

APPLICATION: MA/09/1562 Date: 25 August 2009 Received: 14 June 2010

APPLICANT: Golding Homes

LOCATION: MAIDSTONE BOROUGH COUNCIL TRANSPORT DEPOT, ARMSTRONG ROAD, MAIDSTONE, KENT, ME15 6AY

PARISH: Maidstone

PROPOSAL: Planning application for erection of 48no self contained flats for social rent and 21no houses for market housing and 27no houses for social rent including access and associated works in accordance with the design and access statement, marketing report, noise impact assessment, flood risk assessment, ecological study, transport assessment, energy strategy, tree survey, Planning Statement, received on the 28 August 2009, preliminary site investigation received on the 8 September 2009, geo-environmental site investigation received on the 12 October 2009, and plan number 0831/PL120, 0831/PL1210, 831/PL122, 0831/PL1230831/PL124, 0831/PL201, 0831/PL2000831/PL003A, 0831/PL005, 0831/PL003 Rev A, MHS924/09-010 Rev A received on the 11 December 2009, plan number 0831/PL199, MHS024/09-010 RevA, 0831/PL127, received on the 28 August 2009 and viability assessment received on the 14 June 2010.

AGENDA DATE: Chris Hawkins

CASE OFFICER:

The recommendation for this application is being reported to Committee for decision because:

- The application is contrary to views expressed by a neighbouring Parish Council.
- It is a departure from the Local Plan.
- The Council is the applicant.

## **1.0 POLICIES**

Maidstone Borough-Wide Local Plan 2000: ED2, T13, ENV6, CF1

Other: Maidstone Borough Council Affordable Housing DPD, Maidstone Borough Council Open Space DPD

Village Design Statement: N/A

Government Policy: PPS1, PPS3, PPS4, PPS9, PPG13, PPS23, PPG25, Circular 11/95 and Circular 05/2005.

## **2.0 HISTORY**

2.1 This application was previously brought to Planning Committee on 21 January 2010 when Members voted unanimously to resolve to grant planning permission for a scheme of 47 flats and 48 houses which were all to be provided for affordable accommodation (social rented). This resolution to grant was subject to a Section 106 legal agreement in accordance with the agreed Heads of Terms and for no new consultation responses to be received following additional re-consultation because the application was identified as a departure from the Development Plan. This S106 legal agreement has not been agreed, and as such, permission has not been granted. The applicant did not submit a draft S106, which would ensure that the proposal would have been 100% affordable housing, as there were concerns raised by the HCA about the scheme being 100% social rented accommodation. As such amendments have now been made to this scheme relating to the tenure of the properties only (these are set out within the main body of the report) and require this application to be brought back for Member's further consideration. All interested parties have been re-consulted and been given 21 days to make any further representations.

2.2 In addition – the following history is of relevance: -

MA/07/1775            Maidstone Borough Council Depot Site, Armstrong Road. Demolition of existing buildings and the erection of 85 dwellings (51 two bed flats, 9 two bed houses, 16 three bed houses and 9 four bed houses), together with new accessing arrangements and landscaping. Resolution to grant with conditions and S106 legal agreement. This has never been formally approved.

2.3 There are a number of other planning applications that have been submitted within this site, none of which are relevant to this particular planning application.

Other relevant history on nearby land is;

### **South Park Business Village**

MA/89/1135            Outline application for approx. 130 000 sq.ft. of units for Class B1(B) B1(C) B2 B8. APPROVED.

MA/89/1138            46 Starter Units Class Us B1(b) B1(c) and B2 B8; plus a Park and Ride facility for 250 cars. APPROVED.

### **Lacock Gardens/Tattershall Road**

MA/99/1725           Erection of 156 residential units inclusive of public open space and engineering works to fill and level site to surrounding contours. APPROVED.

MA/98/1395           Outline application for residential development including engineering works to fill and level site to surrounding contours, at a minimum density of ten dwellings per acre. APPROVED.

2.4   Also of relevance is planning permission (ref: MA/08/1494) for the erection of a new Council Depot at the land to the south east of Parkwood Industrial Estate, Langely Park Farm West, Bircholt Road, Maidstone. This depot has since been completed, and is up and running, which has subsequently made the Armstrong Road site redundant.

### **3.0   CONSULTATIONS**

3.1   **Maidstone Borough Councils Property Surveyor** was consulted and agrees with the up-to-date viability assessment that demonstrates that if the applicant pays the price that has been agreed, there would be no scope for the applicant to provide the requested contributions.

3.2   All other consultation responses are outlined within the previous report. I will however, highlight the most relevant once more: -

3.3   **Maidstone Borough Council Parks and Open Space** Officer were consulted and made no comment upon this application.

\*Officer Comment: No comments have been received due to the officer having left his post. However, I have been made aware that contributions would have been sought for this application – at £1575 per unit.

3.4   **The Primary Health Care Trust** were previously consulted and raised no objections to the proposal subject to the applicant providing a contribution of £80,028 to go towards the improvement of facilities for the local health service, which they suggest would be required due to additional strain being placed upon the existing facilities by the development. However, following this request, it was previously agreed that it was acceptable to provide no contributions as the applicant was providing 100% affordable housing. The PCT has been re-consulted on this application, and raise no objections to the proposal.

3.5   **Mouchel (on behalf of KCC)** were initially consulted and requested that due to the additional strain that would be likely to occur on the existing library, adult education, youth and community and adult social services within the locality,

should the development occur, the following contributions should be sought to address this matter:

Libraries – £227 per dwelling

Adult Education - £180 per dwelling

Youth and Community - £206.75 per flat and £827 per dwelling

Adult Social Services - £1201 per dwelling.

However, Mouchel were informed that there will be no contributions available. I then received the following additional comments: -

'Many thanks for your call regarding the KCC Contributions request.

From this we note this is a 100% affordable housing scheme by the Maidstone Housing Trust, and regrettably based upon a current financial appraisal there will be no contributions available to other services.

We are obliged to you for informing us that the full financial appraisal of the development obtained has been verified independently.

We appreciate Affordable Housing is a Government priority, and Maidstone Borough priority.

For KCC, any new developments result in a 'net increase' in the housing stock. Affordable Housing generates higher occupancy levels than private due to the full occupancy requirements imposed for residents to be able to take up allocation. Even allocation of affordable housing to local people will inevitably release other local accommodation into which new residents from outside the Borough will be able move in, thus causing a net increase in demand upon local services.

The County services were assessed at the time of the Planning applications. Whilst both Primary and Secondary schools locally would be able to accommodate the additional pupils generated from this development, the County: Library, Adult Education, Youth Service and Adult Social Services were found to be at or above capacity locally and thus harm will be caused through inadequate capacity for the new residents; this will lead to a dilution of existing services for existing residents if no contributions are forthcoming from this proposed development.

Ultimately KCC acknowledge Maidstone are the Local Planning Authority and the planning decision rests with Maidstone Borough Council. We note it is proposed the development is to be all social rented accommodation currently. We also note Maidstone Borough Council will not be achieving any other priority

contributions (namely Open Space), nor contributions towards any other third party requests like Health.

We would request Maidstone do monitor this development and if the circumstances of development be later varied to accommodate a change in the mix from all social rented to some being shared ownership or provision of some private residential, then the development be re-appraised financially to ascertain and allocate any profit to those services that have demonstrated harm arising due this development.'

**\*Officer Comment:** Maidstone Borough Council have noted the comments above, and have requested that an updated viability assessment be produced. This has been submitted, and demonstrates that the development continues to make a loss. KCC have been re-consulted on the change to the tenure split. I have explained that the applicants are still providing a large amount of affordable housing (over 75% of the whole site), and are making an overall loss on the development. They have raised no objections.

#### **4.0 REPRESENTATIONS**

4.1 Neighbouring properties were re-notified of the changes to this planning application, and 3 further letters of representation have been received. These letters do not concern the tenure split, but rather the principle of development and the impact that the proposal would have upon the existing residents.

#### **5.0 CONSIDERATIONS**

##### **5.1 Site Description**

5.1.1 The site description is set out within the previous report – appended to this report. To update Members, no significant physical changes have occurred on site since this report was completed, although it is now completely unused, and is beginning to appear somewhat overgrown.

##### **5.2 Proposal**

5.2.1 The proposal is physically identical to that previously viewed, and agreed at Planning Committee. However, the applicants have now requested that the tenure of the properties within the development change, and that a proportion of them be for private sale. This does not constitute development but is materially different to what all interested parties, and Members had previously seen.

5.2.2 The proposal would now see twenty one of the houses for sale on the private market – the properties being plots 2, 3, 4, 5, 6, 8, 29, 30, 31, 32, 33, 39, 40, 41, 42, 43, 50, 51, 52, 53, and 54. These plots consist of nine two bedroom

properties, and twelve properties with three bedrooms. These properties are spread throughout the development, ensuring a suitable mix. The remainder of the units would be provided as affordable properties – social rented. No S106 monies are proposed because a revised viability assessment has been submitted.

### **5.3 Assessment**

5.3.1 Many of the matters for determination have already been fully explored, and considered by Members – these are set out within the previous Committee report. I will not therefore review these elements, but the previous Planning Committee report is appended.

5.3.2 However, since this resolution to grant in January 2010, the South East Plan (2009) has been revoked. As such, the application has to be determined in light of this revocation, with consideration given to this change in the Development Plan and also the impact that the change in tenure would have on the overall development.

### **5.4 Revocation of the South East Plan (2009)**

5.4.3 In terms of the loss of the South East Plan, the policies from this plan that were previously considered to be of relevance were CC4, NRM11, T4, CC1, T4, H5, W1, W6, BE1. I will address each policy, and the impact that its loss has upon the proposal.

5.4.4 Policy CC4 related to sustainable construction and design. The applicant is still proposing that the application be built to level 4 of the Code for Sustainable Homes, which I consider to demonstrate a compliance with the requirements of PPS1, in that it represents good design. I do not therefore consider that the loss of this policy would impact upon the resolution to grant planning permission.

5.5.4 Policy NRM11 required any residential development of 10 units or more to have at least 10% of their energy generated by renewable energy sources. Despite the loss of this policy, the applicant has demonstrated that this can be achieved. Again, I consider that this is fundamental to good design.

5.5.5 Policy T4 had regard to parking standards. Much of this policy refers to the requirements of PPG13 (although perhaps is more specific in certain respects), and as such I do not consider that the loss of this policy impacts upon the resolution.

5.5.6 Policy H5 refers to housing density and design. This policy reflected the requirement to provide suitable levels of housing provision within the South East, and for Local Authorities to push for densities above 40 dwellings per

hectare. I do consider that this, together with the change to PPS3 (Housing) to be a material change within the Development Plan. This is not to say that developments should no longer exceed this previously suggested density, rather that greater weight should now be given to the pattern and grain of the existing development within the locality of the site. However, the density shown within this application (being 58 dwellings per hectare) fits in with the grain and pattern of the development within the locality, and as such I do not consider that this change in policy would result in a different recommendation to Members in this instance.

- 5.5.7 Policies W1 and W6 seek to ensure that any new developments encourage waste reduction, and promote recycling. I do not consider the loss of these policies to have a material impact upon the recommendation made previously.
- 5.5.8 Policy BE1 refers to the need for Local Planning Authorities to have regard to the existing built environment when determining planning applications for new development. I still consider that this proposal is of a high quality design, something required by PPS1 in any event, and as such, I do not consider the loss of this policy to result in a differing recommendation.
- 5.5.9 To conclude, I do not consider that the loss of the South East Plan would have an impact upon the recommendation previously put before Members (for approval). I therefore consider that the principle of development remains acceptable.

## **5.6 Section 106 Contributions**

- 5.6.1 As can be seen from the proposal section above, this application now seeks to provide an element of housing for private sale within the site. A total of 21 houses, from a total of 96 units, would be for sale – being 22% of the total proposed units. In terms of principle, I consider that this would be in accordance with the Council's development plan document, in that it would still ensure that at least 40% of the site would be given over for affordable housing. Despite private houses being proposed, the viability assessment still shows that no money is available for S106 contributions.
- 5.6.2 Members will recall that the applicants had previously demonstrated that they would not have been able to provide any contributions for parks and open space, Primary Care Trust, or Kent County Council, as they were making an overall loss on the development. The applicant submitted financial information demonstrating that the development would make a loss which was accepted by this Authority. Full consideration was given to these figures within the previous report.

5.6.3 Within the Development Plan used within this Borough, there are no priorities given, in terms of provision of affordable housing, or other contributions. However, as Members are aware, national guidance is to ensure that affordable housing is delivered, as there is a recognised need for this to be provided, with relatively high houses prices ensuring that this is particularly relevant within the South-East of England.

5.8.3 It should be noted that this application has, in part, been altered (to include private sales) in order that a more suitable 'mix' of housing be provided, to meet the requirements of the Housing and Communities Agency. However, as this amendment to the scheme has been submitted, it is important to re-visit the requirement to provide contributions. Circular 05/2005 gives guidance on the use of Planning Obligations, and within this Circular it states: -

*'In some instances, perhaps arising from different regional or site-specific circumstances, it may not be feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable. In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers...'*

5.6.4 As stated, a full up-to-date viability appraisal has been submitted, which demonstrates that the proposal would not provide the returns on the site that say, a private developer would expect to receive. The assessment has been broken down into the costs of the site (including land purchase, build-out costs, professional fees etc) as well as the returns that are expected (worked out as capital receipts). This demonstrates that, even with the grants provided, including those from Maidstone Borough Council, there would be no money available for any additional contributions.

5.6.5 As with the previous submission, it is clear from the evidence submitted within the financial appraisal (produced by Cluttons in June 2010) that despite the provision of some properties for private sale, the financial margins for the development would still not cope with the requirement for contributions towards planning gain. However, as the proposal is to provide a development consisting of 78% affordable properties, which would meet an identified need within the Borough, I consider that in this instance, this outweighs the necessity to provide contributions to other services. As the financial information has been quite specific in terms of the private/affordable split, and that this does have a definite impact upon the contributions requested, I consider it appropriate that the Section 106 agreement be specific, and require that a minimum of 77% of the development be provided as affordable housing. This would prevent any deviation from the information submitted and approved plans at a later stage.

## **6.0 CONCLUSION**



6.1 In conclusion, I am still of the opinion that this development does still comply with the policies within the Development Plan, and that the provision of properties for private sale within the development, does not enable the developer to provide any additional contributions from that previously agreed. I therefore recommend that Members give this application favourable consideration, and give delegated powers to approve, subject to the receipt of a suitable S106 legal agreement, and the imposition of the conditions as set out below.

## **7.0 RECOMMENDATION**

SUBJECT TO:

a) The receipt of a suitable S106 legal agreement ensuring that a minimum of 77% of the development is retained as affordable housing, as shown on plan number 0831/SK102.

The Development Manager BE DELEGATED POWER TO GRANT PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No development shall take place until details, in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to, and approved by the local planning authority;

- i) Details of the roof overhangs;
- ii) Details of windows and doors (including garage doors) and recesses/reveals, which shall be a minimum of 100mm;

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

Reason: To ensure a satisfactory external appearance to the development in the interests of the visual amenity and character of the surrounding area in accordance

with PPS1.

3. No development shall take place until precise details of bin storage, clothes drying and cycle storage facilities for the flat blocks have been submitted to and approved in writing by the Local Planning Authority. Such details as are approved shall be available prior to the first occupation of any of the units, and thereafter maintained.

Reason: To secure a satisfactory standard of development and in the interests of the amenities of the area, in accordance with PPS1.

4. No external meter cupboards, vents, flues or extract grilles shall be installed on any elevation facing a highway without the prior agreement in writing of the Local Planning Authority.

Reason: In the interest of the visual amenity of the area in accordance with PPS1.

5. The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority before construction begins. For this purpose, plans and sections indicating as appropriate the design, layout, levels, gradients materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are constructed in a satisfactory manner in accordance with PPS1 and PPG13.

6. The open areas within the residential development site shall remain open and available for public access and no fences gates or other means of enclosure (other than those shown on the approved plans) shall be placed or erected to preclude access to these areas at any time without the prior approval of the Local Planning Authority.

Reason: In the interests of permeability and to maintain the landscaped parkland setting for the development pursuant to policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

7. No development shall take place until details of all fenestration details have been submitted to and approved in writing by the Local Planning Authority. Such details as are approved shall be fully implemented.

Reason: In the interest of the visual amenity of the area in accordance with PPS1.

8. Cordwood above 20cm in diameter from the site should be retained and placed within the site in locations and in quantities to be agreed with the Local Planning Authority prior to any tree felling taking place.

Reason: In the interest of biodiversity enhancement in accordance with PPS9.

9. The development shall not commence until samples of the materials, (which shall include multi stock yellow bricks, render and natural slate) to be used within the construction of the buildings, and hard-standing hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials.

Reason: In the interests of securing a high quality finish to the development in accordance with PPS1.

10. The development shall not commence until, details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with PPS1.

11. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with PPS1 and PPS3.

12. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General

Permitted Development) (Amendment) (No.2) (England) Order 2008 (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;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with PPG13.

- 13.No development shall take place until an independently verified report has been submitted to and approved in writing by the Local Planning Authority showing that the development achieves a minimum score of Level 4 or better for each residential unit under 'The Code for Sustainable Homes'. Each residential unit shall be provided strictly in accordance with the approved report before it is occupied.

Reason: to ensure a sustainable and energy efficient form of development in accordance with Kent Design 2000 and PPS1.

- 14.No development shall take place until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general pursuant to Policy ENV49 of the Maidstone-Wide Local Plan 2000.

- 15.Removal of existing trees or hedgerows containing nesting birds shall take place outside of the bird-breeding season (generally March to August).

Reason: In the interests of biodiversity within the site in accordance with PPS9.

- 16.The development shall not commence until:

1. The application site has been subjected to a detailed scheme for the investigation and recording of site contamination and a report has been submitted to and approved by the Local planning authority. The investigation strategy shall be based upon relevant information discovered by a desk study. The report shall include a risk assessment and detail how site monitoring during decontamination shall be carried out. The site investigation shall be carried out by a suitably qualified

and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and these details recorded.

2. Detailed proposals in line with current best practice for removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') have been submitted to and approved by the Local Planning Authority. The Contamination Proposals shall detail sources of best practice employed.

3. Approved remediation works have been carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology. If, during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall 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;

Reason: To prevent harm to human health and pollution of the environment in accordance with PPS23.

17.No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include the planting of the southern boundary landscaping within the first planting season following commencement of the development with semi-mature trees, together with a land survey and tree survey in accordance with BS 5827 (2005) 'Trees in Relation to Construction – Recommendations' with indications of all trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, and a scheme for the approved scheme's implementation and long term management.

Reason: No such details have been submitted and in the interests of the visual amenities of the locality, and the interests of the residential amenity of the occupiers of the occupiers of the properties to the south of the site in accordance with PPS1 and PPS3.

18.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 building(s) 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 setting and external appearance to the development in accordance with PPS1.

19.A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development for its permitted use and the landscape management shall be carried out in accordance with the approved plan over the period specified;

Reason: To ensure satisfactory maintenance and management of the landscaped area in accordance with PPS1.

20.There shall be no deviation from the approved plans.

Reason: To ensure a high quality of development in accordance with PPS1

21.No external communal bin stores shall be provided, other than those shown on drawing number 2015-AS-26 Rev D received 15/11/2007.

Reason: To ensure a satisfactory appearance to the development pursuant to PPS1.

22.Prior to the commencement of the development hereby permitted, details of the ragstone planters and other means of enclosure to be erected along the back edge of pavements, shall be submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details and maintained thereafter.

Reason: To prevent excessive car parking and to ensure the visual appearance and landscaped setting of the site is maintained pursuant to policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

23.No structure, plant, equipment or machinery shall be placed, erected, or installed on or above the roof or on external walls of any building without the prior approval in writing of the local planning authority;

Reason: To preserve the integrity of the design of the development pursuant to

PPS1.

24.No development shall take place until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a high quality external appearance to the development pursuant to PPS1.

25.Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1 Classes A, B, C, D, E, F and H, Part 2 Class A and Part 25 Classes A and B to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area. In accordance with policy PPS1.

26.No development shall take place until precise details of the green roofs are submitted to the Local Planning Authority and approved in writing.

Reason: In the interests of the biodiversity of the application site, in accordance with PPS9.

27.No development shall take place until details of the proposed foul and surface water drainage works including measures to safeguard the existing public foul sewer within the site during the course of development have been submitted to and approved in writing by the local planning authority and these works shall be completed in accordance with the approved details before the first occupation of any of the dwellings.

Reason: To ensure adequate drainage arrangements pursuant to PPS25.

28.All services to the premises shall be underground;

Reason: In the interest of a high quality finish of the development hereby permitted, in accordance with PPS1.

29.Detailed proposals in line with current best practice for gas protection measures (the 'Gas Protection Proposals') have been submitted to and approved by the LPA.

The proposals shall detail sources of best practice used.

1. Approved works shall be carried out in full on site prior to first occupation.
2. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the LPA. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved scheme.

Reason: in the interest of the health and safety of future occupiers, in accordance with PPS23.

- 30.No development shall take place until precise details of the build-outs to be provided within Enterprise Road have been submitted, and agreed in writing by the Local Planning Authority. Such details as are agreed shall be provided prior to the first occupation of any of the units, and shall thereafter be maintained.

Reason: In the interest of visual amenity and highway safety in accordance with PPS1 and PPG13.

- 31.No development shall take place until precise details of the zebra crossing proposed within Armstrong Road have been submitted to the Local Planning Authority and agreed in writing. Such details as are approved shall be completed prior to the first occupation of any of the residential units hereby permitted, and thereafter maintained.

Reason: In the interests of pedestrian permeability, and improved access to public open space, in lieu of such contributions, in accordance with policy CF1 of the Maidstone Borough Wide Local Plan (2000) and the Kent Design Guide.

- 32.No development shall take place until details of how the proposal will secure at least 10% of their energy from decentralised and renewable or low carbon sources have been submitted to the Local Planning Authority and agreed in writing.

Reason: In the interest of providing a sustainable form of development, in accordance with PPS1.

- 33.The development hereby permitted shall be carried out in accordance with the noise impact assessment submitted by MLM Environmental (ref DMB/731233/R1) received by the Local Planning Authority on the 11 August 2009.

Reason: In the interests of the residential amenity of the future occupiers of the site, in accordance with PPS24.

- 34.To safeguard the future occupants of the site, a detailed scheme for the investigation, recording and remediation of gas shall be submitted. The scheme to



comprise:

1. A report to be submitted to and approved by the LPA. The report shall include a risk assessment and detail on how site monitoring during the investigation took place. The investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a methodology that complies with current best practice, and these details reported.
2. Detailed proposals in line with current best practice for gas protection measures (the 'Gas Protection Proposals') have been submitted to and approved by the LPA. The proposals shall detail sources of best practice used.
3. Approved works shall be carried out in full on site prior to first occupation.
4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the LPA. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved scheme.

Reason: To ensure the health and safety of any potential future occupiers of the site, in accordance with PPS23.

### **Informatives set out below**

No development shall commence until there is provision within the site to accommodate operatives' and construction vehicles loading/off-loading and turning and for the parking for site personnel/operatives/visitors.

Whilst details of the materials to be used within the hard surfaces within the development hereby permitted have been submitted, and are considered appropriate, the condition imposed upon this permission requires the applicant, or their successors in title to submit details of all external surfaces, including kerb stone, driveway, pathways etc.

You are advised to ensure that the appointed contractor(s) is/are registered with the 'Considerate Constructors Scheme' and that the site is thereafter managed in accordance with the Scheme. Further information can be found at [www.considerateconstructorscheme.org.uk](http://www.considerateconstructorscheme.org.uk)

The developer shall implement a scheme for the use of wheel cleaning, dust laying and road sweeping, to ensure that vehicles do not deposit mud and other materials on the public highway in the vicinity of the site or create a dust nuisance.

In order to minimise the threat of dust pollution during site clearance or construction works, the developer shall ensure that all measures are undertaken (including a watering regime during dry weather) under their control. This shall continue until the works have been completed on site.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside of the normal working hours is advisable.

No vehicles may arrive, depart, be loaded or unloaded within the general site, and plant and machinery shall not be operated, that would generate noise beyond and boundary of the site, except between the hours of 0800 hours and 1800 Mondays to Fridays and 0800 and 1300 hours on Saturdays (and at no time on Sundays or Bank or Public Holidays).

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 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 Manager regarding noise control requirements.

Provision shall be made within the site for the disposal of surface water so as to prevent its discharge on to the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority.

The provision of 'swift bricks' on the external faces of the buildings should be employed in the interest of nature conservation and biodiversity enhancement.

There shall be no burning of waste materials on site.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

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The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.

## **REASON FOR APPROVAL**

The proposal is a departure from the Development Plan however, in this instance, overriding justification has been given, that demonstrates that it is not feasible to provide a development within the site that would comply with the Policies within the Maidstone Borough Wide Local Plan (2000). The applicant has demonstrated that the site is not viable as an economic employment site, and that housing is acceptable. Furthermore, Members has twice resolved to grant planning permission for residential houses on this site – a material consideration. It is therefore acceptable to deviate from the Development Plan in this instance.