

## REPORT SUMMARY

<b>REFERENCE NO:</b> - 22/501055/FULL		
<b>APPLICATION PROPOSAL:</b> (Part retrospective) Demolition of existing workshop. Erection of single storey side extension for uses falling within uses falling within Class E: (a) display or retail sale of goods, other than hot food, principally to visiting members of the public, or (b) sale of food and drink principally to visiting members of the public where consumption of hot food and drink is mostly undertaken on the premises, or (c) provision of the following kinds of services principally to visiting members of the public - (i) financial services, (ii) professional services (other than health or medical services), (iii) any other services which it is appropriate to provide in a commercial, business or service locality, or g (i) an office to carry out any operational or administrative functions.		
<b>ADDRESS:</b> Orchard View Garage, Benover Road, Yalding, Maidstone, Kent, ME18 6EN		
<b>RECOMMENDATION:</b> GRANT PERMISSION subject to conditions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> It is assessed that the development is in accordance with local and national planning policies and would not have a harmful impact upon the character and appearance of the area including the conservation area or the amenity of the area and neighbouring properties nor would it impact upon the highway network or parking in the area.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The application has been called in by Yalding Parish Council should the case officer be minded to recommend the application be approved. This is on the basis that the development would have a harmful impact upon the highway network and parking in the area.		
<b>WARD:</b> Marden and Yalding	<b>PARISH</b> Yalding	<b>COUNCIL:</b> <b>APPLICANT/AGENT:</b> Nyalla Mussarat / Steve Clarke
<b>CASE OFFICER:</b> William Fletcher	<b>VALIDATION DATE:</b> 09/03/2022	<b>DECISION DUE DATE:</b> 02/09/2022
<b>ADVERTISED AS A DEPARTURE:</b> NO		

### Relevant Planning History

21/501736/FULL - Demolition of existing garage and erection of a one bedroom dwelling. (Part retrospective. Resubmission of 20/503628/FULL).

Refused 08/07/2021 on the following grounds: The application has failed to demonstrate that the development would provide an adequate standard of residential accommodation in relation to the risk from flooding both in terms of internal floor levels and in the event of the need for evacuation off-site and the associated risk to future occupants and the emergency services. The development is not in accordance with policy DM1 of the Maidstone Borough Local Plan, and NPPF and NPPG guidance.

20/503628/FULL - Change of use of part existing office together with side and rear extension to create a one bedroom flat. (Part retrospective).

Refused 28/10/2020 on the following grounds: The development by way of its flat roof form, box like appearance, proposed window design and the external finishes would result in an incongruous addition to the building, that is out of keeping with the character and appearance of the surrounding area and would have a detrimental impact upon the Yalding Conservation Area contrary to policies SP18, DM1 and DM4 of the Maidstone Borough Local Plan (October 2017).

The application has failed to demonstrate how the development would be resilient to the impacts of flooding, and would present a risk to future occupants. The development is not in accordance with policy DM1 or paragraph 155 of the NPPF (2019)

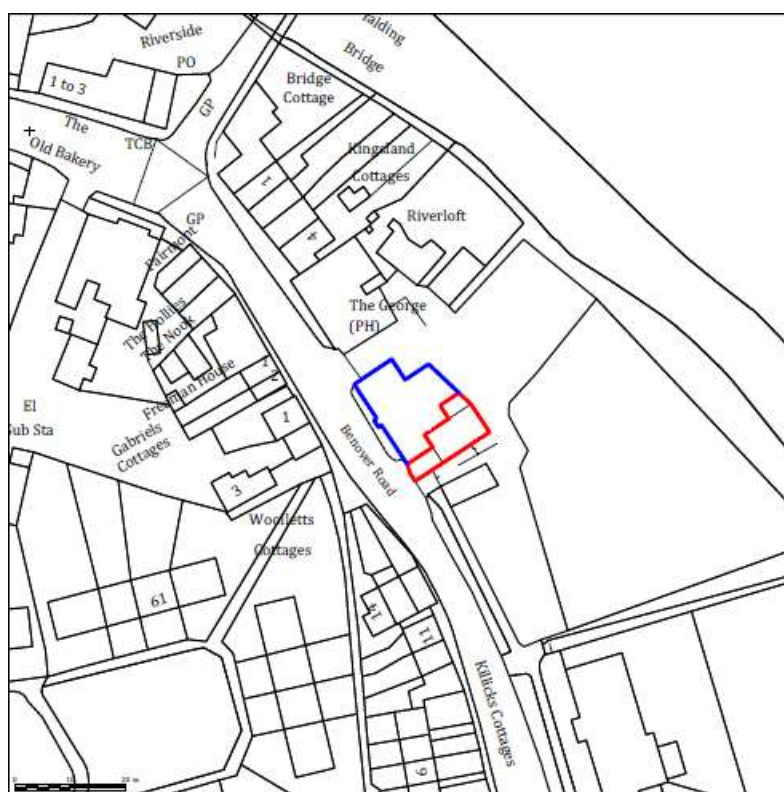
02/0433 - Change of use from shop (Class A1) to a mixed use as a shop (Class A1) and a cafe (Class A3), as shown on drawing no. 297-4 and location plan received on 11.02.02.

Approved.

## 1.0 DESCRIPTION OF SITE

- 1.01 The application site is situated on the eastern side Benover Road, Yalding. The application site is located within the Yalding Conservation Area and within the Local Plan designated Benover Road Local Centre, the application site is within flood zones 2 and 3.

### **Image 1: Block Plan**



- 1.02 The application site forms part of the larger building that is occupied by Costcutter /Orchard Viewstore with the application site to the southern end of the building. In the block plan above the Costcutter/Orchard View store is in the building annotated in blue and former garage was in the location highlighted in red.

- 1.03 The applicant has stated *"The application site comprises the premises of the former Orchard Garage. These previously comprised a single storey workshop and an attached office on the north west corner. The garage workshop consisted of a steel corrugated low slung pitched roof. The North West and North East elevations consisted of face brick walls windows and a metal door which were all in poor condition. The entrance to the garage workshop had a roll up garage door and a part rendered wall with translucent plastic corrugated sheeting above the garage door. The same sheeting was also at the rear of the garage workshop. It had ceased being used as a workshop, and added little value to the shop or village. Furthermore, the building was not structurally sound. The workshop building has been demolished and subsequently partially rebuilt"*.

**Original application building (annotation added)**



**2.0 PROPOSAL**

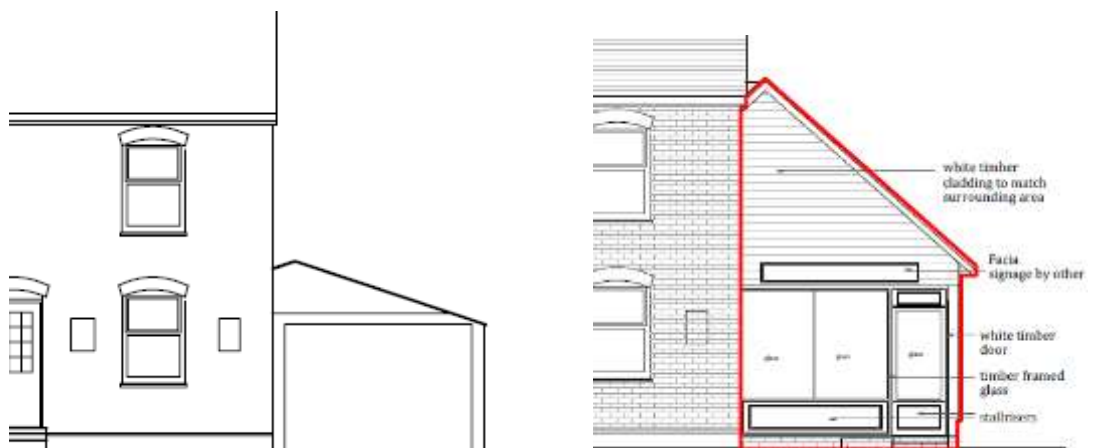
- 2.01 The application is retrospective (works have commenced, see the below photo) and seeks the demolition of the existing workshop and in its place erect a single storey side extension with office accommodation in the roof space all to be used within Class E uses, specifically:
- (a) display or retail sale of goods, other than hot food, principally to visiting members of the public, or
  - (b) sale of food and drink principally to visiting members of the public where consumption of hot food and drink is mostly undertaken on the premises, or
  - (c) provision of the following kinds of services principally to visiting members of the public - (i) financial services, (ii) professional services (other than health

- or medical services), (iii) any other services which it is appropriate to provide in a commercial, business or service locality, or
- (g) (i) an office to carry out any operational or administrative functions.

**Application site 15/08/2022 (application building highlighted in red)**



**Image 2: Existing elevation top, proposed elevation bottom.**



### **3.0 POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan (2011-2031):

SS1 – Maidstone borough spatial strategy  
SP11 – Larger villages  
SP16 – Yalding larger village  
SP18 – Historic environment  
DM1 – Principles of good design  
DM4 – Development affecting designated and non-designated heritage assets  
DM17 – District centres, local centres and local shops and facilities  
DM23 – Parking standards

The National Planning Policy Framework (NPPF):

Section 9 – Promoting sustainable transport  
Section 12 – Achieving well-designed places  
Section 16 – Conserving and enhancing the historic environment

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 22) dated October 2021.

- The Regulation 22 draft is a material consideration, and some weight must be attached to the document because of the stage it has reached. This weight is limited, as it has yet to be the subject of an examination in public.

### **4.0 LOCAL REPRESENTATIONS**

- 4.01 As well as the posted site notice, ten neighbouring properties were consulted by direct mail regarding the proposed development. The consultation expired on 05/04/2022, one representation was received in objection to the development.
- 4.02 The representation in objection is on the basis that the development would have a harmful impact upon the highway network, and that the development would result in a loss of privacy.

### **5.0 CONSULTATIONS**

Yalding Parish Council

- 5.01 Objection on the basis of lack of parking and highway safety.
- 5.02 Should the Planning Officer be of a mind to approve the application Councillors ask that it be called in to the MBC Planning Committee.

KCC Highways

- 5.03 No objection for the following reasons: This consultee initially replied with their standing advice, no objections received. Following this it was requested that additional comments be provided which are as follows (summarised):
- 5.04 Should the proposals be granted permission then the floor space will increase by 9 square meters, leading to an overall floor space of 77 square meters. KCC Highways have undertaken their own objective assessment of the proposals. No collisions have occurred during the last 5 year period [CrashMap - UK Road Safety Map](#). The access arrangements are therefore acceptable to KCC Highways.
- 5.05 Given the extremely modest nature of the proposals it is not considered that the impact of any additional traffic generation created by the development could be

reasonably described as 'severe' in capacity or safety terms. Whilst the applicant is only seeking to provide 1 parking space on site, the maximum nature of the standard (Supplementary Guidance Planning Note (SPG4)) means that compliance has been achieved.

- 5.06 Suitable opportunities are present to park within the street KCC Highways raise no objection to the proposals.

MBC Conservation

- 5.07 No objection subject to conditions on joinery details for the shop front and the windows.

**6.0 APPRAISAL**

- 6.01 The key issues are:

- Loss of existing use and acceptability of the proposed use
- Character and Appearance
- Residential amenity
- Transport, highways, access and parking
- Flood risk

**Loss of existing use and acceptability of the proposed use**

- 6.02 The application site is located within a local centre (High Street/Benover Road, Yalding) The supporting text to policy DM17 (paragraphs 6.78 – 6.82 of the Local Plan) details how local convenience shops and other facilities play an important role in sustainable development, by meeting the day-to-day needs of local communities.
- 6.03 The application site comprises the premises of the former Orchard Garage. This previously comprised a single-storey workshop and an attached office on the northwest corner.
- 6.04 The applicant advises that the application building was in use as a workshop for the repair of vehicles/machinery when they purchased Costcutter/Orchard View Stores in 2004. That workshop use ceased at that time and the application floorspace was then used to accept Costcutter/ Orchard View Store shop deliveries.
- 6.05 Since the adoption of the Local Plan in 2017, major changes have taken place to the operation of the planning use classes system (Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) and these changes have introduced substantially more flexibility in the use of buildings and the need for planning permission.
- 6.06 These changes include the deletion of the former 'A' use class so there is no longer a 'retail' use class. The changes mean that a use can change between shops, restaurants, cafés, clinics, crèches, banks, offices, light industrial, indoor sports within the new Use Class E without a need for planning permission. The existing Costcutter/Orchard view store and the new floorspace are both within Use Class E, however the applicant has sought to restrict the range of uses in the application floorspace. These uses are retail, sale of food and drink, financial and professional services, and office or business uses. Whilst the current application does not relate purely to a retail use, the proposed uses will add to the vitality and viability of the area by attracting customers and activity to this location.

### **Character and Appearance**

- 6.07 Policy SP18 of the Local Plan relates to the historic environment and requires that, inter-alia, the characteristics of heritage assets are protected and design is sensitive to heritage assets and their settings. Policy DM4 of the Local Plan also relates to development affecting designated heritage assets, and requires applicants to ensure that new development affecting heritage assets conserve, and where possible enhance, the significance of the heritage asset.
- 6.08 Policy DM1 states that development must respond positively to and where possible enhance the local, natural, or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage – incorporating a high quality, modern design approach and making use of vernacular materials where appropriate.
- 6.09 The National Planning Policy Framework states: In determining applications, local planning authorities should take account of: a) desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) desirability of new development making positive contribution to local character and distinctiveness.
- 6.10 The planning (Listed Buildings and Conservations Areas) Act 1990 provides specific protection for buildings and areas of special architectural or historic interest. The Act places a duty on local planning authorities in making its decisions to pay special attention to the desirability or preserving or enhancing the character or appearance of conservations areas.
- 6.11 As depicted in the above site description section the host building is a two storey brick built terrace row with a gable roof.
- 6.12 The application site is located within the Yalding conservation area. The “Lees” Character Area which includes the application site is described as following in the Yalding Conservation Area Appraisal. “South of the river Beult Lees Road/Benover Road performs very much the same function as the High Street to the north. It is really the only street in the conservation area and all life is here. Again, similar to the High Street, Lees Road has a wide variety of building styles although they are generally from the Georgian/Victorian periods or later. The scale of buildings in this part of the conservation area is much more uniform. Many of the properties have steps up to the ground floor which is a sure signal that this part of the town is subject to flooding.”
- 6.13 The proposed single storey extension would be similar in appearance with its gable roof form albeit with white timber cladding on the side elevation. As depicted below.

### Proposed Southeast Elevation



- 6.14 A gable dormer would also be added to the northwest elevation. This is a minor addition to the roof form that is appropriate in its design. It is not visible from the street scene and as such its impact is very limited.
- 6.15 The main visual difference with this application is that the entrance to the building would be more 'retail' in character. Following the submission of revised drawings, after conservation officer feedback, the development will not cause any harmful visual impact. Conditions will be imposed to ensure that suitable glazing and materials are used for the entrance.
- 6.16 There are listed buildings to the approximately 20m to the south (Wooletts Cottages) and 10m opposite the application site to the west (Gabriel's Cottages). When making a decision that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.17 With the separation distance between the application site and the listed buildings and the intervening buildings the development will not have a harmful impact upon these Grade II listed properties. There is no objection raised by the conservation officer.

### **Residential Amenity**

- 6.18 Local Plan policy DM1 advises that proposals which would create high quality design and meet a number of stated criteria will be permitted. These criteria include respecting the amenities of occupiers of neighbouring properties and uses by ensuring that development does not result in excessive noise, vibration, odour, air pollution, or activity or vehicular movements. There is a requirement to incorporate measures for the adequate storage of waste.
- 6.19 Neighbouring properties to the south are 20m away due to this distance and it is not considered that a detrimental loss of privacy or any overshadowing of properties would occur as a result of the development.
- 6.20 In terms of the dormers impact, the existing building has fenestration on the northeast elevation which sits within close proximity (10m) to the dormer. Window to window views are only possible at extreme angles and as such the development would not cause a harmful amenity impact to occupants of the existing property.



- 6.21 Whilst concerns have been raised regarding loss of neighbouring amenity, some consideration needs to be given to the fact that the existing garage has a lawful use and could be brought back into use which would be much more harmful in terms of aural amenity.
- 6.22 It is not assessed that the proposed use would have a harmful impact upon the amenity of neighbouring properties.

#### **Transport, highways, parking and access**

- 6.23 Policy DM1 states that applications must ensure that development does not result in, amongst other things excessive activity or vehicle movements.
- 6.24 Paragraph 111 of the NPPF states "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"
- 6.25 The submitted heritage statement indicates that there is a space for one vehicle to park on site to front of the building.
- 6.26 It is not assessed that the traffic generation from what is a modest retail use could be described as severe.
- 6.27 KCC Highways, the Council's expert advisors on highways matters have not objected to the application following an assessment nor have they objected to similar proposals elsewhere in the borough, for example 20/501667/FULL in Maidstone town.
- 6.28 Paragraph 110 of the NPPF refers to the impacts of a proposal – the additional traffic movements, and at peak times, traffic volumes and congestion around Yalding is higher but the relative impact of the proposal against this is proportionally small and could not be described as severe.
- 6.29 Assuming the original garage operated as a commercial premises this would have generated on street parking demand. There are opportunities to park on street within Yalding and as such it is not assessed that the proposal results in such a significant level of harm to the highway network that a refusal on the basis of highways impact would be warranted.

#### **Flood Risk**

- 6.30 The application site is located within Flood Zones 2 and 3, despite this a retail use in Flood Zones is acceptable and a refusal on the grounds of flood risk would not be appropriate in this instance.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.31 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.

### **7.0 CONCLUSION**

- 7.01 The development is appropriate in this location and would not have a harmful impact upon the host building or the wider conservation area. The development would not harmfully impact upon the amenity of neighbouring properties the wider highway network, or parking in the area.

## 8.0 RECOMMENDATION –

### **GRANT PLANNING PERMISSION subject to the following conditions**

- 1) The development hereby approved shall be carried out in accordance with the following approved plans and documents:

Application for planning permission

Flood Risk Assessment

P 01 20025 Rev A Existing Floor and Elevations Plan

P 02 21011 Rev F Proposed Floor And Elevations Plans

P 03 21011 Rev C Site And Block Location Plans

P 05 21011 Rev A Street Scene

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

- 2) Within three months of the decision hereby issued the following details shall be submitted to and approved by the local planning authority
  - a) Details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted.
  - b) Large scale drawings (at a scale of 1:20 or 1:50) of joinery details for the proposed shop front and the windows.

The development hereby approved shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a satisfactory appearance to the development and to ensure the quality of the development is maintained and to prevent harm to wider conservation area

- 3) The use of the premises shall be restricted to Class E:
  - (a) display or retail sale of goods, other than hot food, principally to visiting members of the public, or
  - (b) sale of food and drink principally to visiting members of the public where consumption of hot food and drink is mostly undertaken on the premises, or
  - (c) provision of the following kinds of services principally to visiting members of the public - (i) financial services, (ii) professional services (other than health or medical services), (iii) any other services which it is appropriate to provide in a commercial, business or service locality, or
  - (g) (i) an office to carry out any operational or administrative functions.

Reason: In the interest of safeguarding the amenity of the area and so the Local Planning Authority can assess the impacts of other uses at the premises.

- 4) The operating hours of the premises shall be restricted to the hours of 07:00 to 19:00 hours Mondays to Saturdays and 09:00 to 17:00 hours on Sundays and Bank Holidays.

Reason: In the interests of safeguarding neighbouring amenity.

- 5) The use of the premises shall not commence until details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first use of the building. The scheme shall include an acoustic assessment which demonstrates that the noise generated at

the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever it's operating. After installation of the approved plant, no new plant or ducting system shall be used

Reason: In the interests of visual and aural amenity.

- 6) The use of the premises shall not commence until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the extension by means such as swift bricks, bat tube or bricks. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- 7) The use of the premises shall not commence until a scheme for (a) the storage and screening of refuse bins, and (b) the collection of refuse bins shall be submitted to and approved by the Local Planning Authority. The approved details shall be in place before the use of the premises commences, and maintained thereafter.

Reason: In the interests of amenity and the streetscene.

- 8) The use of the premises shall not commence until a scheme for the parking and storage bicycles has been submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be retained and maintained in accordance with the approved details thereafter,

Reason: In order to encourage the use of sustainable modes of transport and access

- 9) The use of the premises shall not commence until a minimum of one electric vehicle charging point has been installed, and shall thereafter be 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.