

REPORT SUMMARY

REFERENCE NO - 13/1823		
APPLICATION PROPOSAL		
An outline planning application for the demolition of existing buildings and the erection of 49 dwellings and associated car parking and landscaping, with the matter of access to be considered at the current time and all other matters reserved.		
ADDRESS Mayfield Nursery, Ashford Road, Harrietsham, Maidstone, Kent, ME17 1BN		
RECOMMENDATION Amend S106 contributions as set out in report		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL		
The proposed development does not conform with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000. However, the development is at a sustainable location; immediately adjoins an existing settlement; is identified under policy H1 (27) in the emerging Local Plan as a housing allocation and complies with the criteria set out in the relevant policy; and would not result in significant planning harm. In this context, and given the current shortfall in the required five year housing land supply, the low adverse impacts of the proposal are considered to be outweighed by the benefits of the scheme. As such the development is considered to be in compliance with the National Planning Policy Framework, and this represents sufficient grounds for a departure from the Local Plan.		
REASON FOR REFERRAL TO COMMITTEE		
To seek the agreement of Members of the Planning Committee to amend the S106 contributions being sought in relation to Harrietsham Primary School.		
WARD Harrietsham And Lenham Ward	PARISH/TOWN COUNCIL Harrietsham	APPLICANT Mr Habil Kapasi AGENT Robinson Escott Planning
DECISION DUE DATE 30/01/14	PUBLICITY EXPIRY DATE 30/01/14	OFFICER SITE VISIT DATE Various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
MA/98/0955 - Erection of garden centre building; erection of replacement farm shop; re-siting of polytunnel and retention of existing farm shop as a potting shed (resubmission following refusal of MA/98/0111) - APPROVED WITH CONDITIONS		
MA/98/0111 - Erection of garden centre building; erection of replacement farm shop; re-siting of polytunnel and retention of existing farm shop for use as a potting shed - REFUSED		
MA/97/0892 - Variation of condition 07 of MA/93/1519 to read ' no goods shall be sold from the site other than those directly associated with agriculture and horticulture items for gardens and gardening and products for the feeding and care of domestic animals except as otherwise agreed beforehand in writing' - APPROVED WITH CONDITIONS		
MA/93/1519 - Erection of building and use of land as a garden centre - APPROVED WITH CONDITIONS		
MA/86/1848 - Erection of shed to be used as farm shop for the sale and storage of imported produce and produce grown on site with no more than 50% of the floorspace used for the sale and storage of plant, shrubs and small miscellaneous items - APPROVED WITH CONDITIONS		
MA/85/1747 - Change of use from nursery to garden centre – REFUSED		
MA/84/0741 - Change of use from nursery to garden centre – WITHDRAWN		
MA/83/0896 - Widening and improvement to access driveway - APPROVED WITH		

CONDITIONS

MA/81/0842 - Extension to nursery and garden centre, retail farm produce - REFUSED

MA/81/0380 - New access to existing property - REFUSED

MA/80/0532 - Bedroom and porch extensions plus internal alterations – APPROVED

MAIN REPORT

1.0 BACKGROUND

- 1.01 The application seeks outline planning permission for the demolition of existing buildings and the erection of 49 dwellings and associated car parking and landscaping, with the matter of access to be considered at the current time and all other matters reserved on a site adjoining the southern eastern boundary of the rural service centre of Harrietsham.
- 1.02 The application was reported to the Planning Committee meeting held on 15th January 2015. Members resolved to give the Head of Planning and Development delegated powers to grant planning permission subject to conditions and the prior completion of a S106 legal agreement.
- 1.03 The application was represented to committee on the 25th May 2015 following the introduction of S123 of the CIL Regulations that came into force on 6th April 2015. The S123 of the CIL Regulations resulted in a number of changes to the previously agreed Heads of Terms. Members again resolved to give the Head of Planning and Development delegated powers to grant planning permission subject to conditions and the prior completion of a S106 legal agreement to secure the following:
- *The provision of 40% affordable residential units within the application site; and*
 - *A contribution of £2,360.96 per applicable house and £590.24 per applicable flat towards the first phase of the 1FE expansion of Harrietsham Primary School; and*
 - *A contribution of £413.56 to be used to address the demand from the development towards youth services (supplied to youth workers and organisations serving Harrietsham); and*
 - *A contribution of £2,352.78 to be used to address the demand from the development towards additional book stock supplied to the mobile library service serving the development) and*
 - *A contribution of £23,587 (£360 per predicted occupier based on size of market dwellings) towards the improvement of healthcare facilities at The Glebe Medical Centre, Harrietsham being the provision of two additional clinical rooms; and*
 - *A contribution of £3,500 per dwelling towards highway improvements to the A20 in Harrietsham.*
- 1.03 The two previous committee reports are attached as **Appendix A** to this report.

2.0 REASON FOR REFERRAL BACK TO PLANNING COMMITTEE

- 2.1 Since the committee resolved to grant permission in May 2015 the S106 has not yet been signed and further representation has been received from KCC Economic Development. KCC have recently completed the first part of a major review of School build costs and have readjusted their contribution requests for primary schools to factor in an increase in construction costs and this needs to be reflected in

the contributions sought on this site to ensure the purpose of the contribution is fulfilled.

2.2 The primary school contribution for this site has increased from £92,077 to £129,636. The contribution is now sought towards the phase 2 expansion of Harrietsham Primary School.

2.3 In addition, KCC are no longer seeking contributions of £413.56 towards youth services.

2.02 The NHS and KCC Highways have both been re-consulted and confirm that the original contribution requests are still applicable.

2.04 KCC and the NHS both confirm that these requests satisfy the tests in relation to pooling set out in the CIL Regulations. I am satisfied that the contributions are justified and necessary to mitigate the development in accordance with the 123 CIL Regulations.

3.0 MATERIAL CHANGES SINCE THE APPLICATION WAS LAST PRESENTED TO COMMITTEE

- Government removes Code for Sustainable Homes from the planning system.
- New Local Plan submitted for examination on 20 May 2016.
- Policy H1 (34) in the new Local Plan allocates the application site for approximately 49 houses.
- Council publish the Housing Topic Paper in May 2016 and Update in 1 September 2016.
- Local Plan Inspectors produces his interim finding on 22 December 2016.
- The Local Plan inspector does not make any recommendations to delete or change policy H1 (34) - Mayfield Nursery.
- The Council publish updated housing figures to reflect the Inspector's Interim Findings and can demonstrate 6.11 year housing supply as at 1 April 2016
- The Schedule of Main Modifications to new Local Plan submitted for consultation in March 2017. There are no suggested modifications to policy H1 (34).

3.1 The applications site remains in the new local plan under housing policy H1 (34). The local plan Inspector has not raised any objections or recommended any changes to policy H1 (34). The new local plan allocates housing sites including this site (considered to be in the most appropriate locations for the Borough to meet the OAN figure) and allows the Council to demonstrate a 5 year supply of deliverable housing sites. The progression of the new Local Plan strengthens this site as a housing allocation site.

3.2 Condition 10 – Code for Sustainable Homes is no longer relevant. This condition will be replaced by a condition that requires the development to provided renewable energies within the site. This new condition is below at condition 10.

3.2 Overall it is considered that there have been no material changes that alter the original committee resolution to approve this application.

4.0 RECOMMENDATION

- 4.1 The Heads of Terms as set out below have been amended in accordance with the changes to the requests, including specific reference to the destination of the contributions.

SUBJECT TO THE PRIOR COMPLETION OF A LEGAL AGREEMENT, IN SUCH TERMS AS THE HEAD OF THE LEGAL PARTNERSHIP ADVISES, TO PROVIDE THE FOLLOWING:

- The provision of 40% affordable residential units within the application site; and
- A contribution of 129,636 towards the Phase 2 expansion of Harrietsham Primary School.
- A contribution of £2,352.78 to be used to address the demand from the development towards additional book stock supplied to the mobile library service serving the development) and
- A contribution of £23,587 (£360 per predicted occupier based on size of market dwellings) towards the improvement of healthcare facilities at The Glebe Medical Centre, Harrietsham being the provision of two additional clinical rooms; and
- A contribution of £3,500 per dwelling towards highway improvements to the A20 in Harrietsham.

First resolution

THE HEAD OF PLANNING AND DEVELOPMENT BE GIVEN DELEGATED POWERS TO GRANT OUTLINE PLANNING PERMISSION SUBJECT TO THE IMPOSITION OF THE CONDITIONS SET OUT BELOW:

Second resolution

Given the significant delays dealing with the S106 an alternative resolution is requested to refuse the application if the S106 is not signed in timely manner.

THE HEAD OF PLANNING AND DEVELOPMENT BE GIVEN DELEGATED POWERS TO REFUSE OUTLINE PLANNING PERMISSION SHOULD THE S016 NOT BE SIGNED AND SEADLED WITHIN 6 WEEKS OF THE COMMITTEE MEETING.

- (1) The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
- a. Layout b. Scale c. Appearance e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: no such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990, and in order to encourage the commencement of development and boost the provision of new market and affordable housing supply in accordance with paragraph 47 of the National Planning Policy Framework 2012 and paragraph 027 of the National Planning Policy Guidance 2014.

- (2) The details of reserved matters of layout and appearance submitted pursuant to condition 1 above shall include inter-alia;
- (i) A landscape and topography led layout with a softer more informal dispersed pattern of development that applies a 'looser' pattern of built form and less hard surfacing than shown on the indicative layout which creates an active frontage onto the A20;
 - (ii) The provision of on site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat and habitat for the Cinnabar Moth (through the provision of Ragwort planting);
 - (iii) A full landscape and visual impact appraisal of the development including views from public rights of way in the North Downs Area of Outstanding Natural Beauty;
 - (iv) Full details of rooflines and roofscapes, streetscenes within the site and to the site frontage with the A20, and north-south sections across the site; and
 - (v) The incorporation of decentralised and renewable or low-carbon sources of energy.

Reason: no such details have been submitted, to ensure a high quality design for the development and to safeguard biodiversity assets.

- (3) The details of landscaping submitted pursuant to condition 1 shall provide for the retention and repair of existing trees and mature hedging to north, south and east site boundaries, and hedgerows and tree lines within the site;

Reason: to ensure a satisfactory appearance and setting to the development.

- (4) The development shall not commence until details of all fencing, walling and other boundary treatments have been submitted to the Local Planning Authority and approved in writing. The boundary treatments shall not include closeboarded fencing of a height greater than 1.8m, or closeboarded fencing or solid walling of a height of greater than 1m to the boundary of any public space, and shall include the retention and where necessary reinforcement of boundary hedges to the site using appropriate native species as set out in Maidstone Landscape Character Assessment 2012 and Maidstone Landscape Local Character Assessment Supplement 2012, and access through or under site and plot boundaries for small mammals including badgers and hedgehogs shall be provided for by way of the inclusion of post and rail fencing and/or fencing raised a minimum of 20cm above ground level.

The development shall be carried out in accordance with the approved details before the first occupation of the development and maintained thereafter;

Reason: to ensure a satisfactory appearance to the development, secure the amenity of future occupiers, and safeguard biodiversity assets.

- (5) The development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces, including hard surfaces, of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The materials shall include, inter alia, swift and bat bricks. The development shall thereafter be constructed using the approved materials unless otherwise agreed in writing by the Local Planning Authority;

Reason: to ensure a satisfactory appearance to the development and a high quality of design.

- (6) The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management.

The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and Maidstone Landscape Character Assessment Supplement 2012 (Harrietsham to Lenham Vale landscape type), and shall include, inter alia, the retention of all trees and hedges identified as such in the Sylvan Arb Arboricultural Report (Tree Survey and Tree Constraints Plan) ref SA/771/13 received 24th October 2013; the retention and repair of hedgerows and tree lines within the site; the provision of wild flower meadow areas; and provision of on site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat and habitat for the Cinnabar Moth (through the provision of Ragwort planting).

The implementation and long term management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details over the period specified;

Reason: to safeguard existing trees and hedges to be retained and ensure a satisfactory external appearance to the development.

- (7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: to ensure a satisfactory external appearance to the development.

- (8) The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) including details of any tree works that would be necessary to implement the proposal, which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations" has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for all buildings within root protection zones, where the AMS identifies that specialist foundations are required. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: to safeguard existing trees to be retained, ensure a satisfactory setting and external appearance to the development.

- (9) The development shall not commence until details of any external lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution and in order to minimise any impact upon ecology. The development shall be carried out in accordance with the approved details and maintained thereafter;

Reason: to prevent light pollution in the interests of the character, amenity and biodiversity of the area.

- (10) The development hereby approved shall not commence until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, will be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To ensure an energy efficient form of development. Details are required prior to development commencing to ensure the methods are integral to the design and to ensure that all options (including ground source heat pumps) are available.

- (11) The development shall be undertaken in strict accordance with the recommendations of the JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014, subject to the additional information and mitigation required by condition 12 below, and maintained thereafter;

Reason: To secure appropriate management and enhancement within the site in the interests of ecology and biodiversity.

- (12) Notwithstanding the details and recommendations set out in JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014, the development shall not commence until a long term management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall incorporate the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on the site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.
- i) Specific details and locations of the biodiversity enhancement measures outlined JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received

24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014 and the inclusion of enhancement measures to be incorporated into the fabric of buildings.

j) Details of the management of open space areas to provide biodiversity enhancement.

The approved plan will be implemented in accordance with the approved details.

Reason: to secure appropriate management and enhancement within the site in the interests of ecology and biodiversity.

- (13) The development hereby permitted shall be carried out in strict accordance with the recommendations of the Peter Moore Acoustics Acoustic Assessment ref 130701/1 received 24th October 2013;

Reason: in the interests of residential amenity.

- (14) The development hereby permitted shall be carried out in strict accordance with the recommendations of the Lustre Consulting Air Quality Assessment ref 1218/AK/10-13/169 received 24th October 2013;

Reason: in the interests of residential amenity.

- (15) The development permitted by this planning permission shall not commence until a detailed surface water drainage scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to, and approved by, the Local Planning Authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding both on- or off- site.

The drainage details submitted to the Local Planning Authority shall:

Specify the responsibilities of each party for the implementation of the SUDS scheme;

Specify a timetable for implementation; and

Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be implemented in accordance with the approved details prior to first occupation of the development, and maintained thereafter unless with the agreement in writing of the Local Planning Authority;

Reason: to reduce the impact of flooding on the proposed development and prevent any impact from the development on surface water storage and flood, and future occupiers.

- (16) No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

all previous uses;
potential contaminants associated with those uses; and
a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented in full as approved.

Reason: to prevent pollution to the environment.

- (17) No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved unless with the written agreement of the Local Planning Authority;

Reason: to prevent pollution of the environment.

- (18) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: to prevent pollution of the environment.

- (19) No infiltration of surface water drainage into the ground, other than that allowed under the sustainable surface water drainage scheme approved under condition 15 above, is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters;

Reason: to prevent pollution of the environment and protect controlled waters.

- (20) No development shall take place until full details in the form of drawings to an appropriate scale of all piling and any other foundation designs using penetrative methods which do not result in unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details unless agreed in writing with the Local Planning Authority;

Reason: to prevent pollution to the environment.

- (21) No development shall take place until details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: in order to secure a satisfactory form of development.

- (22) The approved details of the access, as shown in Appendix E of the Gateway TSP Transport Assessment ref LF/13-0601 received 24th October 2013 shall be completed before the commencement of the use of the land and maintained thereafter;

Reason: in the interests of road safety.

- (23) The details of landscape, ecological mitigation and sustainable surface water drainage required by conditions 1, 6, 12 and 15 above shall include, inter alia, an ecological receptor site and a sustainable urban drainage system in the south of the site adjacent to the site boundary.

Reason: in the interest of pollution and flood prevention, and safeguarding biodiversity assets.

INFORMATIVES

As per the previous recommendation.

Case Officer: Andrew Jolly

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.