

22/505560/FULL

Applicant Representation

The applicant has submitted a 5 page letter responding to the committee report and reasons for refusal raising the following summarised points:

1. In relation to the first reason for refusal, the applicant reiterates their points as to why they consider the development is acceptable and should be granted permission.
2. In relation to the second reason for refusal, the applicant considers the proposals include significant level changes to reduce the visibility of the store with a very small quantum of the earthworks re-used to provide a level access car park; the vantage points from which the development is visible have not been outlined; and no level of harm has been quantified.
3. In relation to the third reason for refusal, the applicant considers the proposals comply with policy DM1 which states proposals should, "protect and enhance any on-site biodiversity and geodiversity features, where appropriate, or provide sufficient mitigation measures", so is in accordance with the Development Plan.

They consider the NPPF does not specifically require net gains to be demonstrated through the Natural England biodiversity metric, and mandatory BNG under the Environment Act will only apply to applications submitted after this takes effect in November 2023.

On this basis, they consider there are no material considerations to suggest the application should be determined other than in accordance with the Development Plan in line with Section 38(6) of the Planning and Compulsory Purchase Order 2006.

Officer comment

1. The applicant's case is set out in the committee report at paragraphs 6.12 to 6.26 and has been fully considered.
2. Policy DM1 of the Local Plan requires high quality design and proposals that respond positively to, and where possible enhance, the local area. Paragraph 130(b) of the NPPF requires decisions that ensure developments are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping.

For the reasons outlined in the committee report at paragraphs 6.65 to 6.69 the proposals fail to do this and so are contrary to this policy and the NPPF. There is no requirement to quantify the level of harm.

The vantage points are clarified in an amended second reason for refusal set out below which also includes clarity on the relevant criteria of policy DM1.

3. Policy DM1 does not specifically require 'net gains' and requires "enhancement of any on-site biodiversity". Policy DM3 (Natural Environment) requires development to enhance the natural environment.

The Local Plan was adopted in October 2017 and at that time national policy in the NPPF (2012) required 'net gains in biodiversity where possible'. From the December 2018 version of the NPPF onwards it has been strengthened to require that decisions 'provide net gains for biodiversity'.

The NPPF has therefore established a requirement to actually provide net gains for biodiversity since adoption of the Local Plan. As stated at paragraph 6.81 of the main report, in order to demonstrate net gains this is assessed/calculated through the biodiversity metric produced by Natural England which has also been developed after adoption of the Local Plan. These are considered to be material considerations as to why more than unquantified 'enhancement' is required.

For clarity, and as set out in the main report, the relevant emerging policy in the draft Local Plan Review (LPRSP14A) requires a minimum of 20% BNG but only for new residential development. It therefore does not apply to this proposal.

Local Residents

23 representations have been received since the agenda was published.

17 of these raise objections for similar reasons to those set out in the main report, 5 are in support, and 1 is neutral.

RECOMMENDATION

Officer's recommendation remains the same to refuse planning permission with amendments to reason 2 (in bold) as follows:

2. *The proposed layout has the access road and elevated car parking areas dominating the front of the site which would be highly visible from nearby public vantage points **on Newnham Court Way, Gidds Pond Way, Bearsted Road and New Cut Road**. This creates a poor frontage and gateway into the wider site allocation and represents poor design which fails to respond positively to character of the local area contrary to policy DM1(ii) of the Maidstone Local Plan and paragraph 130(b) of the NPPF.*