the Strategic Planning, Sustainability and Transportation Committee on 13 June 2017 Maidstone Borough Council formally resolved not to move the Headcorn Neighbourhood Development Plan to referendum under Schedule 4B of the Town and Country Planning Act 1990. This means the Headcorn Neighbourhood Development Plan will not become part of the statutory development plan for Maidstone Borough. Consequently the plan will not be used to determine planning applications in the Headcorn neighbourhood area. Reasons for decision: The examination of the Headcorn Neighbourhood Development Plan concluded that the Plan does not meet the basic conditions and is therefore not able to move to referendum.

4. LOCAL REPRESENTATIONS

4.1 1 objection received from a local resident stating that building 4 more houses in an area that is already overdeveloped will cause further disruption and there is no need for new housing.

4.2 1 letter of support of the scheme, subject to the omission of windows (or provision of opaque glazing) in western gable of terrace in order to protect privacy and the provision of vehicular access to 1 Kings Road

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

5.1 **Headcorn Parish Council:** Object on the following grounds:

- Excessive density (should be 3.3 and not 4 houses) therefore conflicting with policy DM12.
- Lack of parking for both residents and visitors – will cause overspill parking into parking allocated for public use created to compensate for loss of spaces on Kings Road that will be lost when traffic lights installed as a requirement of the Ulcombe Road housing development.
- Given allocated housing provision along with significant number of unsold houses no need for these houses.
- Site was the subject of localised flooding as recently as April 2018 and have photographs showing this.
- Site includes the Emergency Vehicle access serving the housing development permitted in Ulcombe Road.
- Houses are three storey and therefore contrary to the Headcorn neighbourhood plan and out of character with other buildings in the local vicinity.

5.2 **Kent Highways:** No objection. Information has been submitted that addresses the following original comments

- The required visibility splays are not provided.
- Level of parking provision is considered appropriate to ensure overspill parking does not occur on the local highway.
- The site's emergency access relationship with the Ulcombe Road Development should not be compromised.
- Swept path analysis of access required to demonstrate its suitability as well as confirmation regarding the details at the emergency access crossover point with the adjoining site.

5.3 **Environmental Health Officer:** No objection

5.4 **Environment Agency:** No objection subject to a condition to retain and protect the buffer zone adjoining the River Beult in the interests of wildlife.

5.5 **KCC Ecology:** No objection subject to the following

- Have reviewed the submitted information and advise it is sufficient for the determination of the planning application.

- Detailed mitigation/enhancement requirements must be submitted/implemented as a condition of any planning permission.
- Roosting Bat surveys confirmed the presence of 4 roosts of Common Pipistrelle (2 separate roosts in each building) and an outline mitigation strategy has been suggested.
- The proposed demolition of the two buildings will result in the loss of several confirmed bat roosts. Bats are European protected species and Maidstone BC must have sufficient information to address the requirements of the EC Habitats Directive when making the planning decision. It has been confirmed that offences will be committed if the works take place without a European Protected Species Mitigation Licence (EPSML).
- The Council must consider whether it is likely that a EPSML will be granted by applying three derogation tests being
 - The development activity must be for imperative reasons of overriding public interest or for public health and safety;
 - There must be no satisfactory alternative; and
 - The favourable conservation status of the species must be maintained.
- Only able to comment on the third test as the first two tests must be considered of the planning balance.
- Advise sufficient survey information has been submitted to inform a detailed mitigation strategy and satisfied that sufficient mitigation has been proposed to maintain the favourable conservation status of the bats.
- The detailed bat mitigation strategy, along with an updated site plan demonstrating that it will be implemented on site must be submitted and implemented as a condition of any planning permission.
- The proposal provides opportunities to incorporate features beneficial to wildlife, such as native species planting or the installation of bat/bird nest boxes and advise measures to enhance biodiversity are secured as a condition of any planning permission.
- Ecological enhancements measures should to be over and above any mitigation measures. As such, the suggested bat boxes enhancements have to be in addition of any bat boxes suggested in the bat mitigation strategy.

6. APPRAISAL

6.1 The key issues are principle, impact on the character and setting of the locality, amenity, highways, flooding and wildlife considerations.

Principle:

6.2 Whilst the site is in the designated Landscape of Local Value (forming part of the Low Weald) the site is in the built up area of the Headcorn Rural Service Centre and on this basis no harm is identified to the LLV.

6.3 After the urban area, the local plan identifies rural service centres like Headcorn as the most sustainable locations in the borough. The development is therefore principally subject to policies SP5 and SP7 of the local plan. In response to neighbour and parish council comments, whilst the council currently has the necessary 5 year housing land supply, this is a rolling housing land target and as a result the current housing land supply is not grounds to refuse planning permission for additional dwellings. In addition it is highlighted that the council is currently considering information received from the recent call for sites process with the aim of meeting future housing land supply needs.

6.4 Policy SP5 relating to rural services centres generally, amongst other things, allows minor development such as infilling, redevelopment of previously developed land

of a scale appropriate to the size of the village and the retention and improvement of existing employment sites.

- 6.5 The loss of the currently vacant buildings on the site (Use Class B8 storage and distribution) and the generally low level employment that is provided by B8 uses, has already been considered as part of the local plan adoption process. The current application site falls within the allocated housing site under ref: H1(36) Policy H1(36) requires emergency/pedestrian and cycle access be taken from Kings Road.
- 6.6 Whilst listing a net density of 30 dwellings per hectare Local Plan policy DM 12 states that the overriding consideration is that all new housing reflects local context and that proposals that fail to make efficient use of land for housing, having regard to the character and location of the area, will be refused permission. The Parish Council have highlighted that a density of 30 dwellings per hectare would amount to 3.3 dwellings rather than the 4 proposed. The submitted proposal complies with policy DM12 as the density is consistent with achieving good design and does not compromise the character of the area in which it is situated.
- 6.7 Local Plan policy DM 5 states that proposals for development on previously developed land (brownfield land) in rural service centres that make effective and efficient use of land will be permitted where they meet a number of listed criteria. The current application meets the requirements of policy DM5 as the site is not of high environmental value. The density of new housing proposals reflects the character and appearance of the area and is consistent with policy DM12.
- 6.8 In summary, the loss of the existing vacant buildings and the provision of residential accommodation on the current application site is acceptable subject to the assessment below of other material planning considerations

Impact on character and setting of the locality:

- 6.9 The current outline application is considering access only with all other matters reserved for future assessment. The indicative layout plan largely reflects the size and siting of the existing buildings occupying the site.
- 6.10 It is considered the indicative details demonstrate it is possible to erect 4 dwellings on this site meeting block spacing, usable amenity space, parking, turning and landscaping requirements in a manner that will not materially harm the character or layout of the locality. The indicative layout demonstrates that the application site can be redeveloped while ensuring that the emergency access for housing development to the north of the site is not compromised.
- 6.11 It is therefore considered the proposal represents an example of a minor infill in accordance with the provisions of policy SP5.

Amenity:

- 6.12 Immediately abutting the site to the west is the detached residential property at 1 Kings Road.
- 6.13 Uses similar to that on the application site (B8 storage and distribution) are generally directed to industrial estates as they have the potential to harm amenity in residential areas. This type of use is also normally heavily restricted next to residential properties (for instance operating hours) which limits business flexibility and can place a burden on business operations.
- 6.14 The removal of the commercial use from the application site and its replacement with dwellings would remove an incompatible use and bring an uplift to residential amenities (having the potential to cause visual intrusion, noise and disturbance).

- 6.15 In addition the indicative layout plans demonstrate it is possible to site the new dwellings to ensure they will have an acceptable 'dwelling flank to flank' separation distance with 1 Kings Road. To protect the privacy of 1 Kings Road windows above 1st floor level on the west facing elevation of dwelling A should be obscured.
- 6.16 Other nearby dwellings are on the opposite side of Kings Road. These buildings should experience a visual improvement as a result of replacing commercial buildings with residential dwellings. The replacement buildings better reflecting the scale and character of the area.
- 6.17 Turning to the amenity of the future residents, the submitted plans demonstrate the site is capable of accommodating 4 dwellings while providing an acceptable standard of residential amenity for occupants.
- 6.18 Regarding proximity to the primary school abutting the site to the east. The school buildings (which are low profile) are set just under 10 metres off the site boundary. Subject to additional screen planting along this boundary, neither the bulk of the school buildings or school activities should have any material impact on the outlook or amenity of future residents.

Highways:

- 6.19 As traffic generated by the site will be reduced (commercial use having the potential for significantly greater traffic generation than 4 houses), the use of the existing and retained access for emergency purposes will not be compromised.
- 6.20 With on street parking controls along Kings Road (see Local Plan Appendix B), this location has characteristics that are more in keeping with a suburban area (as opposed to a village or rural area) and in these locations the proposed 8 houses require a total of 6 resident spaces with 0.8 spaces for visitors (1.5 residents and 0.2 visitors per unit). The development will provide 7 off street car parking spaces. In the event that the site is considered a rural location, whilst the standard requires 8.8 car parking spaces (2 residents and 0.2 visitors per unit) the provision is still considered acceptable with double yellow lines outside the site and restricted parking bays opposite.
- 6.21 The proposal is acceptable in relation to highway impacts. The applicant submitted additional information in response to a number of concerns and Kent Highways have subsequently confirmed they have no objection to the proposal.

Flooding:

- 6.22 The council's GIS system shows the site falls within flood zones 2/3. The submitted Flood Risk Assessment (FRA) states that flood levels have been obtained from the Environment Agency and that 1 in 100-year flood level plus an allowance for climate change of 19.77m AOD (Flood Zone 3) shows the area to be developed for the new dwellings within Flood Zone 1 even when taking into account an allowance for anticipated climate change.
- 6.23 As such 'more vulnerable' developments such as residential development situated in Flood Zone 1 are appropriate The FRA also concludes the proposed development will result in a reduction in the impermeable area that currently drains into the existing watercourse thereby reducing the overall flood risk of the existing watercourse
- 6.24 The information submitted by the applicant has been considered by the Environment Agency (EA). In the absence of objection from the EA (subject to imposition of its recommended conditions) it is considered there is no sustainable objection to the proposal on flood risk grounds.

- 6.25 Notwithstanding the above, the Parish Council maintains the site was subject to localised flooding as recently as 2018 and have submitted evidence which it contends support this.
- 6.26 In response the applicants advise that parking is proposed at the rear of the site with the dwellings located entirely within Flood Zone 1 with ground levels located a minimum of 0.3m above the 1:100 + 70% flood level. The EA have also been advised of the PC's comments and any response will be reported to the Committee as an update.

Wildlife:

- 6.27 All species of bat that are common in the UK are protected under various pieces of legislation including the Wildlife and Countryside Act 1981 [as amended] and the Habitats Regulations 2010. In summary this legislation makes it illegal to deliberately capture, injure or kill bats; deliberately disturb bats including their ability to survive; to damage, destroy or obstruct access to a bat roost; possess or transport a bat or to sell, barter or exchange a bat.
- 6.28 Under the Habitats Regulations 2010 [Regulation 9 (5)] a Local Planning Authority "...in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions. National Planning Policy Guidance and Government Circular 06/2005 state that the presence of a protected species is a material consideration when a planning authority is considering a development proposal that would be likely to result in harm to the species or its habitat.
- 6.29 As surveys have identified the presence of bat roosts on the application site, the developer would be required to secure a separate licence from Natural England. As part of the assessment of this licence application Natural England would apply 'three tests' that are set out in legislation. These three tests would assess whether the activity is imperative for reasons of overriding public interest; whether there is no satisfactory alternative and whether favourable conservation status would be maintained.
- 6.30 A Judicial Review judgement on the 5 June 2009 (Woolley v Cheshire East Borough Council) found that Local Planning Authorities in exercising their responsibilities under the Habitats Regulations 2010 must also consider these three tests when considering planning applications where bats roosts have been identified and a Natural England Licence would be required. As such the Council must consider whether it is likely that a European Protected Species Mitigation License (EPSML) will be granted for the proposed development by addressing these three tests and this assessment is set out below.
- (a) Overriding public interest.
- 6.31 The overriding public interest in the current development is bringing this site in a sustainable location and allocated in the Local Plan for housing back into beneficial use to provide additional residential units.
- (b) No satisfactory alternative.
- 6.32 If the site is not redeveloped it is possible that the site will fall into disrepair, be a target for vandalism, and, as bats require shelter and constant temperatures, this will make the building less suitable for a bat roost.
- (c) Favourable conservation status must be maintained.
- 6.33 Given concerns relating to bats the ecological assessment was supplemented by a Bat Emergence Survey Report. This revealed low numbers of Common Pipistrelle bats emerging or re-entering both buildings. It concluded the roosts had low conservation status and as such the provision of 4 bat boxes represents suitable mitigation and compensation for the affected roosts. In addition, the hedgerow

running along the eastern boundary will be retained to provide a commuting corridor for bats between the preferred foraging area to the south of the site and the wooded areas and pasture north of the site. A planning condition is recommended to seek to ensure that all external lighting is the minimum level necessary with no light spill onto roost entrances or commuting corridors.

- 6.34 As such, subject to conditions securing all the recommended mitigation and enhancement measures, it considered reasonable to conclude that an EPSML will be granted for the proposed development.
- 6.35 In relation to other protected species, the submitted ecological survey revealed the site provides foraging opportunities for badgers however, no evidence of badgers or badger setts was recorded. Suitable nesting habitat for other birds exist throughout the site in the form of trees and buildings. It was also concluded the site offers sub-optimal dormouse habitat which is fragmented and disconnected from other areas of suitable dormouse habitat.
- 6.36 In connection with Great Crested Newts (GCN) a small area of suitable terrestrial habitat was identified. However in carrying out the development a precautionary approach will be applied in accordance with recognised guidelines. No other reptile species were identified but the mitigation strategy outlined for GCN will protect any reptiles found within the development area.
- 6.37 In response to the above the following mitigation/enhancement measures are recommended:
- The installation of bird boxes onto any buildings or trees within the site benefitting a diversity of bird species. To maximise suitability, boxes should be installed on sheltered aspects close to vegetation at a height of 2-3m, preferably on north, north-east or north-west facing elevations.
 - The incorporation of a wildlife-friendly planting using native plant species to benefit to invertebrates and subsequently species such as birds and bats.
 - Hedgehog box at a suitable location within vegetated areas of the site
 - Tree planting using native species such as pedunculate oak *Quercus robur*, small leaved lime *Tilia cordata*, black poplar *Populus nigra*, wild service tree *Sorbus torminalis* or similar.
- 6.38 As such it is considered that the interests of protected species have been properly taken into account in accordance with the provisions of the NPPF and policy DM3 of the local plan.

Other matters:

- 6.39 The Parish Council refers to policies contained in the Headcorn Neighbourhood Plan. However as this plan has not been adopted it is not possible to take it into account as a material consideration in the determination of this application. Whilst in outline form the submitted indicative plans demonstrate that the site can successfully accommodate 4 dwellings
- 6.40 Surface water drainage will 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.

Public Sector Equality Duty:

- 6.41 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

Environmental Impact Assessment:

- 6.42 The proposal needs to be 'screened' regarding whether it should have been accompanied by an Environmental Impact Assessment (EIA).
- 6.43 As the site does not fall within an Area Outstanding Natural Beauty nor does it exceed any of the Schedule 2 thresholds set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 no requirement for an EIA is identified. This conclusion does not imply support for the proposal which will be assessed below in accordance with normal planning criteria.

CONCLUSIONS

- 7.1 The proposal involves the removal of a potentially unneighbourly commercial development while it has been demonstrated that the site is capable of accommodating 4 dwellings as a minor infill in a manner that is acceptable in its amenity, highways, flooding and wildlife impacts. It will also make a contribution towards meeting housing supply in the Borough.

7. RECOMMENDATION

GRANT planning permission subject to the following conditions:

22. The development shall not commence (including demolition) until approval of the following reserved matters has been obtained in writing from the Local Planning Authority: -a. Appearance b. Landscaping c. Layout and d. Scale 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.

23. Prior to any part of the development hereby approved reaching damp proof course details of a sustainable surface water drainage scheme (including its long term maintenance) shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out before first occupation of any of the dwellings hereby approved and retained in accordance with the approved details at all times thereafter.

Reason: In the interests of pollution prevention, sustainability and flood prevention.

24. Prior to the development hereby approved reaching damp proof course samples of materials (which shall include those to be used for parking, turning and pedestrian walkways) to be used in the construction of all external surfaces of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 (as amended) no windows shall be installed above first floor level in the west facing elevation of any dwelling abutting the boundary with 1 Kings Road.

Reason: To maintain privacy in the interest of amenity

26. Prior to the development hereby approved commencing (including demolition) a scheme for the provision and management of an 8 metre wide buffer zone alongside

the watercourse shall be submitted to and approved in writing by the local planning authority. The scheme shall include:

- plans showing the extent and layout of the buffer zone.
- details of any proposed planting scheme (for example, native species of local genetic provenance and suited to the catchment character).
- details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
- details of any proposed footpaths, fencing, lighting, etc.

The development shall be carried out in accordance with the the approved scheme. The buffer zone shall be kept free from built development including lighting, domestic gardens and formal landscaping except as may be approved in connection with the management scheme.

Reason: In the interests of wildlife.

27. Landscaping details submitted pursuant to condition 1 above shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

28. The approved landscaping associated with individual dwellings shall be in place at the end of the first planting and seeding season following occupation of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following occupation of the final unit. Any trees or plants, which, within a period of 5 years from the occupation 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.

Reason: In the interest of visual amenity of the area.

29. The development hereby approved shall not commence (including demolition) until details of an Arboricultural Method Statement (which shall include tree protection measures) prepared in accordance with the current edition of BS 5837:2012 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

30. The parking/turning areas approved pursuant to condition 1 shall be completed before first occupation of any of the dwelling hereby approved and shall thereafter be kept available for such use. No development, whether permitted by the Town

and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them or restricting the emergency access through the site.

Reason: Development without adequate parking and turning provision is likely to lead to parking inconvenient to other road users and result in conditions detrimental to the interests of road safety.

31. The development hereby permitted shall not be commenced (excluding demolition) until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall thereafter be implemented as approved.

Reason: To prevent harm to human health and pollution of the environment.

32. A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in point 3 of the preceding condition. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To prevent harm to human health and pollution of the environment.

33. Prior to the commencement of development (including demolition) hereby permitted details shall be submitted to and approved in writing by the Local Planning Authority demonstrating the bat roosting features detailed within the mitigation strategy will be incorporated into the new buildings and surrounding trees. The full bat mitigation strategy, as detailed in the Bat Emergence Survey Report dated the 22nd September 2019, along with measures to enhance the site for bats shall be implemented in full, prior to first occupation of the approved dwellings and shall be thereafter retained.

Reason: In the interests of wildlife.

34. The ecological enhancements and mitigation measures recommended specified in the preliminary Ecological Appraisal dated July 2019 shall be carried out as specified.

Reason: In the interests of wildlife.

35. Prior to any part of the development hereby approved reaching damp-proof course a bat sensitive lighting plan for the site boundaries shall be submitted to and approved in writing by the local planning authority. Lighting shall only be installed in accordance with the approved details and retained as such for the life of the development.

Reason: In the interests of wildlife.

36. Prior to any part of the development hereby approved reaching roof level details of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority to include gaps for the passage of wildlife. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of privacy and visual amenity.

37. Other than those approved as part of the preceding condition and notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road;

Reason: To safeguard the open plan character and appearance of the development.

38. Prior to first occupation of each dwelling a minimum of one electric vehicle charging point shall have been installed for the benefit of the occupier of that dwelling with the charging point thereafter retained for that purpose.

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

39. Prior to the commencement of development (including demolition), a programme for the suppression of dust during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

40. The development hereby approved shall be carried out in accordance with the following plans nos: DHA/13772/01- 09 (consec) and H-01 rev P1.

Reason: In the interests of amenity.

INFORMATIVES

- 1) The proposed development is Community Infrastructure Levy liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- 2) Details submitted pursuant to condition 13 will need to address the following matters:
 - The Bat Conservation Trust's Guidance Note 8 'Bats and artificial lighting' in the UK should be adhered to in the lighting design for the works undertaken and the new dwellings built.
 - Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
 - Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species

using their territory (including details of light spill which shall not exceed 1LUX on the vegetated boundaries).

- 3) The mitigation strategy must be implemented as approved unless varied by a European Protected Species (EPS) license issued by Natural England.
- 4) 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. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
- 5) 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.

Case Officer: Graham Parkinson