

REFERENCE NO - 22/502027/FULL		
APPLICATION PROPOSAL		
Erection of 42 no. residential dwellings including affordable housing. Enhancement of existing access from Hermitage Lane and provision of associated hardstanding, landscaping, open spaces and infrastructure including drainage and earthworks.		
<i>Note – This is a cross boundary application spanning Tonbridge and Malling and Maidstone Boroughs. The Council is only determining the part of the application that falls within its Borough boundary which is one house, its garage, and garden, and landscaped areas.</i>		
ADDRESS Land North Of 351 Hermitage Lane, Maidstone, Kent		
RECOMMENDATION – APPROVE PERMISSION		
SUMMARY OF REASONS FOR RECOMMENDATION		
<ul style="list-style-type: none"> The Council is only determining the part of the application that falls within the Maidstone Borough boundary which is one house, its garage, and garden, and landscaped areas in the corner of the existing field. Tonbridge and Malling Borough Council (TMBC) have approved 41 dwellings on the remainder of the field and so the context for the single dwelling in Maidstone is a housing estate of which it will form part. Whilst the Local Plan Review does not allow for houses on greenfield land in the countryside, in the context of the development approved by TMBC, the single dwelling is acceptable, and this represents a material consideration to warrant a departure from the Development Plan. Permission is therefore recommended for the dwelling and development within Maidstone subject to conditions. 		
REASON FOR REFERRAL TO COMMITTEE		
<ul style="list-style-type: none"> The recommendation is a departure from the Development Plan. Ward Councillor Forecast has called the application to Planning Committee for the reasons outlined in the report. 		
WARD Palace Wood	PARISH COUNCIL N/A	APPLICANT Esquire Developments AGENT N/A
CASE OFFICER: Richard Timms	VALIDATION DATE: 21/04/22	DECISION DUE DATE: 28/06/24
ADVERTISED AS A DEPARTURE: YES		

Relevant Planning History

22/503850/ADJ (Consultation by Tonbridge and Malling Borough Council)

Consultation on the Erection of 42 dwellings including affordable housing. Enhancement of existing access from Hermitage Lane and provision of associated hardstanding, landscaping, open spaces and infrastructure including drainage and earthworks – MBC RAISED OBJECTIONS 23/08/22

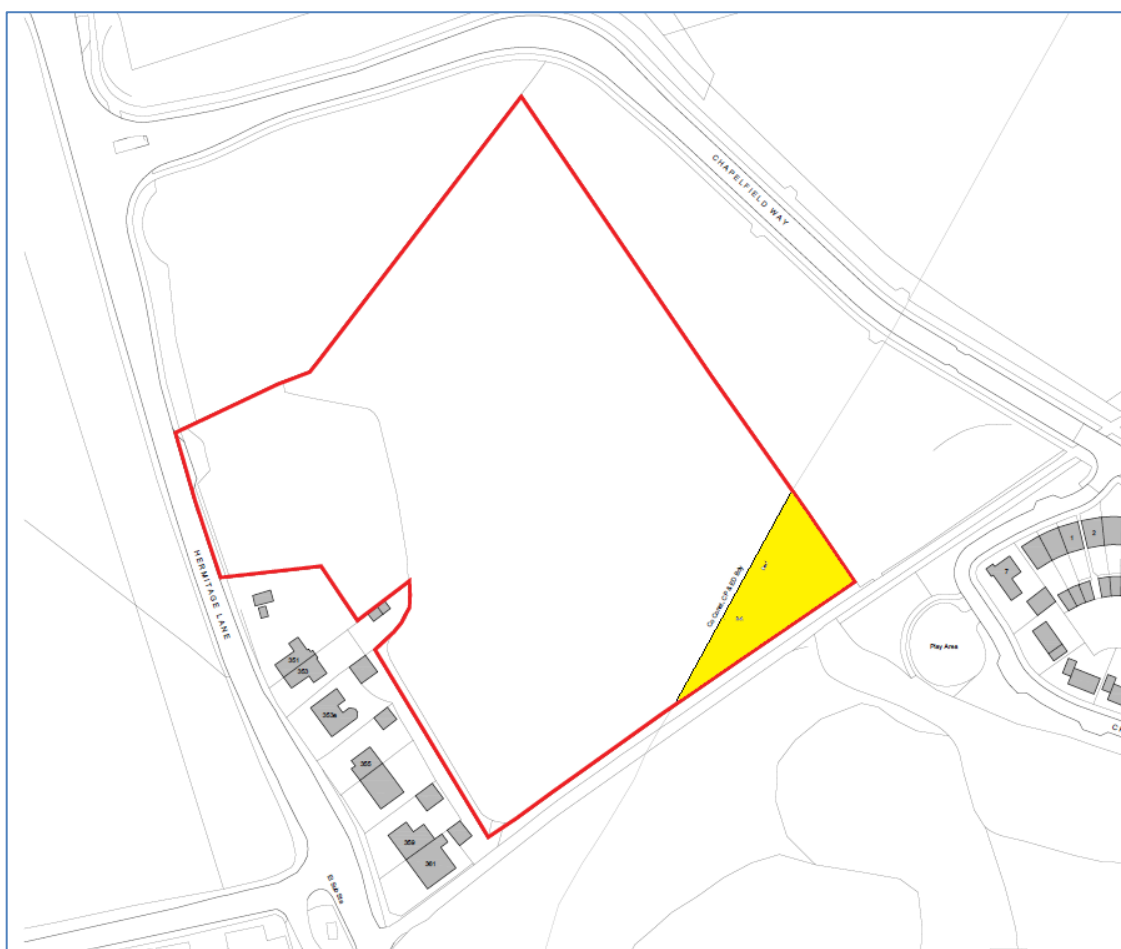
22/00907/FL (Tonbridge and Malling Borough Application)

Erection of 42 dwellings including affordable housing. Enhancement of existing access from Hermitage Lane and provision of associated hardstanding, landscaping, open spaces and infrastructure including drainage and earthworks – APPROVED BY TMBC 19/04/24

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The site is to the east of Hermitage Lane and south of Chapelfield Way. It is an open grassed field which generally rises from west to east. The plan below shows the site and the part that falls within MBC is highlighted in yellow.



1.02 As can be seen, the application site is mainly within TMBC but because part of the site falls within MBC, the applicant is required to make planning applications to both authorities.

1.03 However, MBC can only consider the development which falls upon its land being one house (Plot 18), its garage and garden as shown highlighted below on the layout plan.



- 1.04 The remainder of the housing estate and its access falls within TMBC and was approved by that Council in April 2024. This consists of 41 houses, 29% of which are affordable, a play area, and other areas of open space and landscaping. MBC officers have waited for TMBC to decide their application before making a recommendation on this application as it is fundamental to the assessment/context.
- 1.05 The triangle parcel of land within MBC falls outside the defined urban settlement boundary and so falls within the 'countryside' for policy purposes. As new houses outside settlements on greenfield land are not supported under the Local Plan Review the application has been advertised as a departure from the Development Plan.
- 1.06 Restricted byway KB47 runs alongside the south boundary and there is an area of Ancient Woodland (AW) around 27m to the south of the site.

2.0 PROPOSAL

- 2.01 This is a full application for 42 houses and whilst permission must be sought for the whole development from MBC, it is reiterated that the Council can only consider the part that falls within the Borough boundary.
- 2.02 The house proposed in MBC is a 2 storey 5 bedroom dwelling. It is of 'traditional' appearance with a two storey gable projection to the front set below a part hipped roof. Materials proposed are clay roof tiles, ragstone to the front of the gable, and red bricks. There would also be a single storey pitched roof garage and the garden.
- 2.03 Within MBC, the plans also show a 5m wide landscape buffer along the south and east boundaries (outside of the dwelling's garden), and there is an area of

landscaping with paths which forms part of a public open space area in front of the dwelling.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan Review 2024: LPRSS1, LPRSP9, LPRSP10, LPRSP10(A), LPRSP10(B), LPRSP12, LPRSP14(A), LPRSP15, LPRHOU5, LPRTRA1, LPRTRA2, LPRTRA4, LPRINF1, LPRQD1, LPRQD2, LPRQD4, LPRQD6, LPRQD7

(The Maidstone Borough Local Plan Review (LPR) was adopted by the Council on 20th March 2024. There have been two strategic level challenges to adoption.)

Kent Waste and Minerals Plan (amended 2020): CSW3, DM7, DM9

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

4.0 LOCAL REPRESENTATIONS

4.01 **Local Residents:** 10 representations received raising the following (summarised) points:

- Local infrastructure cannot cope.
- Pollution and noise.
- Harm to ancient woodland.
- Loss of green space/gap and agricultural land.
- Will join Maidstone up with Tonbridge and Malling.
- Dangerous access onto Hermitage Lane.
- Increased traffic and congestion.
- Will be visible and not in keeping.
- Financial contribution should be made to the Fountain Lane junction.
- Nuisance during construction.
- There is enough housing.

4.02 **Ward Councillor Forecast:** Has called the application to planning committee stating, *"This proposed development threatens the separate identity of Allington contrary to Policy SP17 and is unnecessary with Maidstone already exceeding government set housing targets."*

4.03 **Former Ward Councillor Robertson:** *"I support Councillor Forecast's request for this application to be determined by our Planning Committee."*

4.04 **Teston Parish Council:** Raise objections for the following (summarised) reasons:

- Unsustainable.
- Increased traffic and congestion from this development and cumulatively with others in the area.
- Question the transport evidence.
- Air quality.

5.0 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)

5.01 **KCC Highways: No objections subject to conditions** re. a travel plan, maintenance of access and visibility splays, a construction management plan, and financial contributions towards bus service enhancements and a shared cycleway/footway on Hermitage Lane or links to Maidstone Town Centre.

(Officer comment – These are matters that could only be considered by TMBC and are covered by conditions/the legal agreement on the TMBC permission)

5.02 **KCC Rights of Way:** *"It would be nice to see the development improve the tarmac surface of the restricted byway."*

5.03 **KCC Minerals: No objections.**

5.04 **KCC Ecology: No objections subject to conditions** re. reptiles and bats.

5.05 **KCC Archaeology: No objections subject to conditions.**

(Officer comment - This has been covered by conditions on the TMBC permission)

5.06 **KCC LLFA: No objections subject to conditions** re. fine details of the SUDs scheme.

(Officer comment - This has been covered by conditions on the TMBC permission)

6.0 APPRAISAL

6.01 As stated earlier in the report, MBC can only consider the development within its boundary this being one house, its garage, and garden, and landscaped areas. The wider housing estate and its impacts cannot be considered.

6.02 The part of the site within MBC is on the edge but outside the settlement boundary so in the 'countryside' for planning purposes. Policy LPRSP9 of the Local Plan Review (LPR) does not allow for new dwellings on undeveloped greenfield land and so the development is a departure from the LPR.

6.03 However, a fundamental material consideration is the approval of the rest of the housing estate of 41 dwellings on the remainder of the field by TMBC. The development within MBC would not cause significant harm in this context and for this reason it is considered the principle of the development within MBC is acceptable.

6.04 In this context, key issues are considered to be the following:

- Appearance, Layout and Landscaping
- Residential Amenity
- Ecology and Ancient Woodland
- Other Matters including Parking, Drainage and Representations

Appearance, Layout and Landscaping

6.05 The 'traditional' design of the proposed house is acceptable and obviously matches the approved estate within TMBC. Good quality materials are proposed (clay tiles and ragstone) which can be secured by condition and detailing in the form of brick quoins, projecting plinth, arched brickwork above windows, and corbel detailing on the chimney.

- 6.06 The house is set further forward than the approved houses to the north and so further down the slope which is appropriate as this a high part of the site. It is still set back from the approved road with landscaped areas proposed in front. Sufficient space (around 8m) to the restricted byway is provided such that it would not be imposing from here and the hipped roof is on this side.
- 6.07 The landscaping proposals are illustrative but the plans allow for a 5m wide landscape buffer along the south and east boundaries (outside of the dwelling's garden). This is appropriate to provide a landscaped edge to the development and soften its impact including any internal fencing alongside the rear garden. Along the byway the landscaping would be in addition to the existing hedgerow and along the eastern boundary it would strengthen the existing hedgerow and trees. Conditions can ensure this landscaping is provided along with details to include native species.

Residential Amenity

- 6.08 The dwelling would benefit from sufficient light, outlook and privacy and have an acceptable relationship with the approved dwellings within TMBC.

Ecology and Ancient Woodland

- 6.09 The ecology report/surveys relate to the wider site. Relevant to the MBC part, the field margins are likely to support reptiles and so a precautionary approach to construction is recommended (progressive cutting of the grassland towards the site margins, and searches supervised by ecologists), which can be secured by condition. The field margins will also be improved through the proposed landscaping. KCC Ecology recommend conditions relating to lighting to minimise any impact upon bats which can be attached.
- 6.10 In terms of biodiversity net gain (BNG), LPR policy LPRSP14(A) requires a 20% net gain on 'new residential development'. However, as the application was submitted in April 2022; is for only one house in MBC; and KCC Ecology have advised that across the wider site they are satisfied a net gain can be achieved, (predicted by the applicant to be 18%), it is considered that this is a material consideration such that it would not be reasonable to require 20% on this single plot in this case. The BNG on the TMBC site is secured via a Landscape and Ecological Management Plan condition on their permission. It is also noted the proposals within MBC provide new landscaping areas and hedgerows which would provide gains for biodiversity.
- 6.11 The garden of the dwelling would be 34m from the ancient woodland (AW) to the southeast and Natural England Standing Advice on AW recommends at least a 15m buffer distance as a general guide. With a distance of 34m it is considered the development would not have any unacceptable effects on the AW in this case. It is also noted this is a greater distance than some areas of the approved and built housing estate to the east in MBC.

Other Matters including Parking, Drainage, and Representations

Parking

- 6.12 Four spaces would be provided in addition to the garage which meets the relevant parking standards. Cycles could be stored in the garage.

Drainage

- 6.13 The surface water scheme for the wider site has been accepted by TMBC and KCC subject to conditions requiring the fine details and verification which have been imposed by TMBC. The dwelling within MBC would connect to that system.

Representations

- 6.14 Representations received generally relate to the impact of the wider development and matters relating to traffic, infrastructure, and loss of the field. These are issues that were considered by TMBC and cannot be considered by MBC in relation to one house. For information, the TMBC planning permission secures financial contributions towards primary and secondary education, community learning, libraries, social care, youth services, highway works (Hermitage Lane cycle/footway), bus services, healthcare, and public open space. The house within MBC will be subject to Maidstone's CIL payment.

Public Section Equality Duty

- 6.15 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 Council is only determining the part of the application that falls within the Maidstone Borough boundary which is one house, its garage, and garden, and landscaped areas in the corner of the existing field.
- 7.02 Tonbridge and Malling Borough Council have approved 41 dwellings on the remainder of the field and so the context for the single dwelling in Maidstone is a housing estate of which it will form part.
- 7.03 Whilst the Local Plan does not allow for houses on greenfield land in the countryside, in the context of the development approved by TMBC, the single dwelling is acceptable and this represents a material consideration to warrant a departure from the Development Plan.
- 7.04 The design, layout and landscaping are acceptable and permission is therefore recommended for the dwelling and development within Maidstone subject to conditions.

8.0 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions with delegated authority to the Head of Development Management to be able to settle or amend any necessary planning conditions and/or informatives in line with the matters set out in the recommendation and as resolved by the Planning Committee:

Time Limit

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.

Approved Plans & Compliance

2. The development shall be carried out in accordance with the following approved plans:

20.223-001 (Site Location Plan)
20.223-102 (Site Layout Plan)
20.223-213 (Plot 18 Plans and Elevations)
20.223-220 (Garages Plans and Elevations)

Reason: For the purposes of clarity and to ensure a satisfactory appearance to the development.

3. The development shall be carried out in accordance with the mitigation measures set out at Section 6 of the Ecological Appraisal (March 2022).

Reason: To protect biodiversity.

Pre-Commencement

4. No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until a tree protection plan in accordance with Section 5.5 and a site specific arboricultural method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To safeguard existing trees.

Pre-Slab Level

5. No development above slab level shall take place until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority and the details shall include the following:

a) Kentish ragstone.
b) Clay roof tiles.
c) Stock bricks.

The development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

6. No development above slab level shall take place until written details and images of all surface materials have been 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.

7. No development above slab level shall take place until details and evidence of the measures necessary to incorporate at least 10% on-site renewable or low carbon energy production measured as a percentage of overall consumption have been submitted to and approved in writing by the Local Planning Authority. Such details shall include measures for battery energy storage unless this is demonstrated with

evidence to be unfeasible. The approved details shall be implemented prior to the first use/occupation of any unit to which the details relate and thereafter retained.

Reason: To ensure a sustainable form of development

Pre-Occupation

8. The development shall not be occupied until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
 - a) A scheme designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012).
 - b) Details of the number, size, species, maturity, spacing and position of existing/proposed landscaping.
 - c) A five year landscape management plan.
 - d) A scheme following the landscaping principles shown on the Illustrative Landscape Masterplan to include:
 - i) At least 5m wide landscape buffers along the south and east boundaries to include double staggered native hedging and trees which shall be fenced off from the garden of Plot 18.
 - ii) Native tree and shrub planting in the landscaped area to the front of Plot 18.

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

9. All landscaping specified in the approved landscape details shall be carried out in the first planting season (1st October to the end of February) following the first occupation/use of Plot 18 or in accordance with a timetable previously agreed with the Local Planning Authority. The approved landscaping shall be retained for at least 5 years following its implementation and shall be managed and retained strictly in accordance with the approved specification/management plan, and any approved or retained seeding or turfing which fails to establish or any trees or plants which, before a period of 5 years from the completion of the development has expired, die or become so seriously damaged or diseased that their amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation. No replacement planting or removal of any planting shall take place without the prior written consent of the local planning authority.

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

10. The development shall not be occupied details of the following biodiversity enhancements and their implementation have been submitted to and approved in writing by the local planning authority:
 - a) Bat, bird and bee bricks
 - b) Habitat piles

The development shall be carried out in accordance with the approved details.

Reason: In the interests of biodiversity enhancement.

11. The development shall not be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained.

12. The development shall not be occupied until details of any external lighting, that shall take into account the site boundaries and any areas/features of importance for bats, has been submitted to and approved in writing by the Local Planning Authority. The approved details will thereafter be implemented and maintained.

Reason: In order to limit the impact of lighting on the local area and upon protected species.

13. The development shall not be occupied 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 dwelling 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.

14. The approved details of the vehicle 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) (England) 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.

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.

Restrictions

15. The dwellings hereby approved shall meet the accessible and adaptable dwellings building regulations Part M4(2) standard or any superseding standard. The dwelling shall not be occupied unless this standard has been met and the dwelling shall be thereafter retained as such.

Reason: To ensure the development is in accordance with policy LPRQ&D6 of the draft Local Plan Review.

16. The dwelling hereby approved shall meet the higher level of water efficiency of 110 litres per person, per day as set out under the building regulations Part G2 or any superseding standard. The dwelling shall not be occupied unless this standard has been met for the dwelling.

Reason: To ensure a sustainable form of development in accordance with policies LPRQ&D1 and LPRQ&D6 of the draft Local Plan Review.

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