

## APPENDIX

APPLICATION: MA/13/0297 Date: 20 February 2013 Received: 27 February 2013

APPLICANT: Baltic Wharf (Maidstone) Ltd.

LOCATION: BALTIC WHARF, ST PETERS STREET, MAIDSTONE, KENT, ME16 0ST

PARISH: Maidstone

PROPOSAL: Detailed planning permission for the change of use of, and alterations and additions to, the existing Powerhub building to provide a mix of Class A1 (foodstore), A2 (professional and financial services), A3 (cafes and restaurants), B1 (employment) and D2 (assembly and leisure) uses; and outline permission, with all matters reserved except for access, for a new building for Class A1 (foodstore) use with associated car parking, and other operational development including provision of pedestrian and vehicular access and a new riverside walkway; together with demolition of Raglan House and other buildings and structures and demolition of parts of the Powerhub building.

AGENDA DATE: 9<sup>th</sup> January 2014

CASE OFFICER: Sarah Anderton

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

- It would be a departure from the Development Plan if approved.
- Councillor Bird has requested it be reported for the reason set out in the report.

### 1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ED2 (vii), ENV6, ENV49, T13, R1, R2, R3, R6, CF1
- Draft Integrated Transport Strategy (2012)
- Government Policy: National Planning Policy Framework 2012 (NPPF); Ministerial Planning for Growth Letter; Planning for Town Centres: Practice guidance on need, impact and the sequential approach (December 2009)

### 2. **HISTORY**

MA/13/1450 Certificate of lawfulness application for use of units G10, G11a, G12, G14 and G15 as Class A1 retail units without

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restriction as the type or ranges of goods that may be displayed or sold. Approved.

- MA/13/0298 Listed Building Consent for demolition of parts of the Powerhub building and works to facilitate the refurbishment and re-use of the building including removal, reconstruction and reconfiguration of the north wing, removal of stairwell and lift shaft to the east elevation, removal of electrical switchgear building, removal of central south wing (lift shaft), internal reconfiguration including removal of walls, removal of fifth floor and lift tower, refurbishment of roof, repairs, re-fenestration, removal of floor sections, addition of circulation core, removal of infill panels to the east and south, demolition of Raglan House and other structures within the curtilage of the Powerhub building and associated works. Not yet determined.
- MA/12/0125 Prior notification of proposed demolition of the Powerhub business centre building. Approved.
- MA/11/1983 Change of use of first floor of Raglan House to a dance academy studio (Use Class D2) and change of use of existing dance academy studio in unit B11 of the Powerhub Building to employment use (Use Classes B1 or B2 or B8) – Approved with conditions.
- MA/06/1396 Change of use from class B1 use (internet service providers office) to a sui generis use as a credit bookmaker's office/exchange trading office – Approved with conditions.
- MA/98/1442 Change of use to retail sales of pine furniture and associated goods with storage and ancillary office space – Approved with conditions.
- MA/96/1013 Change of use of existing industrial unit to retail use (for the sale of soft furnishings) – Approved with conditions.
- MA/95/0804 Use of premises as a taxi and private hire telephone and booking office – Approved with conditions.
- MA/95/0295 Use of premises as a dancing school – Approved with conditions.

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MA/94/0607	Change of use to indoor golf simulation centre – Approved with conditions.
MA/92/1447	Part change of use to resource unit for people with learning disabilities – Approved with conditions.
MA/88/0393	Change of use from industrial to storage – Approved with conditions.
MA/88/0112	Change of use of units to gymnasium weight-training sauna solarium – Approved with conditions.
MA/84/1474	Change of use to retail warehouse – Refused – allowed at appeal.
MA/79/0835	Change of use to sandwich bar – Approved.
MA/78/1894	Change of use to coach works and paint spray shop – Approved with conditions.

### **3. CONSULTATIONS**

3.1 **Maidstone Borough Council Conservation Officer** was consulted and made the following comments:

3.1.1 These proposals affect the old Tilling Stevens factory building, latterly known as the Powerhub. The building was Grade II listed in February 2012. The principle reasons for listing are set out in the list entry description and may be explained as follows:-

- i) Historic interest as being the earliest surviving building designed by Wallis, Gilbert and Partners, the foremost factory architects of the inter-war period. It was designed in 1916 and erected in 1917. It is also important for being one of the few surviving examples of their early work not to have undergone significant alteration.
- ii) Technical interest as one of the few surviving English examples of factories built using the Kahn Daylight system, an adaptable, efficient and influential system of factory building originally developed by the architect Albert Kahn in America where it was used in many early automotive factories (e.g. the Highland Park Ford factory, opened in 1910, which pioneered the continuous assembly line) in conjunction with the Trussed Concrete Steel Company (Truscon) which had been founded by Kahn's engineer brother Julius to produce his patented system of reinforced concrete. These factories vividly contrasted visually with traditional

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factory buildings of the time, exhibiting their concrete structure externally in the strongly gridded appearance with large areas of glazing infilling the grid, features well illustrated in the Tilling Stevens building. As would be expected, the provision of natural daylight penetrating into the interior of the building was an important feature of these "Daylight Factories" expressed by the large expanses of window – not only did this provide the level of lighting and ventilation prescribed, for example, by Henry Ford but it was also seen as improving the working environment thus inducing a positive mental attitude in workers towards their work – an opinion expressed by a third Kahn brother, Moritz, who had been sent to England in 1905 to set up the British branch of Truscon, in "The Design and Construction of Industrial Buildings" published in the Technical Journal of London in 1917 and shared by Thomas Wallis himself as expressed in an article on "Factories" published in the Journal of the RIBA on 25<sup>th</sup> February 1933 where he identified a link between a "poor work environment and sordid minds, breeding sedition and contempt for society" in the minds of workers. This concern for worker's welfare (for sound economic reasons) also expressed itself in the daylight factories by the provision of facilities such as changing rooms, washing and toilet accommodation and medical services – these facilities, provided at the Tilling Stevens works in the projecting northern wing, were described in a review of the building in the Architects' Journal of 26<sup>th</sup> January 1921 in the following terms-

"...the workmen's dressing accommodation is a feature of the planning arrangements and a separate metal cupboard is allocated to each employee. The cleansing arrangements are excellent and a plentiful supply of hot and cold water is available. A sick bay, replete with all surgical appliances, is provided in case of accidents, and is in charge of a competent staff."

Another characteristic of the Kahn factories, particularly starting with the Ford Highland Park unit, was the creation of unobstructed workspace within the main body of the factory by placing all services and vertical circulation in projecting external structures, thus enabling the continual change in the placement of machinery and the development of the continuous production line. This characteristic is also displayed by the Tilling Stevens factory, both in the service wing already described and in the staircase/ lift "turret" on the elevation facing the river.

- iii) Architectural interest – the front elevation of the building to St. Peter's Street exhibits compositional devices and decorative motifs typical of the work of Wallis Gilbert and Partners in a stripped Classical style which foreshadows designs more typical of the Art Deco and Moderne movements of the 1920s and 1930s; the rationality and expressed structure of the other elevations signifies the modern approach to industrial design which the factory represents.

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The proposals envisage the demolition of a number of elements of the listed building and of other buildings within the curtilage. It is also proposed to add a large extension to the southern side of the listed building to house a supermarket, although this element is in illustrative form only at this stage. The lower floors of the listed building would be largely used for car parking associated with the supermarket, whilst the top floors would be converted to office and leisure uses.

Re-use of the building is obviously to be welcomed in principle as is the consequent repair to the structure; benefits are also proposed in terms of the replacement of the 1980s UPVC windows with metal windows to closely reproduce the original windows.

3.1.2 I have the following comments to make on some of the elements of demolition.

- i) Removal of the North wing. This wing formerly housed the workers' facilities and one of the lift/ stair turrets. Although the internal layout has been changed to some extent, the stairs and lift remain. The wing as a whole remains as important physical evidence of the way the original factory worked, both in terms of vertical circulation and in terms of the provision of facilities for workers, both of which were typical features of Daylight Factories. The loss of this physical evidence would be harmful to the significance of the listed building, making its interpretation more difficult and removing one of the typical projecting structures which characterise these buildings. The proposal to rebuild in a similar style but to a smaller footprint and with fewer storeys would be meaningless.
- ii) Removal of the lift shaft and staircase to the east elevation. This prominent and original feature of the building is of similar importance and its removal would again be very harmful to the significance of the listed building for the same reasons as i)
- iii) Removal of the fifth floor and lift shaft above roof level. It is accepted that this part of the building is in a poor structural condition. There is some debate as to whether it is an original part of the design or a later addition. It certainly appears in early photographs of the building and has been carefully designed to form part of the impressive architectural composition of the St. Peter's Street frontage; if not part of the original design it was most likely added during construction. It is particularly prominent in views of the building from Buckland Hill and its loss would be architecturally unfortunate, leaving the "show" elevation of the building looking rather truncated, and would thus cause harm to the significance of the listed building.

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- iv) Removal of south central lift shaft – this is a late 20<sup>th</sup> Century addition and I have no objection to its removal.
- v) Demolition of Raglan House – this building has been granted a Certificate of Immunity from listing as it was not found to meet the criteria for listing. However, it is subject to listed building control by virtue of being within the curtilage of the listed building (and indeed attached to it). This 1912 building (albeit having some unfortunate modern alterations does have some interest in providing the context for the Wallis Gilbert and Partners Building (as part of the same factory) and as illustrating the great contrast in architectural approach between two buildings erected only 5 years apart. Its loss would therefore result in some harm to significance.
- vi) Demolition of sheds to south and east of the listed building – again, there is some doubt whether these pre- or post-date the erection of the 1917 building (in old photos they look very similar to the older Victoria Works buildings on the other side of the street). Whichever is the case, they have been significantly altered in the late 20<sup>th</sup> Century, and I have no objection to their loss.
- vii) Various other buildings proposed for demolition – no objections.

3.1.3 With regard to items i) to iii) above, it is appropriate to recall that one of the reasons for listing given is the completeness of the structure; had these elements already been removed at the time of assessment for listing it might have tipped the balance against listing.

3.1.4 With regard to the proposed additions, these are only illustrative at the present; as no final end user has yet been identified they could change significantly if permission were to be granted. As currently shown, the extension is certainly very large and does have some unfortunate impacts on the listed building – for example, the way in which it wraps around the riverside frontage, partially obscuring the original listed building, and its abutment to the southern elevation of the Wallis Gilbert and Partners building where it would result in the loss or obscuring of substantial areas of fenestration which are an important feature of the “Daylight Factories”. These relationships would cause harm to significance.

3.1.5 The applicants have provided viability reports which aim to show that the current use is not sustainable and investigating alternative uses for the listed building. It seems apparent that the current use has failed and is no longer viable and that a new use must therefore be found; the viability report looking at alternative uses looks solely at the conversion of the listed building and concludes that no options exist for alternative uses which would produce a financially viable scheme without additional development. I am happy to accept that this is the case and that some type of enabling development is needed to fund the restoration and

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re-use of the listed building. However, nowhere does it appear to say that the scheme currently put forward is the only viable enabling development scheme possible. Given the need under the NPPF to balance harm to listed buildings against potential public benefit accruing from development proposals, I remain concerned that the level of such public benefit would not be sufficient to offset the considerable harm to significance which would be caused by these proposals, particularly given the speculative nature of this scheme where no end user has been positively identified and where there is therefore no guarantee of delivery if permission is granted.'

3.2 **Maidstone Borough Council Economic Development Officer** was consulted and made the following comments:

- 3.2.1 The Power Hub has for many years functioned as flexible workspace for a range of small businesses. However it suffered from under investment as the owners at the time were unable to identify viable new uses which would justify the level of investment necessary make the building attractive to occupiers. Occupancy levels from around 2006 onwards dropped and eventually the owners went into administration. Whilst in administration the fabric of the building deteriorated further. Shortly after being bought by the applicants the building was Listed.
- 3.2.2 As a Grade II Listed Building its redevelopment is no-longer an option. It is now empty and in a poor state of repair. It is a substantial building located in a prominent position in Maidstone Town, visible from the A229, trains to London and sits on the banks of the River Medway.
- 3.2.3 If new uses for the building are not found that generate a return that will trigger investment the building could remain empty and derelict. As a Listed Building the owners would not have to pay empty business rates and so do not have these costs pressures to contend with, so this situation could continue for some time. The potential economic benefit on this unused building is lost to the Borough.
- 3.2.4 Moreover, Maidstone Borough Council has a long term objective of creating a publicly accessible riverside walk through the centre of Maidstone on the western bank of the River Medway. Residential and other planning applications along the riverside in town have specifically required that development be set back from the bank to enable the completion of the riverside walk sometime in the future, notably Waterside Gate. There remains a small stretch of land in the ownership of the applicant which prevents this goal from being achieved. The applicant understands this objective and has been happy to work with Maidstone Borough Council to ensure that public access would be available across their land at no cost to the Council. Clearly without a viable use being found it is not possible for applicant to provide this missing link in the tow path infrastructure.

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- 3.2.5 The critical issue is identifying a use that would provide a return that would make the refurbishment and redevelopment of the non listed elements of the site viable. A food store, proposed by the applicant would generate the values needed to achieve this. However the Retail Capacity Study, recently commission by the Council, sets out the Borough's requirement for convenience floor space shopping. The need can be characterised as a requirement for approximately one new food store in the town centre. There are other sites better related to the town centre where this requirement could be accommodated. With such limited need it becomes necessary to direct the requirement to sites which will have the maximum benefit for the town, in terms of strengthening the retail centre, regeneration and townscape impact.
- 3.2.6 The Borough Council should only consider permitting the application to avoid this prominent site becoming a long term derelict eyesore if any of the following could be evidenced:
- No other viable uses could be identified,
  - The need for convenience retailing was found to be greater than that currently set out in the Retail Capacity Study,
  - Other town centre sites yielded less than anticipated retail floor space.'
- 3.3 **Maidstone Borough Council Spatial Policy Officer** was consulted and their comments are incorporated within the main body of the report.
- 3.4 **Maidstone Borough Council Landscape Officer** was consulted and made the following comments:
- 3.5 **Maidstone Borough Council Environmental Health Officer** was consulted and made the following comments:
- 3.5.1 'The Air Quality assessment is well written and conforms to best practice. It is noted that KCC transport team have requested more detailed modelling to be carried out on some of the improvements to the gyratory system. If this is carried out then we would request that a comment is made in reference to what this will mean to the local air quality impact. We do not foresee that a full assessment will be required but regard should be made for the air quality implications (positive and negative) for the gyratory and town centre area which is an air quality exceedence area (hotspot).
- 3.5.2 Although the impact on local residential receptors is minimal and they remain well below the air quality objectives this development provides a significant opportunity to incorporate sustainable transport practices. Some of these are considered in the Travel Plan. However the transport plan does not include any



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mention of the business transport aspect to this development and the opportunities that are available for utilising low emission delivery vehicles, whether that is via gas vehicles and gas refuelling infrastructure or electric. There is also no mention of provision for electric vehicle charging for visiting public. At this stage enabling works would ensure that these could be installed at minimum cost in the near future. Both these aspects support NPPF Sustainable Development.

- 3.5.3 In light of the comments above we recommend the inclusion of an emission reduction condition which requires emission reduction to be addressed directly for all activities on the site that produce emissions (including the build quality of the development). This can be incorporated into other aspects of the planning (for example the travel plan and/or BREEM paperwork) or be dealt with separately as Low Emission Strategy for the site.
- 3.5.4 The Noise Survey is thorough and well constructed. We agree that a Construction Environmental Management Plan should be produced and submitted to the LPA prior to activities starting as recommended in this document (Noise Assessment section 7.1.3 p19) The CEMP should also incorporate dust suppression management techniques to be employed.
- 3.5.5 In the main the Phase I contaminated Land report is thorough and conforms to current best practice. However, in Section 4.2 (Potential Sources) there is no comment on adjacent source (for example the petroleum oil depot) which may have had an impact on this site. We would therefore recommend that this Phase I is used as a sound basis but further comment with regard to adjacent land use impacts. This can be dealt with via condition.
- 3.5.6 No objection subject to the comments above and conditions & informatives'.

3.6 **Kent Highways Services** were consulted and made the following comments:

- 3.6.1 'Further to my earlier consultation response dated 28<sup>th</sup> March 2013; I have received a Supplementary Transport Report from the applicant responding to my request for further information on a number of aspects of the application.
- 3.6.2 Following further discussion with Kent County Council (KCC)'s Intelligent Transport Systems Team, I can confirm that the Supplementary Report adequately addresses KCCs initial concerns with respect to Personal Injury Accidents in the vicinity of the site; public transport accessibility; vehicular trip rates for the proposed B1 uses; existing and forecast traffic flows at the Bridge Gyratory; junction capacity modelling and proposed mitigation; Road Safety Audits; and car park management.
- 3.6.3 However, the applicant has provided no further information regarding the provision of a direct pedestrian link between the site and the adjoining high level

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public footpath over the River Medway. I must therefore restate my previous request that the applicant enter into a Section 106 Agreement with Maidstone Borough Council confirming that an appropriate financial contribution would be made to the enhancement of the high level footpath in the event that the necessary third party land approvals cannot be secured within a reasonable timeframe.

3.6.4 Subject to the satisfactory resolution of this matter, I can confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of KCC Highways and Transportation:-

1. Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
2. Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
3. Provision of measures to prevent the discharge of surface water onto the highway.
4. Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
5. Provision of the agreed package of highway mitigation works at the A20 London Road / Buckland Hill junction; St Peter's Street / St Peter's Bridge junction; and on the Bridge Gyratory intersection, prior to occupation of the development, by way of a Section 278 Agreement between the applicant and KCC Highways and Transportation.
6. Prohibition of long-stay car parking within the food store car park.
7. Provision of a high-frequency shuttle bus link between the site and Maidstone Town Centre, for a period of at least five years from the commencement of trading at the food store, together with accompanying passenger waiting and information facilities.
8. Restriction of HGV movements associated with the site to St Peter's Street and the Bridge Gyratory intersection only, in accordance with the 7.5 tonne weight restriction on Buckland Hill and Buckland Road.

3.6.5 Submission of a Business Travel Plan, which shall include measures for its implementation, monitoring, review and subsequent enforcement, for approval by the local planning authority in consultation with the highway authority, along with a monitoring fee of £5,000.'

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- 3.7 **English Heritage** were consulted and made the following comments:
- 3.7.1 'The Tilling-Stevens Factory, now known as the Powerhub, is a redundant early twentieth century factory for the manufacture of motor vehicles. The current application to convert and extend this Grade II listed building to form a supermarket would entail a high degree of harm to its heritage significance, which as required by the NPPF needs to be weighed against the public benefits of the current proposal.
- 3.7.2 Whilst English Heritage accepts that reuse of this building is in the public interest, we question whether the public benefits of this scheme are deliverable and whether they are sufficient to outweigh the associated harm to significance. In determining this application, we recommend that your Council should consider whether it would be possible to secure the future of this building in the medium term in an alternative way that would entail less harm to significance'.
- 3.7.3 The English Heritage response then provides more detail as to how this view is formed:
- 3.7.4 'The Tilling-Stevens Factory on St Peter's Street, Maidstone was built in 1917 for the manufacture of motor vehicles. It is now grade II listed and known as the Powerhub. Its designers, Wallis, Gilbert and Partners, in this case in collaboration with Truscon, were the foremost factory architects of the inter-war period and this one of their early factories built using the Kahn Daylight System, an adaptable, efficient and influential system of factory building developed in America. The system is composed of a regular grid of exposed concrete columns, beams and slabs, with the structure exposed externally on all but the west elevation and in-filled with brick panels and large multi-paned windows, the latter replaced in the later twentieth century to a different pattern.
- 3.7.5 The building's imposing western façade is broadly Classical in style, whilst also clearly expressing through its imposing scale and exaggerated stylised detailing a confidence in modern manufacturing practices. The monumental original designs for the building were nonetheless only partly realised, with the intended rectangular plan and central light well designed to be executed in stages but ultimately only completed on the northern side; forming the L-shaped plan that now survives. Its five storeys were connected by electric lifts and stair towers to allow the manufacturing processes to be carried out in a downward flow through the building. A projecting range on the north side contained the main goods lift and stair, along with the services and amenities for staff. The exposed concrete floor joists have circular holes pre-cast to allow for overhead power to factory machinery.

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- 3.7.6 The current planning application is made in hybrid form and proposes to extend and convert the lower three storeys of the former factory to create a supermarket and associated parking. The upper storeys would be converted for office and leisure uses. The proposed works of alteration and repair to the listed building itself are detailed, both in the current planning application and in accompanying application for listed building consent, whereas the final design and format of the supermarket extension is made in outline; this reflects the fact that the proposal is speculative and therefore without a specific operator in mind.
- 3.7.7 The proposals include work that would do harm to the significance of the listed building. The removal of the original stair tower and lifts on the east and north elevations respectively would reduce an understanding of the flow of manufacturing processes that help explain the Kahn Daylight System. Whilst the existing sheds that currently abut the south elevation are not of special interest in themselves, the proposed new supermarket, which would replace them and wrap around both the south and east elevations of the building up to three stories, would conceal more of the building's external elevations. Because the factory's south and east elevations are both prominent from the town and are of particular significance for illustrating the design principles of the Kahn Daylight System (i.e. the exposed concrete frame and large windows providing ample daylight), we consider that obscuring more of these elevations should be treated as harmful to the significance of the listed building.
- 3.7.8 The proposed internal alterations include the removal of some of the concrete structure, particularly at ground floor level where ramps are proposed for vehicular access to first floor parking. This would again reduce the understanding of how the building functioned, but as the main structure is broadly repeated on all other floors, we consider this particular harm to significance to be less than substantial. There is, however, additional harm to significance from the loss of the infill panels on the south side (especially at second floor level where there is more original fabric and where their loss does not appear to be necessary to allow for the new use). We are also concerned about the proposed western stair tower to the supermarket extension, which by referring in scale and detail to the main west front would unbalance its symmetrical composition.
- 3.7.9 The current proposal also includes removal of Raglan House, the pre-existing 1912 offices to Tilling-Stevens. A certificate of immunity from listing has been granted for Raglan House, and whilst we would not object to its removal to facilitate the optimum viable use of the adjacent factory, its local interest derived from its association with the Tilling-Stevens firm would nonetheless be lost.

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- 3.7.10 There are some proposed enhancements to the significance of the listed building, including a package of repairs and reinstatement of multi-paned windows of the original pattern, which should be weighed against the above-mentioned harm. If permission were to be granted in this case, we suggest that any such enhancements would need to be more fully specified and legally tied to the planning permission, for example by way of a S106 agreement or similar.
- 3.7.11 English Heritage concludes that this proposal would nonetheless result in a high degree of harm to the significance of the listed building, but for the purposes of the NPPF we think this falls just short of 'substantial harm'. We therefore recommend that this application should be determined in accordance with paragraph 134 of the NPPF, which states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of this proposal, including securing its optimum viable use'.
- 3.7.12 The proposed supermarket would bring about some public benefits by giving the listed building new use, but we question whether this is its optimum viable use. The optimum use in terms of the conservation of the building is likely to be open plan commercial or residential units, which could be flexibly accommodated in the building with minimum adaptation. These uses are not currently considered viable by the applicant, but in determining the application it would be appropriate for your Council to consider the likely viability of such uses over the medium term, for example in relation to projected local trends and allocations in your local plan. It would be regrettable for harmful and irreversible alterations to be accepted to the building in the current economic circumstances if a less harmful solution is reasonably possible in the medium term. Despite some notable repair needs, the building itself is relatively robust and does not demand a new use in the short term for its preservation.
- 3.7.13 It also remains to be seen whether the proposed supermarket use is itself viable and therefore whether it could be expected to generate the public benefits necessary to outweigh the over-mentioned harm. We note, for example, that the current scheme is speculative and that any additional demand for supermarkets in the town is already catered for in separate local plan allocation. On this basis, we think it questionable that the current scheme would lead to sufficient public benefits to outweigh its harm to the significance of the listed building.
- 3.7.14 Planning permission and listed building consent should only be granted it, in accordance with paragraph 134 of the NPPF, your Council considered that the public benefits of this proposal outweigh the high degree of harm that this scheme entails to the heritage significance of the grade ii listed former Tilling-Stevens factory'.

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3.8 **The Twentieth Century Society** were consulted and made the following comments:

- 3.8.1 'The recent grade II listing of the factory clearly reflects the historic significance of the building as the earliest surviving of Wallis Gilbert and Partner's factories. Architecturally, the design of the building is also exceptional; the building is characterised by the early use of the Daylight system and a simple palette of materials. Although the windows have been altered, the building is still legible and this intactness is significant. This is an imposing and prominent building, characterised as a 'positive landmark' on the Maidstone Town Centre Study of 2010.
- 3.8.2 The proposals seek to re-use the listed building and extend it to provide a food store with mixed use on the upper floors. The Society can see the benefits of the change of use to allow this building to be brought back into beneficial use. The Society supports the proposals to refurbish the listed building and to replace the non-original windows with units more sympathetic to the original design. We also have no objection to the demolition of the later twentieth century sheds that have accumulated on the site, and detrimentally affect the setting of the listed building. A free-standing building or extension with minimum impact on the listed building is, in the Society's view, a positive use of the site, as long as the new buildings are designed to be sympathetic to the setting of the listed building and do not detract from its significance.
- 3.8.3 However, the Society objects strongly to the demolition of the north wing and fifth floor of the listed building. These proposals interrupt the form of the list building to an unacceptable extent. We would contend that the substantial amount of demolition of other structures on site should give ample scope for achieving satisfactory circulation space and servicing areas. The demolition and reconstruction of the north wing represents an unacceptable loss of historic fabric, especially as the proposal is to reconstruct this area. The fifth floor loft is original and can be seen on early photographs of the factory. The loss of this element has a detrimental effect on the appearance of the front façade of the listed building which appears truncated without it. This loss of original fabric should be resisted and justification sought as to why repair, refurbishment and the reuse of space are not possible.
- 3.8.4 The Society is not convinced by the applicant's assertion that the new build extension is 'subordinate' to the listed building. This extension is a massive intervention which causes substantial harm to this heritage asset. The scheme as currently formulated is characterised by overpowering scale and massing which overwhelms and detracts from the listed building. The view from the river is especially compromised'.

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- 3.8.5 The response then quotes para. 134 of the NPPF, which I will not copy verbatim. This paragraph refers to the weight given to the protection of heritage assets.
- 3.8.6 As a grade II listed building, the factory clearly falls under this paragraph of the NPPF. Whilst the applicant has provided a summary of the proposals in the supporting documentation, they have failed to provide clear and convincing justification to support this large-scale intervention that will cause substantial harm, for the reasons above, to this designated heritage asset.
- 3.8.7 The onus on the Local Authority is to conserve heritage assets and not destroy them. The proposed extension will reduce the distinctiveness of the listed building, thus making a negative contribution, not a positive one as sought by the NPPF clause. This proposed development contemplates irreversible and hugely detrimental alterations to a grade II listed building, contrary to paragraph 132. This application should be refused consent as it would create a situation which, according to the NPPF should be 'exceptional'.
- 3.8.8 The Society cannot conceive how the applicant can justify the claim that total loss of a wing of this listed building and substantial extension and alteration of the retained building as 'less than substantial harm' to a heritage asset.
- 3.8.9 The applicant would appear to be approaching this development without due regard to the designated heritage asset status of the building. The Society would therefore urge Maidstone Council to refuse this damaging application and urge the applicant to reassess the scheme and its impact upon the listed structure'.
- 3.9 **Kent County Council Heritage Department** were consulted and raised no objections to the proposal subject to the imposition of a suitable safeguarding condition.
- 3.10 **UK Power Networks** were consulted and raised no objections.

#### 4. **REPRESENTATIONS**

- 4.1 **Cllr Rob Bird** has objected to the proposal. His concerns are as follows:
- 4.1.1 'I am writing as County Councillor for Maidstone Central Division. I strongly object to this application.
- 4.1.2 I recognise that much thought has gone into making effective use of the Powerhub building and I appreciate that there are some people who would like to see another supermarket in West Maidstone. However, this is not an appropriate site for a supermarket which would cause serious problems for local residents.

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- 4.1.3 Many of these residents have problems with the severe congestion in the area, particularly where St Peter's Road joins the gyratory and where Buckland Hill meets London Road. The congestion occurs at rush hours and is particularly bad on Saturday mornings when a lot of traffic is generated by 'Asda Living/Homebase' (now 'the Range'). Unfortunately, the proposed supermarket is not on any bus route so most shoppers will come by car.
- 4.1.4 None of the mitigation proposals would seem adequate to cope with the significant increase in cars and large lorries which would arise if a supermarket were built on this site. On the contrary, it is not clear that the proposed roundabout and access to the supermarket would accommodate the 15metre long delivery lorries used by supermarket chains. These lorries would also cause further difficulties at the Maidstone Barracks railway bridge which is very narrow and dangerous.
- 4.1.5 Although I welcome the suggested improvements to pedestrian access, I cannot support the loss of the cycle path on the northern bridge which would result from the additional traffic lane.'
- 4.2 **Neighbouring occupiers** were notified of the proposal and to date 34 letters of objection have been received. The objections within these letters are summarised below:
- The agents acting on behalf of Maidstone East have objected on the basis that the proposal would be less sequentially preferable than their site;
  - Concern is raised about the statement that Maidstone East is only a long term opportunity;
  - Concern is raised with regards to the assertion that there could be a store delivered on both sites in the longer term;
  - The impact of the proposal upon the street-scene to the north of Buckland Hill through road widening works;
  - The widening of roads would impact upon the safety of pedestrians at this point;
  - Air quality and noise would be made worse in the area should permission be granted;
  - The loss of the tree (now covered by a TPO) would be to the detriment of the area;
  - Local people will suffer if the proposal is granted;
  - Access into driveways along Buckland Hill would be made more problematic than the existing situation;
  - There is no need for additional convenience shopping;
  - The proposal would devalue nearby properties (not a material consideration);
  - There is existing congestion brought about by nearby schools – this proposal would exacerbate this problem;



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- The proposal would detrimentally impact upon local businesses;
- There are better uses for the site;
- There are already problems leaving St Peters Street onto the gyratory;
- There is poor access to the site;
- The traffic study was not thorough – times not consistent with peak times for supermarket use;
- The loss of parking spaces along Buckland Hill would be detrimental;
- The proposal would have a significant impact upon the Broadway Shopping Centre;
- The site would be better used for housing;
- Inadequate parking provision on site;
- Loss of footway/cycle path on the bridge would be detrimental;
- Concerns are raised with regards to the roundabout at the bottom of Buckland Hill;
- There are already enough vacant stores and offices in Maidstone town centre;
- The proposal does not retain enough of the building's integrity.

4.3 In addition 7 letters of support have been received. These are summarised below:

- The proposal would clean up that part of town;
- The opening up of the river frontage is beneficial;
- Good to have additional shops in the town;
- Don't have to rely on the private motor car to access the shop;
- This is a suitable re-use of the building;
- Will support town centre shopping.

4.4 **The Medway River Users Association** have written in to support the application, on the basis that they consider it would benefit the overall Baltic Wharf environment and increase the commercial attraction of the complex. The benefits of linkages with the river were also highlighted.

## 5. **CONSIDERATIONS**

### 5.1 **Site Description**

5.1.1 The application site is located upon the western side of the River Medway, within the urban confines of Maidstone. It currently contains a large industrial building, which has been recently listed (Grade II) which has a maximum of 6 storeys, although these are well articulated. The building has a significant level of glazing within all elevations, which derives from its conception as a factory that sought to benefit from daylight. It is this form of construction that is in part, the rationale behind its listing – this will be assessed in greater detail within the main body of the report.

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- 5.1.2 The application site also contains a number of retail sheds, which turn their back on the river, and are provided with a car parking and service area to the front – facing on to St Peters Street. These structures are functional in their form, being of a metal clad construction, with metal roof. To the front of the site is a 2metre high palisade fence, which splays into the site itself.
- 5.1.3 The site is allocated within the Maidstone Borough Wide Local Plan (2000) for employment purposes. Policy ED2 (vii) identifies the site as an existing area of economic development for which uses classes B1 and B2 are appropriate.
- 5.1.4 To the north of the 'Powerhub' building is a two storey (which contains a mansard roof to create a third floor) structure known as Raglan House. Whilst an attractive structure, this does not form part of the listed building, but does lie within its curtilage. The Maidstone to London railway line also lies to the north of the site on a raised embankment. There is a pedestrian footbridge that runs alongside this railway line, over the River Medway, towards the town centre. There are tunnels beneath the railway line that lead to land both within the applicant's control, and also to a small cluster of houses, and a tennis club.
- 5.1.5 The River Medway runs to the east of the application site, and at present there is no public access into and across the land that fronts the river. The river at this point is approximately 30metres in width, with Royal Engineers Way further to the east, at a slightly elevated level. There are views of the building from the towpath on the eastern side of the river, and from the highway beyond.
- 5.1.6 The site can be viewed from the west from Buckland Hill, in particular its façade and the roof extension, which can be seen as one moves westwards up the hill. Directly opposite the site (to the west) are commercial buildings, which abut the road. These buildings are of a much lesser scale than the Powerhub building.
- 5.1.7 To the south of the site are large retail buildings, occupied by 'TK Maxx', 'The Range' (formerly 'Homebase') and 'Hobbycraft'. These buildings are of a significant mass, and of little aesthetic quality, although again, are of a lesser height than the Powerhub building. There is a large area of car parking between these retail units and the riverside – although the towpath is provided along this stretch.
- 5.1.8 The site is located outside of the town centre as defined within the existing Local Plan, and also within the emerging Local Plan. The site also lies beyond the 300metres of the edge of the town centre (in terms of both pedestrian and vehicle movements – not as the crow flies) and as such is classified as an 'out of centre site' in accordance with government guidance.

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5.1.9 St Peters Street is accessed from a junction with the A20 (London Road) and Buckland Hill to the west, and with a junction with the bridge gyratory to the south. There are no other direct forms of vehicular access to the site.

### 5.2 Proposal

5.2.1 This is a hybrid planning application that seeks detailed approval of the works to the listed building, and outline planning permission for the retail element attached to it.

5.2.2 Full details have been submitted with regards to the works that are proposed to the listed building. These comprise of the demolition of some of the exterior and internal elements of the building, as well as the details of how the proposal would be attached to the existing building.

5.2.3 The extent of the proposed demolition is as follows:

- Raglan House – not listed
- The northern projection of the Powerhub building;
- The eastern stairwell;
- The southern stairwell;
- The extension to the roof;
- The sheds on the southern side of the Powerhub building;
- Buildings within the northern section of the site.

5.2.4 The proposal would include the provision of:

- A new roundabout at the point of access into the service yard;
- The completion of the towpath (with public access) along the riverside;
- New public realm (yet to be identified) to St Peters Street;
- New stairwells/lift provision on the northern side of the building;
- An extension to the existing building (details yet to be confirmed).

5.2.5 It is proposed to convert the existing building into car parking for the supermarket, office use, and potentially for leisure uses. The provision of car parking within the building would necessitate the loss of part of the existing, and the puncturing of the building upon its northern elevation. The applicant has included details in terms of how the building would be altered, both internally and externally, and which elements would be retained. The car park would result in the pillars being retained, as well as the fenestration on the front elevation (although the current access into the site would be closed up).

5.2.6 The proposed supermarket is shown as being on the second floor of the existing building, and within the new build, and would provide between 3,500sqm and

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4,180sqm metres (net) of retail floorspace. The retail floor and the car parking beneath would be linked by 'travelators' which would be positioned within a glazed section that would front the riverside. The proposal also provides an indicative area for a customer café – again on the river side of the proposal.

- 5.2.7 The third and fourth floors are proposed solely for offices. This use would not require significant internal alteration, aside from the demolition already set out. There would be the requirement for some internal partitions to be removed; however, many of these are not original.
- 5.2.8 The applicants have proposed that contributions be made via a S106 agreement for enhancements to the footbridge, although no sum has been proposed; the provision of the towpath along the river side, and a bus service into and out of the town centre.

### **5.3 Principle of Development**

- 5.3.1 As set out above, the application site is within an area designated within the Maidstone Borough Wide Local Plan (2000) for employment purposes – Policy ED2. This policy applies to the whole of the eastern side of St Peters Street, however, as members are aware, much of this land has now been given over to residential, retail, and hotel (leisure) uses.
- 5.3.2 I am also conscious that this site is unlikely to be allocated within the emerging Local Plan for employment purposes, as the Council are of the view that the context of the site has changed, the employment needs of the Borough have changed, and that the listing of the building perhaps requires a more flexible approach to ensure its long term survival. The site has also been extensively marketed for business use, and whilst there have been some tenants within the building, much of it remains unused, and as such, a significant amount of the building is now in a state of disrepair. As such, the Council raise no objections to the proposal in terms of the loss of employment land.
- 5.3.3 However, policy R2 of the adopted Local Plan does require for a sequential analysis to be undertaken – along a similar line to the NPPF. This matter is set out below, but should any applicants for development of this scale be unable to demonstrate that they have met this requirement; the proposal would fail to accord with this policy. As set out below, I do not consider that this has been met, and as such, I am of the view that the proposal fails to comply with this policy – which is NPPF compliant.

### **5.4 Sequential Test/Retail Impact**

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- 5.4.1 The applicants have submitted a retail impact assessment as part of their planning application. The Council has received independent advice on this submission, and also in terms of the submissions made on the sequential sites analysis.
- 5.4.2 In terms of the sequential analysis the applicants have identified a number of sites within and around Maidstone that may be considered suitable for a retail proposal of this scale. In drawing up this list, the applicants have liaised with Council Officers in order to ensure that the appropriate sites are being considered.
- 5.4.3 For retail applications of more than 2,500 square metres within out of centre sites (and this site is also out of centre) that do not conform with the Development Plan, a retail impact assessment is required to be provided (by virtue of the NPPF) which should include an assessment of the impact of the proposal upon:
- Existing, committed and planned public and private investment in the centre;
  - Town centre vitality and viability.
- 5.4.4 The National Planning Policy Framework states that where an application 'fails to satisfy the sequential test, or is likely to have a significant adverse impact on one or more of the above factors, it should be refused' (paragraph 27). Further guidance on the application of the sequential and impact tests is provided in specific practice guidance originally issued by the CLG as a companion document to Planning Policy Statement 4. This guidance remains extant; it was not revoked when the National Planning Policy Framework was published.
- 5.4.5 Furthermore, the Maidstone Borough Wide Local Plan Policy R2 requires that a sequential analysis be undertaken for developments in excess of 500sqm. This again, requires that preference be given to town centre sites, then edge of town centre sites before out of centre sites are proposed.
- 5.4.6 The applicants have assessed the following sites:
- Former Army and Navy Store, Week Street;
  - Former Somerfield Store, King Street;
  - Former Whitehouse car dealership, Tonbridge Road;
  - Lower Stone Street;
  - Len House;
  - Maidstone East; and
  - Maidstone East and the Royal Mail Sorting Office.

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5.4.7 The Council have requested that these sites be assessed independently (by Nathaniel Lichfield and Partners). I have assessed these comments in turn.

### 5.4.8 **Former Army and Navy Store, Week Street:**

The Former Army and Navy Store in Week Street is now occupied by Morrisons, and as such is no longer available. The first and second floor of the building is now proposed for flats. Using this floor space for retail purposes would no longer be viable due to access constraints at ground floor level.

### 5.4.9 **Former Somerfield Store, King Street:**

This building has now been demolished and is therefore no longer available. However the site (now referred to as King Street Car Park) is available and is owned by the Council. The adjacent site of the former Bowling Alley has recently fallen vacant. These two sites combined, which are edge of centre in terms of the NPPF, could potentially accommodate a substantial new foodstore and car parking (probably above the store), albeit not quite as large as that proposed at the application site. I therefore consider that with due flexibility on the part of the developer (as required by the NPPF), this combined site would be sequentially preferable to the application site.

### 5.4.10 **Former Whitehouse Dealership, Tonbridge Road:**

This land has now been purchased by a fast food chain, with permission now granted for its redevelopment. This property is therefore no longer available.

### 5.4.11 **Lower Stone Street:**

It is accepted that this site could theoretically accommodate a large food store, but it is suggested that the site would prove problematic to bring forward due to the multiple ownerships/occupations. This would be likely to make the cost of acquisition significant, which would be likely to make the scheme unviable. There are no long term proposals to make this site available, and no policy designations proposed to encourage such a redevelopment. I therefore concur with the applicant's appraisal of this site.

### 5.4.12 **Len House:**

The applicants indicate that they consider the site to be in multiple ownership, and therefore there would be significant costs to relocate the existing businesses. However, no evidence has been provided to demonstrate that the owners have been contacted by the applicants, and indeed, they have contacted the Council directly. The owners have indicated that the land is indeed within

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one ownership, and they have suggested that the relocation costs would not therefore be prohibitive. The owners also suggest that whilst the site is in active ownership, the accommodation is too large for modern requirements, and is no longer fit for purpose. As such, there is no long term future for the site in its current use, and they consider it highly likely that the business would need to relocate, certainly within the emerging Local Plan period.

The owners also highlight that their building is also listed, and in a sequentially preferable location to the Powerhub/Baltic Wharf site.

Len House is within 300metres of the existing primary retail area, and would be within 300metres of the town centre boundary of the emerging Local Plan. The information submitted by the owners of this property refutes many of the assumptions that have been by the applicants, in particular with regards to land ownership. The appraisal of the site by NLP does not rule out the possibility of it being converted for retail sales, although not of the scale being proposed at the Baltic Wharf site. I concur with the findings of NLP, that there is no certainty that this site could not be brought forward. This together with it also being a grade II listed building, would result in this being a sequentially preferable site to the application site, both at this point in time, and for the emerging Local Plan period.

### 5.4.13 Maidstone East:

The applicants submit that the site alone would be too small to provide a retail store as part of a mixed use development because of the requirements to retain the station car park. They do concede however, that it would be more viable to provide a stand alone store.

NLP dispute that the scheme would not be viable in the short term. Whilst it is certainly the case that no formal scheme has been submitted since the submission of a screening opinion in 2012, the agents acting on behalf of the site have indicated that this is due to the owners trying to tie down an occupier, rather than relying on a more speculative proposal. This is understandable given the existing policy designation, and the Council's stance that this is the sequentially preferable site.

The Council acknowledge that the existing policy designation for the site is for bulky goods, however, this policy dates from 2000, and there has been more recent evidence received by the Council on retail requirements. This has led to the view that the Maidstone East site would be suited to the provision of convenience retail, rather than bulky goods. This advice has been publicised through emerging policy, and through pre-application discussions with a number of (prospective) applicants. The applicants have argued that this site is not

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deliverable, because it hasn't been delivered over the previous plan period. However, it should be noted that the applicants have no named operator for their development, and as such, I would suggest that this would not demonstrate that their site is deliverable in the immediate future – i.e. would not meet an immediate need.

### 5.4.14 Maidstone East and Royal Mail Sorting Office:

The combination of the two sites again is considered sequentially preferable. It is acknowledged that the two land owners have been working together in the past, and that the owners of the sorting office are now seeking to sell the site independently. Notwithstanding this, I do not consider that this would preclude the site coming forward in conjunction with the Maidstone East site.

5.4.15 To conclude, the application site is an out-of-centre location. The applicants conclude that the proposed development is the only viable option for preserving the listed building, but I do not consider that this is reason to by-pass the sequential approach.

5.4.16 I am not satisfied that the Maidstone East (and/plus), the sorting office site, the King Street Car Park plus the Bowling Alley site, and Len House could not accommodate a convenience store, and in particular I am not satisfied that the Maidstone East site could not accommodate a mixed use scheme, as per the Council's objectives. The Maidstone East site is better connected with the primary shopping area, and remains the first development priority. The other sequentially preferable sites are also better connected with the primary shopping area. As such, I am of the view that the applicants have not satisfied the sequential approach, and thus fail to comply with the requirements of the NPPF and policy R2 of the Maidstone Borough Wide Local Plan (2000).

### **Impact Test**

5.4.17 The impact test in the National Planning Policy Framework is in 2 parts:

- Impact of the proposal on existing, committed and planned public and private investment in a centre; and
- Impact of the proposal on town centre vitality and viability.

5.4.18 The applicants have undertaken a retail impact assessment of their proposal. It is standard practice in such assessments to use a methodology to quantify the impact of a proposal on town centre trade. The assessment calculates how much of expenditure spent in town centre shops/existing retail provision will be diverted to the new store. This is broken down into percentages, and a gross percentage given from town centre diversion.



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The Council has sought advice on the retail impact of the proposal from external consultants. As set out within the GVA report submitted with the application, there is no necessity for the applicant to demonstrate need; however, the local planning authority is required to assess the potential harm of any proposal, in particular upon Maidstone town centre.

5.4.19 The critique that the Council have received with regards to this does not disagree with the submission that the proposal would not have a significantly detrimental impact upon the existing retailers within the town centre, or in fact that there may be the capacity for two supermarkets to be provided *over the plan period*. I concur with this view – there may well be capacity for two convenience stores to be provided over the plan period. However, this proposal would clearly make Maidstone East less likely to be developed, in the short to medium term, and as this is our highest priority sequentially preferable site, this would be contrary to the objectives of the authority. The proposed development therefore fails the test of impact upon planned public and private investment in the town centre.

### 5.5 Visual Impact

5.5.1 Due to the prominent location of the site upon the riverbank, close to the centre of town, alongside a main arterial route from Maidstone to Medway, and the fact the site contains a listed building; any development undertaken within this site would be required to be of the highest standard of architecture and design.

5.5.2 As this is an outline planning application, the plans submitted are illustrative; it is difficult to fully assess the potential harm of the provision of a supermarket on this site. What is clear however, is that any proposal would be a large extension, with a strong horizontal form that would be of a significant bulk, very close to the riverside. The submitted plans do show that an active frontage could be provided along the riverside, with a large area of glazing, and the access into and out of the building. This approach is considered acceptable in principle – the applicants were advised that this would be a more appropriate approach than providing this to the St Peters Street frontage.

5.5.3 Notwithstanding this active frontage, I do have some concerns with the scale of the building, in relation to its proximity with the river, and the proposed towpath. To my mind, a building of this scale would require a greater set-back from the riverside in order to not appear as overbearing. This can be seen from all other recent development along the riverside – the housing adjacent, and the 'Asda Living' buildings are both set off the riverside, as is the existing Powerhub building. Whilst this is a concern, I do not consider that this is necessarily a ground for refusal, as this could be overcome through the

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imposition of conditions should the permission be granted – although this would, of course, reduce the scale of the store itself.

- 5.5.4 To my mind, the loss of the existing sheds on the site would be of an overall benefit to the character and appearance of the locality. These are unattractive buildings that do little to enhance the riverside setting, or the street frontage when viewed from the west.
- 5.5.5 The proposed refurbishment of the existing building would also be welcome if done in a manner that fully addresses the sensitivities of the listed building.
- 5.5.6 Overall, I am of the view that the loss of the shed would be of benefit, but do have some concerns about the scale of the proposed extension, and in particular its relationship with the riverside. The proposal, if approved, would need to have a very high level of articulation and detail along its eastern and western flanks in order to address the street, and the riverside, but I feel that this could be conditioned, and as such, do not formally object to the visual impact of the development.

### **5.6 Impact upon the Listed Building**

- 5.6.1 The Conservation Officer has made full comments on this application, as have English Heritage and the 20<sup>th</sup> Century Society. These are set out in full within the report. These comments raise significant concern with regards to the impact of the proposal upon the listed building, and in particular with regards to the loss of significant parts of the external projections – including the stairwell.
- 5.6.2 When a proposed development would lead to substantial harm the NPPF sets out the public benefits must outweigh the harm, or that all of the following four points apply:
- The nature of the heritage asset prevents all reasonable uses of the site; and
  - No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conversion; and
  - Conservation by grant funding or some form of charitable or public ownership is demonstrably not possible; and
  - The harm or loss is outweighed by the benefit of bringing the site back into use.
- 5.6.3 Whilst the Council wish to see this important building brought back in to use, when assessing this proposal with the 'public benefits' borne in mind, it has to be very clear what these benefits are. To my mind, one of the main benefits would be to bring the riverside towpath into public use. The completion of this towpath has long been an aspiration of the Authority, and would enable greater movement of pedestrians along the western side of the River Medway. Whilst

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this is a clear benefit to the wider community, I do not consider this so great as to warrant the substantial harm to the listed building. Furthermore, there appears to be no reason why this public benefit could not be provided through another form of development within the application site.

- 5.6.4 The applicants have indicated that there would be minor public realm improvements to the footpath along St Peters Street to the front of the site. To my mind, these enhancements would be required for any development that took place, and again, do not warrant the substantial harm to the listed building.
- 5.6.5 It has been proposed that 'suitable' contributions be made to enable enhancements of the pedestrian footbridge, subject to information being made available as to what the proposed enhancements are. To my mind, this is too vague, and again, of a minor scale that would not be of an overriding public benefit.
- 5.6.6 As there is no overriding public benefit, the four tests have to be fully considered. I shall go through these individually:
- *The nature of the heritage asset prevents all reasonable uses of the site* - Whilst a viability appraisal has been submitted, this indicates the potential uses at this point in time from a viability perspective, rather than from a 'built development' perspective. To my mind, through sensitive conversion, there are no grounds to suggest that this building would be unsuited for other uses, such as office or residential use. The Conservation Officer concurs with this view.
  - *No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conversion* - Again, the viability report submitted does raise concerns that there are no alternative viable uses at this point in time. However, with regards to the 'medium term' I am not convinced that there would not be an opportunity for the whole site to be comprehensively redeveloped for alternative uses - including residential and office uses.
  - *Conservation by grant funding or some form of charitable or public ownership is demonstrably not possible* - This has not been examined.
  - *The harm or loss is outweighed by the benefit of bringing the site back into use* - As discussed above, the public benefits of this proposal are relatively limited, and as such, I do not consider that they outweigh the harm that has been identified.
- 5.6. The Council's Conservation Officer has set out very clearly why he considers the proposal would have substantial harm. The main concerns being the loss of the

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external staircases on the north and the east of the building. I concur with this view, and the view of the Twentieth Century Society, and will not therefore repeat the views. Whilst clearly the Council do wish to see this imposing structure retained, and enhanced, it does not consider that this proposal is acceptable by virtue of the harm caused. As such, I recommend that the proposal be refused on the impact of the proposal upon the listed building.

### **5.5 Residential Amenity**

- 5.5.1 The proposed use would be in close proximity to a number of the flats within the former Trebor Bassett site within St Peters Street. A number of these face directly on to the application site, and as such would be impacted by the proposal. In terms of noise, there is an existing retail use within the application site, which contains an open yard/car park which would generate a reasonable level of noise and disturbance. This proposal would be fully enclosed at this southern end, and as such, I consider that it is likely to result in a reduction in this form of disturbance, despite longer hours of operation.
- 5.5.2 It is noted that the proposal does include a car park at ground floor which would have open sides (for the purposes) of ventilation. It is my view that noise and disturbance from this would be limited, and as such, would not result in an unacceptable impact upon existing residents.
- 5.5.3 With regards to the potential for loss of light, or the creation of a sense of enclosure, the proposed development would be a sufficient distance from the neighbouring development to not cause an unacceptable level of harm. At present, this part of the development remains in outline for, however, it has been indicated illustratively that the heights required would not result in a loss of light, or the creation of a sense of enclosure.
- 5.5.4 Some concerns have been raised with regards to the additional traffic that this would generate, and the impact that this would have upon the quality of life of neighbouring residents. The matter of increased traffic movements will be addressed elsewhere in the report, however, I do not consider that these movements, on existing public highways, would be to the detriment of the residents of Buckland Hill and the surrounding area and could not therefore be justified as a ground for refusal.
- 5.5.5 Concern has also been raised with regards to the potential for greater footfall along the towpath, in front of existing properties. It is one of the Council's objectives to see the completion of this towpath, and to encourage greater use of this natural asset. In addition, I consider it unlikely that additional pedestrian movements would result in significant harm to the existing residents. I therefore raise no objections to this proposal on these grounds.

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### 5.6 Highways

- 5.6.1 The applicant has submitted a transport assessment and travel plan with the application which highlights a number of improvements that would be required, as mitigation, in order to make this development acceptable. Kent Highways Services have assessed this information, and consider that the applicants are proposing a number of measures that would overcome their potential concerns with regards to this development.
- 5.6.2 I shall address the off site works first, and then subsequently assess the internal arrangement, and in particular the parking provision.
- 5.6.3 Off site, the applicant has indicated that they would be able to make alterations to the bridge gyratory, which would see the provision of an additional lane. This has been fully assessed by Kent Highway Services, and they are of the view that it would mitigate the impact of the proposal, by increasing capacity on the gyratory and by, reducing waiting time at the junction of St Peters Street and the gyratory.
- 5.6.4 Improvements are sought to the junction with Buckland Hill and the A20 (London Road). This would require the removal of a tree subject to a tree preservation order to create an additional lane of traffic. Again, this has been assessed by the Kent Highway Services who are content that this approach is acceptable.
- 5.6.5 Kent Highways Services (KHS), like myself, are concerned about how the proposal would allow for suitable pedestrian access to the site, particularly along the high level bridge. They are also of the view that the proposal should seek to fully integrate itself with this pedestrian walkway, and should also seek to provide qualitative enhancements of the bridge. Whilst KHS do not formally object to this proposal, this is a matter that they do raise concerns over.
- 5.6.6 The provision of a small roundabout at the point of access into the application site has been fully assessed by KHS. Again, no concern is raised with regards to this element of the proposal, with the tracking shown to be acceptable.
- 5.6.7 In terms of parking provision, the size of the store remains flexible, as this forms part of the outline planning permission. Nevertheless, the applicants have indicated that a total of 318 spaces could be provided within the site. For the size of the store shown illustratively, this is considered to be sufficient. KHS have also assessed the internal layout and raise no objections to the proposal in its current form.

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5.6.8 As such, whilst there are no concerns about the ability to provide linked trips, no formal objections are raised to the proposal on highway grounds.

### **5.7 Landscaping**

5.7.1 The application site currently has very little vegetation upon it. The existing Powerhub building has a large area of hardstanding around it, and runs from St Peters Street to the riverside. There are some trees within the car park area to the north of the railway line – however, these appear to be self seeded, and of limited amenity value. Landscaping is a matter reserved for future consideration; nevertheless, I do consider that the proposal would provide an opportunity for more landscaping to be provided should permission be granted. I would expect, for example, tree planting along the tow path (where appropriate) and if possible upon the St Peters Street frontage.

5.7.2 I therefore raise no objections to this proposal with regards to the potential landscaping provision.

5.7.3 However, the highways improvements to the junction of Buckland Hill and the A20 would result in the loss of a tree subject to a tree preservation order (TPO2 of 2013 – a copy of this is appended to the report). This tree is in a particularly prominent location, upon a busy junction and at a gateway point into the town centre. It is a substantial tree, with a canopy that overhangs the highway, and is therefore visible from long distance views, from both directions of the A20. Its loss, to my mind, would result in significant harm to the character and appearance of the locality.

### **5.8 Other Matters**

5.8.1 The applicant has submitted draft 'heads of terms' should the application be approved. As Members are aware, the tests for Section 106 (S106) agreements are set out explicitly within the CIL Regulations 2010 and para 204 of the NPPF 2012. These state that any obligation must be:-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

5.8.2 The applicants have suggested that the following measures be provided through a S106 agreement should permission be granted:

- The provision of a footpath along the riverside to the east of the application site – this would complete this part of the towpath.

## APPENDIX

- A contribution 'proportionate to the impact of the development' to the improvements of the high level bridge connecting the application site to the eastern side of the river. This would only be provided once Maidstone Borough Council (MBC) had indicated what any shortfalls in finances are for the proposed enhancements.
- A shuttle bus service for a period of a minimum of 3 years to connect with the town centre.

5.8.3 Throughout the pre-application discussions that were held with the applicants, the Council were explicit in their requirement for this development to have its impact upon the town centre mitigated, and for the likelihood of linked trips being increased through better pedestrian access to the town centre. Despite this advice, no indication has been made with regards to how the high level bridge would be incorporated within the development, or how the applicant would seek to improve its environs, in order to make this an attractive, and thus well used route. I do not therefore consider that this addresses the position of the store in relation to its relationship with the town centre adequately. This is reflected in the proposed grounds for refusal.

5.8.4 With regards to the provision of a shuttle bus, again, no details have been submitted with regards to how this would run – in terms of hours of operation, or route. It is appreciated that this is an application that is at outline stage; nevertheless, with this lack of clarity, I find it difficult to assess the impact that this would have in terms of promoting linked trips, but also in terms of reducing vehicle movements to the proposed store. Whilst the proposed shuttle bus is welcomed, with the information submitted, I do not feel that this adequately addresses my concerns about the position of the site, and does not overcome the matter of other sequentially preferable sites.

5.8.4 The provision of a towpath is again welcomed, but does not directly impact upon the concerns raised about the siting of the store. It is a Council objective to see the towpath provided along the length of the town centre stretch, and this proposal would provide the 'missing link' along what may well be a well used route. As such, should this development have been considered acceptable, it would have been required.

5.8.5 Whilst the proposed heads of terms are welcomed, I am not of the view that these would address the overarching concerns that I have with regards to the sequential analysis. There is a lack of clarity with regards to the proposal in terms of what would actually be made available. Whilst I appreciate that this is, in part, borne out by the lack of a named operator, I am of the view that should the Council be minded to approve an application of this scale, at this location, further clarification would be required to fully understand how they would be provided to mitigate the impact of the proposal.

## APPENDIX

### **6. CONCLUSION**

- 6.1 The proposal does not accord with the designated use of the site in the development plan, and as such should it be permitted, would need to be advertised as a departure. However, with the previous permissions borne in mind on adjacent land, together with the fact that it is apparent that the building has been marketed for pure employment uses for a number of years – in its current condition, I do not consider a reason for refusal on that basis to be sustainable on appeal. Furthermore, the site is unlikely to be retained for employment designation within the emerging Local Plan; as such, no objection is raised in principle on this particular matter. However the proposal does not accord with the Council's strategy for new retail development in Maidstone set out in the development plan, which designates other sites rather than the application site for such use.
- 6.2 Sequentially, the site is less preferable than both Maidstone East – which is allocated for retail purposes within the existing and emerging Local Plan, and also I would suggest the King Street Car Park and Bowling Alley site, and Len House – both of which fall within 300 metres of the primary shopping area. Whilst the applicant has indicated that there would be capacity for both this site and Maidstone East (plus the sorting office site) clearly any development here, or indeed permission is likely to make the demand less for this to take place. I therefore consider that this proposal would fail to comply with the requirements of the adopted Local Plan and the NPPF in that it would not be the most sequentially preferable site, and would be likely to prejudice the development of these aforementioned sites. It would therefore have a significant adverse impact on planned public and private investment at Maidstone East, contrary to the NPPF.
- 6.3 The applicant has put forward a strong argument that this proposal would be the best way to preserve the listed building in the medium to long term. However, the Council's Conservation Officer concludes that the development would cause substantial harm to the listed building, and as such, objects to this proposal. I concur with this view. I therefore recommend that the application be refused on this ground.

### **7. RECOMMENDATION**

REFUSE PLANNING PERMISSION FOR THE REASONS BELOW:

1. The proposed development does not comply with the Council's strategy for future retail development in Maidstone set out in the Maidstone Borough Wide



## APPENDIX

Local Plan (2000) and the emerging Maidstone Local Plan, which designate other sites for new retail development and do not designate this site for such a use.

2. The proposed development does not comply with the sequential approach set out in paragraph 24 of the National Planning Policy Framework, and within Policy R2 of the Maidstone Borough Wide Local Plan (2000) as it is out-of-centre in retail terms; and there are more sequentially preferable sites available which could accommodate the proposed development with due flexibility on the part of the developer.
3. The proposed development would have a significant adverse impact on planned investment in Maidstone town centre, which would put at risk the Council's strategy to secure new retail development on the Maidstone East site and elsewhere within the town centre set out in the Maidstone Borough Wide Local Plan (2000), and in the emerging Maidstone Local Plan, and is therefore contrary to paragraph 26 of the National Planning Policy Framework.
4. The proposed development, by virtue of the extent of demolition, including original elements of the building would result in substantial harm to the listed building, and would therefore prove contrary to paragraph 132 of the National Planning Policy Framework.
5. The proposed development would result in the loss of a tree that is protected by a Preservation Order (2 of 2013). The loss of this tree would have a significantly detrimental impact upon the character and appearance of the locality, and would therefore fail to comply with paragraph 109 of the National Planning Policy Framework.



**Item 11, Page 8**

**Reference number: MA/13/0297**

**BALTIC WHARF,  
ST PETERS STREET  
MAIDSTONE  
KENT**

The Case Officer for this report should be: Chris Hawkins

In addition to the completed report, I would like to address the following matters:

- The application is being referred to Planning Committee because the applicants have appealed against non-determination, and the application has been referred to the Inspectorate.
- Cllr Pickett had also requested that the application be brought before Members as this is a controversial application where the impacts upon the listed building needed to be fully considered by Members.
- A petition has been submitted which contains 96 signatures. This objects to the proposal on the basis of the impact upon the local highways.
- The report said that the Landscape Officer's comments were to follow. These have now been received:

'There are currently no arboricultural constraints on the development site itself but the proposal includes a scheme for junction improvements at the top of Buckland Hill which will clearly potentially lead to the removal of the prominent Horse Chestnut tree on the southeast corner of the junction of Buckland Hill and London Road. The tree itself is a large mature specimen which has significant amenity value and has a very prominent position on the London Road, one of the main routes into the town. It is located within area character area 8.2 (London Road North) of the Council's London Road, Bower Mount Road and Buckland Hill Area Character Area Assessment SPD which advises that development will be expected to protect landscape features. The trees and hedges along this part of London Road are defined as partially screening development, helping enclose the space and creating a verdant impression at this part of the entrance to the town.

As a result of the threat of the proposed road widening relating to this application, the Horse Chestnut was protected by a Tree Preservation Order, TPO No. 2 of 2013, on 18 April 2013, which was confirmed without modification by Planning Committee on 10 October 2013.'

It has been drawn to my attention that the TPO (no.2 of 2013) was not appended to the report. I therefore attach it for Members information.

It has been drawn to my attention that the report refers to the 'Lower Stone Street' site in terms of the sequential analysis. This site comprises of Kent house and the retail units that front on to Lower Stone Street.

Finally, the recommendation should have read:

7.0.1 The Planning Inspectorate to be advised that, had there not been an appeal for non-determination, the Committee would have refused planning permission for the reasons set out below.

I would also like to slightly amend the first and third reasons for refusal. These should read:

- ① The proposed development does not comply with the Council's strategy for future retail development in Maidstone as set out within the Maidstone Borough Wide Local Plan (2000), or within the emerging Maidstone Local Plan (which are consistent with the National Planning Policy Framework), which designate other sites for new retail development and do not designate this site for such a use.
- ② The proposed development, due in particular to the loss of the stairwell and north wing, would result in substantial harm to the Grade II Listed Building, which is not considered to be outweighed by the public benefits of the scheme. The proposal therefore conflicts with the advice given in the National Planning Policy Framework, paragraphs 131, 132 and 133.

**My recommendation remains unchanged subject to these additional matters being considered by Members.**

Dated 18th day of April 2013.

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Town and Country Planning Act 1990

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**THE MAIDSTONE BOROUGH COUNCIL**

**TREE PRESERVATION ORDER NO. 2 OF 2013**

Relating to Tree at junction of London Road and Buckland Hill, Maidstone

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## **Town and Country Planning Act 1990**

### **The Tree Preservation Order No. 2 of 2013**

The Maidstone Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order-

#### **Citation**

- 1.**  
This Order may be cited as Tree Preservation Order No. 2 of 2013.

#### **Interpretation**

- 2.**  
(1) In this Order "the authority" means the Maidstone Borough Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2011.

#### **Effect**

- 3.**  
(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### **Application to trees to be planted pursuant to a condition**

- 4.**  
In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 18<sup>th</sup> day of April 2013

Signed on behalf of the Maidstone Borough Council

*R. L. Jarman*

Head of Planning or Director of Change, Planning and The Environment [~~delete as appropriate~~]

Authorised by the Council to sign in that behalf

SCHEDULE

Article 3

Specification of trees

**Trees specified individually** (encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Horse Chestnut	Junction of London Road and Buckland Hill, Maidstone

**Trees specified by reference to an area** (within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

**Groups of trees** (within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
NONE		

**Woodlands** (within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		



**THE MAIDSTONE BOROUGH COUNCIL**  
**Tree Preservation Order No. 2 of 2013**  
**Tree at junction of London Road and Buckland Hill,**  
**Maidstone.**

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**Schedule**

Individual Trees: T1 Horse Chestnut

Groups of Trees: None

Areas of Trees: None

Woodlands: None

Extract from OS Map TQ 7555  
 Scale 1:1250

*R. U. Jarman*

[Director of Change, Planning and The Environment]  
 [Head of Planning]  
 [delete as appropriate]  
 as authorised signatory



CONFIRMATION OF ORDER

**This Order was confirmed by the Planning Committee of Maidstone Borough Council as an opposed Order without modification on the 10<sup>th</sup> day of October 2013.**

**Signed on behalf of the Maidstone Borough Council**

*R. L. J. J. J.*

**Head of Planning and Development or Chief Executive  
Authorised by the Council to sign in that behalf**

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by the Maidstone Borough Council on the [ ] day of [insert month and year]

Signed on behalf of the Maidstone Borough Council

.....  
Head of Planning and Development or Chief Executive [delete as appropriate]  
Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the Maidstone Borough Council on the [ ] day of [insert month and year] by a variation order under reference number [insert reference number to the variation order] a copy of which is attached

Signed on behalf of the Maidstone Borough Council

.....  
Head of Planning and Development or Chief Executive [delete as appropriate]  
Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by the Maidstone Borough Council on the [ ] day of [insert month and year]

Signed on behalf of the Maidstone Borough Council

.....  
Head of Planning and Development or Chief Executive [delete as appropriate]  
Authorised by the Council to sign in that behalf

