

# PLANNING COMMITTEE MEETING

Date: Thursday 29 November 2018  
Time: 6.00 p.m.  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Adkinson, Bartlett, Boughton, English (Chairman), Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Round (Vice-Chairman), Spooner, Vizzard and Wilby

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

---

## AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 6 December 2018
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 8 November 2018 1 - 7
11. Presentation of Petitions (if any)
12. Deferred Item 8
13. Planning Committee Member and Substitute Member Training 9 - 13

---

**Issued on Wednesday 21 November 2018**  
**Over/:**

**Continued**

*Alison Broom*

**Alison Broom, Chief Executive**

14.	18/501312/FULL - Swanton Farm, Bicknor Road, Bicknor, Kent	14 - 61
15.	18/501626/FULL - Yelsted Farm, Yelsted Road, Yelsted, Sittingbourne, Kent	62 - 71
16.	18/501745/REM - Land To The East Of Hermitage Lane, Maidstone, Kent	72 - 103
17.	18/501979/FULL - Seaview Farm, South Street Road, Stockbury, Sittingbourne, Kent	104 - 114
18.	18/502925/FULL - Land At Vicarage Road, Yalding, Kent	115 - 127
19.	18/503763/FULL - Land To The Rear Of 244 - 250 Upper Fant Road, Maidstone, Kent	128 - 146
20.	18/504734/FULL - 20-28 Mote Road, Maidstone, Kent	147 - 164
21.	Appeal Decisions	165

## **PART II**

**To move that the public be excluded for the item set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.**

	<b>Head of Schedule 12 A and Brief Description</b>	
22.	Enforcement Tracker	166 - 170
	2 – Identity of an Individual	
	6 (a) and (b) – Enforcement/Court Proceedings	
	7 – Prevention, Investigation or Prosecution of Crime	

### **PLEASE NOTE**

**The order in which items are taken at the meeting may be subject to change.**

**The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.**

**For full details of all papers relevant to the applications on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection by appointment during normal office hours at the Maidstone Borough Council Reception, King Street, Maidstone, Kent ME15 6JQ.**

## **PUBLIC SPEAKING AND ALTERNATIVE FORMATS**

If you require this information in an alternative format please contact us, call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).

In order to speak at this meeting, please contact Democratic Services using the contact details above, by 4 p.m. on the working day before the meeting. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated for each application on a first come, first served basis.

To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk).

## MAIDSTONE BOROUGH COUNCIL

### PLANNING COMMITTEE

#### MINUTES OF THE MEETING HELD ON 8 NOVEMBER 2018

**Present:** Councillor English (Chairman) and Councillors Adkinson, Bartlett, Boughton, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Round, Vizzard and Wilby

**Also Present:** Councillors Daley and Lewins

178. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Spooner.

Councillor Kimmance entered the meeting at this stage (6.05 p.m.).

179. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

180. NOTIFICATION OF VISITING MEMBERS

Councillors Daley and Lewins indicated their wish to speak on the report of the Head of Planning and Development relating to application 18/501745 (Land to the East of Hermitage Lane, Maidstone, Kent).

181. ITEMS WITHDRAWN FROM THE AGENDA

17/504568 - DEMOLITION OF THE EXISTING COUNTY CENTRAL LIBRARY AND ASSOCIATED BUILDINGS AND ERECTION OF SIX-TO-SIXTEEN STOREY RESIDENTIAL DEVELOPMENT OF 162 NO. APARTMENTS AND 86 NO. CAR PARKING SPACES, INCLUDING 429SQM OF COMMUNAL FLOOR SPACE AT THE FORMER KCC SPRINGFIELD LIBRARY SITE, SANDLING ROAD, MAIDSTONE - KCC SPRINGFIELD LIBRARY HQ, SANDLING ROAD, MAIDSTONE

The Chairman sought the agreement of the Committee to the withdrawal of the report of the Head of Planning and Development relating to application 17/504568 from the agenda.

**RESOLVED:** That agreement be given to the withdrawal of the report of the Head of Planning and Development relating to application 17/504568 from the agenda.

182. URGENT ITEMS

The Chairman stated that, in his opinion, the update reports of the Head of Planning and Development should be taken as urgent items as they contained further information relating to the applications to be considered at the meeting.

183. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Harwood said that, with regard to the report of the Head of Planning and Development relating to application 18/504426 (Land Adjacent to Red Roof, Boxley Road, Walderslade, Chatham, Kent), he was a Member of Boxley Parish Council, but he had not participated in the Parish Council's discussions on the application, and intended to speak and vote when it was considered.

184. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

185. MINUTES OF THE MEETING HELD ON 18 OCTOBER 2018

**RESOLVED:** That the Minutes of the meeting held on 18 October 2018 be approved as a correct record and signed.

186. PRESENTATION OF PETITIONS

There were no petitions.

187. DEFERRED ITEMS

17/503291 - ERECTION OF 6 NO. LIGHTWEIGHT COMMERCIAL/INDUSTRIAL UNITS - THE PACKHOUSE, QUEEN STREET, PADDOCK WOOD, TONBRIDGE, KENT

The Development Manager said that he had nothing further to report in respect of this application at present.

18/501312 - PROVISION OF A CONTROLLED ATMOSPHERE STORE, CONCRETE HARDSTANDING, IRRIGATION LAGOON AND ASSOCIATED ENGINEERING OPERATIONS (INCLUDING LAND RAISING/EARTHWORKS) AND THE UPGRADING OF AN EXISTING TRACK AND ACCESS - SWANTON FARM, BICKNOR ROAD, BICKNOR, KENT

The Development Manager apologised that notwithstanding his update at the last meeting, he now understood that it was hoped to report this application to the next meeting of the Committee.

188. 18/501745 - APPROVAL OF RESERVED MATTERS FOR APPEARANCE, LANDSCAPING, LAYOUT AND SCALE FOR PHASE 4 COMPRISING 71 DWELLINGS WITH ASSOCIATED INFRASTRUCTURE PURSUANT TO OUTLINE APPROVAL 13/1749 - LAND TO THE EAST OF HERMITAGE LANE, MAIDSTONE, KENT

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Mrs Poletti of the New Allington Action Group, Mrs Bates, an objector, Mr Mendez, for the applicant, and Councillors Lewins and Daley (Visiting Members) addressed the meeting.

In presenting the report, the Senior Planning Officer advised the Committee that he was aware that the New Allington Action Group had lobbied Members on an alternative access option and a neighbour representation had also been received on that. However, he wished to reiterate that this access option would be through the widest section of ancient woodland and it was not before Members for a decision at this meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members felt that:

1. The loss or deterioration of ancient woodland which would result from this reserved matters application would be contrary to paragraph 175 (c) of the National Planning Policy Framework and no wholly exceptional reasons have been identified for that. The two proposed routes through the woodland would either lead to direct loss or deterioration of ancient woodland through damage to the integrity of the woodland block which would undermine its ecological function.
2. The disturbance caused at construction and operational stage would further disturb and damage the ancient woodland.

Prior to the vote being taken, the Development Manager, exercising powers delegated to him by the Head of Planning and Development, and having conferred with the representative of the Head of Legal Partnership, advised the Committee that the proposed reasons for refusal were not sustainable and could result in significant costs against the Council at appeal. He was therefore issuing a significant costs warning. The representative of the Head of Legal Partnership advised Members that, since a significant costs warning had been issued, if the Committee agreed to refuse permission for the reasons proposed, the decision would be deferred until its next meeting pursuant to paragraph 30.3 (a) of Part 3.1 of the Council's Constitution and paragraph 17 (a) of the Local Code of Conduct for Councillors and Officers Dealing with Planning Matters (Part 4.4 of the Constitution).

**RESOLVED:** That permission be refused for the following reasons:

1. The loss or deterioration of ancient woodland which would result from this reserved matters application would be contrary to paragraph 175 (c) of the National Planning Policy Framework and no wholly exceptional reasons have been identified for that. The two proposed routes through the woodland would either lead to direct loss or deterioration of ancient woodland through damage to the integrity of the woodland block which would undermine its ecological function.
2. The disturbance caused at construction and operational stage would further disturb and damage the ancient woodland.

Voting:        7 – For        4 – Against        1 - Abstention

Councillors Bartlett, Boughton, Perry and Round requested that their dissent be recorded.

**DECISION DEFERRED UNTIL THE NEXT MEETING OF THE PLANNING COMMITTEE PURSUANT TO PARAGRAPH 30.3 (a) OF PART 3.1 OF THE COUNCIL'S CONSTITUTION AND PARAGRAPH 17 (a) OF THE LOCAL CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS (PART 4.4 OF THE CONSTITUTION).**

189. 18/502875 - RESERVED MATTERS OF APPEARANCE, LANDSCAPING, LAYOUT AND SCALE FOR PHASE 3 OF THE OUTLINE APPROVAL COMPRISING 127 DWELLINGS WITH ASSOCIATED INFRASTRUCTURE PURSUANT TO OUTLINE APPROVAL REF 13/1749 - LAND TO THE EAST OF HERMITAGE LANE, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

**RESOLVED:** That permission be granted subject to the conditions set out in the report and that the Head of Planning and Development be given delegated powers to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting:        12 – For        0 – Against        0 – Abstentions

190. 18/504426 - OUTLINE APPLICATION FOR A DETACHED DWELLING WITH ACCESS BEING SOUGHT. MATTERS OF APPEARANCE, LANDSCAPING, LAYOUT AND SCALE ARE RESERVED FOR FURTHER CONSIDERATIONS - LAND ADJACENT TO RED ROOF, BOXLEY ROAD, WALDESLADE, CHATHAM, KENT

The Chairman and Councillor Round stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

**RESOLVED:** That permission be granted subject to the conditions and informatives set out in the report.

Voting: 12 – For 0 – Against 0 – Abstentions

191. 18/504157 - ERECTION OF ANCILLARY DAYROOM BUILDING - PERFECT PLACE, FRITTENDEN ROAD, STAPLEHURST, TONBRIDGE, KENT

The Committee considered the report of the Head of Planning and Development.

Councillor Forward of Staplehurst Parish Council and Mr Taylor, for the applicant, addressed the meeting.

**RESOLVED:** That

1. Permission be granted subject to the conditions set out in the report and an informative to the effect that:

The applicant is advised that with regard to condition 1 above, the Council expects to see a structural landscape buffer on all the site boundaries designed in accordance with the Council's adopted Landscape Character Assessment which will help mitigate the impact of the Dayroom. The buffer shall comprise of tree and shrub planting including Hawthorn, Crab Apple and Wild Service. The Council requests that the applicant liaise with the Landscape Officer, who can be contacted on 01622 602721, in the designing of the buffer planting.

2. The Head of Planning and Development be given delegated powers to finalise the wording of the additional informative.

Voting: 11 – For 0 – Against 1 – Abstention

**FURTHER RESOLVED:** That the Strategic Planning, Sustainability and Transportation Committee be requested to consider the issue of the need for a defined policy on the treatment of dayrooms on Gypsy and Traveller sites and how this might be brought forward in the review of the Local Plan process and the Supplementary Planning Documents that relate to that process.

Voting: 12 – For 0 – Against 0 – Abstentions

192. 18/504716 - RETENTION OF EXISTING LOG CABIN AND ITS USE AS AN ANNEXE IN CONNECTION WITH THE RESIDENTIAL USE OF DWELLING PERMITTED UNDER PLANNING PERMISSION REF: 15/502939 - APPSMOOR FARM, SOUTH STREET ROAD, STOCKBURY, SITTINGBOURNE, KENT

The Committee considered the report of the Head of Planning and Development.

Councillor Bingham of Stockbury Parish Council addressed the meeting.

**RESOLVED:** That

1. Permission be granted subject to the condition set out in the report with:
  - The addition of a sentence to condition 1 specifying that the property shall not be used as a separate self-contained dwelling.
  - An additional condition requiring the submission of a robust landscaping scheme comprising native hedgerow planting on the site boundary(ies) to help mitigate the impact of the log cabin (the species to be identified by the Landscape Officer).
  - A landscaping implementation condition, specifying, inter alia, that any seeding or turfing which fails to establish or any trees or plants which, within **ten** years from the date of planting, die or become seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the Local Planning Authority gives written consent to any variation.
2. The Head of Planning and Development be given delegated powers to define the curtilage of the property (red line or extended boundary) for the purpose of the landscaping scheme and to finalise the wording of the amended and additional conditions.
3. The Political Group Spokespersons of the Planning Committee be informed of the outcome of the discussions about where the boundary(ies) will be set.

Voting:      11 – For      1 – Against      0 – Abstentions

193. 17/504568 - DEMOLITION OF THE EXISTING COUNTY CENTRAL LIBRARY AND ASSOCIATED BUILDINGS, AND ERECTION OF SIX-TO-SIXTEEN STOREY RESIDENTIAL DEVELOPMENT OF 162 NO. APARTMENTS AND 86 NO. CAR PARKING SPACES INCLUDING 429SQM OF COMMUNAL FLOOR SPACE AT THE FORMER KCC SPRINGFIELD LIBRARY SITE, SANDLING ROAD, MAIDSTONE - KCC SPRINGFIELD LIBRARY HQ, SANDLING ROAD, MAIDSTONE

See Minute 181 above

194. APPEAL DECISIONS

The Committee considered the report of the Head of Planning and Development setting out details of appeal decisions received since the last meeting.

**RESOLVED:** That the report be noted.

195. DURATION OF MEETING

6.00 p.m. to 8.35 p.m.

# Agenda Item 12

## MAIDSTONE BOROUGH COUNCIL

### PLANNING COMMITTEE

29 NOVEMBER 2018

#### REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

##### DEFERRED ITEM

**Application 17/503291 was deferred at the meeting of the Planning Committee held on 19 December 2017 adjourned to 4 January 2018 for the reasons set out below.**

**The up to date position is that the application has been withdrawn by the applicant and a new application has been submitted for residential development at the site.**

<b>APPLICATION</b>	<b>DATE DEFERRED</b>
<p><u>17/503291 - ERECTION OF 6 NO. LIGHTWEIGHT COMMERCIAL/INDUSTRIAL UNITS - THE PACKHOUSE, QUEEN STREET, PADDOCK WOOD, TONBRIDGE, KENT</u></p> <p>Deferred to:</p> <ul style="list-style-type: none"><li>• Check whether the correct certificates were served;</li><li>• Seek the views of Kent Highway Services on the implications of the potential use of HGVs to serve the site taking into account possible business growth;</li><li>• Investigate the potential for traffic calming measures on the shared access;</li><li>• Seek details of the proposed landscaping scheme including what it would comprise and where it would be planted;</li><li>• Enable the Officers to draft suggested conditions to prevent the amalgamation of the units into one enterprise and to link the hours of illumination to the hours of opening of the premises;</li><li>• Discuss with the applicant the possibility of limiting the hours of operation on Saturdays; and</li><li>• Enable a representative of Kent Highway Services to be in attendance when the application is discussed.</li></ul>	<p>19 December 2017 adjourned to 4 January 2018</p>

## Planning Committee

**29<sup>th</sup> November  
2018**

### Planning Committee Member and Substitute Member training

<b>Final Decision-Maker</b>	Planning Committee
<b>Lead Head of Service</b>	Angela Woodhouse, Head of Policy & Communications
<b>Lead Officer and Report Author</b>	Rob Jarman, Head of Planning and Development James Bailey – Development Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **This report makes the following recommendations to this Committee:**

- (1) **That new Planning Committee members and new substitute members** complete Planning Training by the end of February 2019, covering the Development Plan, Planning Policies & Guidance, Legislation, Planning Conditions, Grounds of Refusal of Planning Applications, Section 106 Agreements and Legal Training including Pre-determination of Planning Applications (General and Constitution background), and Planning Judicial Reviews (General process) in order to fulfil the requirements in the Constitution.
  
- (2) **That existing Planning Committee members and substitute members** complete training by the end of February 2019 covering annual refresher training on **recent changes** to Planning Policies & Guidance, Legislation, Procedures and Legal Training including Pre-determination of Planning Applications (General and Constitution background), and Planning Judicial Reviews (General process) in order to fulfil the requirements in the Constitution and that every 2 years members undertake refresher training covering Planning Conditions and Grounds of Refusal.
  
- (3) **That Planning Committee members and substitute members** are strongly recommended to complete the following optional training sessions:
  - Maidstone’s Local Plan/CIL – How its policies will continue to deliver high quality development and key aspects of CIL implementation.
  
  - Between 1-3 specialised/best practice subject area sessions potentially covering but not limited to; design, air quality and biodiversity but to be agreed by the Head of Planning and Development in consultation with members of the committee. (This would be likely to be run by an external trainer/body such as Trevor Roberts Associates - the details can be found [here](#))

**This report relates to the following corporate priorities:**

- 1.1 Keeping Maidstone Borough an attractive place for all and securing a successful economy for Maidstone Borough by ensuring planning decisions are made using an up to date knowledge and understanding of national and local planning policies and legislation.

**2. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 2.1 This report outlines Planning Committee Members' and Substitute Members' responsibilities to ensure they comply with the Council's Constitution by ensuring their knowledge and understanding of current local and national planning policies and legislation remains up to date, while serving on or supporting the Committee.
- 2.2 The report also strongly recommends attendance at a programme of optional training for Planning Committee Members and Substitute Members to facilitate their planning knowledge while serving on or supporting the Committee.

**3. INTRODUCTION AND BACKGROUND**

- 3.1 The Council's Constitution sets out the responsibilities of Planning Committee Members and Substitute Members.
- 3.2 The Council's Constitution, Part 4.4 (Local Code of Conduct for Councillors and Officers dealing with planning matters), Section 1.c states, under "The General Role and Conduct of Councillors and Officers":

*"The Council has agreed that no member will be able to serve on the Planning Committee without having agreed to undertake a minimum period of training on the policies, procedures, legislation and guidance relevant to the Committee as specified by the Committee. This training should be completed to an agreed level according to an agreed programme within an agreed time period set by the Committee for newly appointed Councillors and substitutes of the Committee. If the specified training has not been completed by the due date, the Councillor will cease to be a member/substitute member of the Committee until the training has been completed. The Head of Policy and Communications will keep a record of the training requirements of the Committee and of the Councillors' compliance with the requirements. Existing members and substitute members of the Committee should be updated regularly on changes of legislation and procedures and must receive refresher training on an annual basis. Failure to undertake the refresher training will result in the Councillor ceasing to be a member/substitute member of the Committee until the refresher training has been completed."*

- 3.3 Further, Part 3.1, section 4.2 paragraph 2 of the Council's Constitution states under Appointment of Substitute Members of Committees and Sub-Committees, that:

*'No Councillor will be able to serve on the Planning Committee, Policy and Resources Committee acting as the Planning Referral body and Licensing Committees without having agreed to undertake a minimum period of training on the policies, procedures, legislation and guidance relevant to the*

*Committee as specified by the Committee. This training should be completed to an agreed level according to an agreed programme within an agreed time period set by the Committee and must be refreshed annually. If the specified training has not been completed by the due date, the Councillor will cease to be a Member/Substitute Member of the Committee until the training has been completed.'*

3.4 Also, Part 4.4 section 20 states:

*All Members of the Planning Committee and substitute Members should receive training on grounds of refusal and imposition of conditions.*

*All Councillors should receive basic training on planning issues.'*

3.5 Some training has already been delivered to new planning committee members which includes some of the topics above and a programme of training to cover the other topics is currently being arranged with the Planning Department for the Municipal year 2018-2019. Dates for the training will be confirmed in due course. Other options for training are being investigated which include an electronic version of fresher training. This however, will take time to develop as from initial investigations; there are no market options available which cover the specific requirements of the Constitution. A bespoke suite of electronic training packages would therefore have to be developed and will be explored in greater detail over this financial year.

3.6 Planning Committee Members and Substitute Members should attend as follows:

(1) **That new Planning Committee members and new substitute members** complete Planning Training by the end of February 2019, covering the Development Plan, Planning Policies & Guidance, Legislation, Planning Conditions, Grounds of Refusal of Planning Applications, Section 106 Agreements and Legal Training including Pre-determination of Planning Applications (General and Constitution background), and Planning Judicial Reviews (General process) in order to fulfil the requirements in the Constitution.

(2) **That existing Planning Committee members and substitute members** complete training by the end of February 2019 covering annual refresher training on **recent changes** to Planning Policies & Guidance, Legislation, Procedures and Legal Training including Pre-determination of Planning Applications (General and Constitution background), and Planning Judicial Reviews (General process) in order to fulfil the requirements in the Constitution and that every **2** years members undertake refresher training covering Planning Conditions and Grounds of Refusal.

(3) **That Planning Committee Members and Substitute Members** are strongly recommended to complete the following optional training sessions:

- Maidstone's Local Plan/CIL – How its policies will continue to deliver high quality development and key aspects of CIL implementation.

- Between 1-3 specialised/best practice subject area sessions potentially covering but not limited to; design, air quality and biodiversity but to be agreed by the Head of Planning and Development in consultation with members of the committee. (This would be likely to be run by an external trainer/body such as Trevor Roberts Associates - the details can be found [here](#))

3.7 The Committee are asked to agree this minimum level of training for Committee Members and Substitute Members, from the list at 3.6 above, which will maintain a suitable level of knowledge and understanding of national and local policies and legislation to be able to properly perform their functions as a Planning Committee. The strongly recommended optional training will assist on-going professional development.

#### **4. AVAILABLE OPTIONS**

4.1 The Committee could decide to do nothing. However, this is not recommended as it would contravene the Council's own Local Code of Conduct for Councillors and Officers Dealing with Planning Matters.

4.2 The Committee could decide alternative optional training but the above options take account of views expressed by the Political Groups Spokespersons, and can be covered by the Members training budget. If alternative training is proposed the Committee would need to be clear on what this should be so officers can progress this.

4.3 The Committee could decide that the training and development as outlined in the list at 3.6 be completed by all Planning Committee Members and Substitute Members, and that the optional training should be attended.

#### **5. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

5.1 The preferred option is option 4.3. The reasons for this recommendation are:

5.2 The Committee Members will fulfil their responsibilities under the Local Code of Conduct for Councillors detailed in Part 4.4, Section 1c of the Council's Constitution;

5.3 Members and Substitute Members of the Planning committee will fulfil their individual responsibilities to maintain their knowledge and understanding of local and national planning policy and legislation, and;

5.4 The Planning Committee will avoid being inquorate due to an insufficient supply of suitably trained Substitute Committee Members.

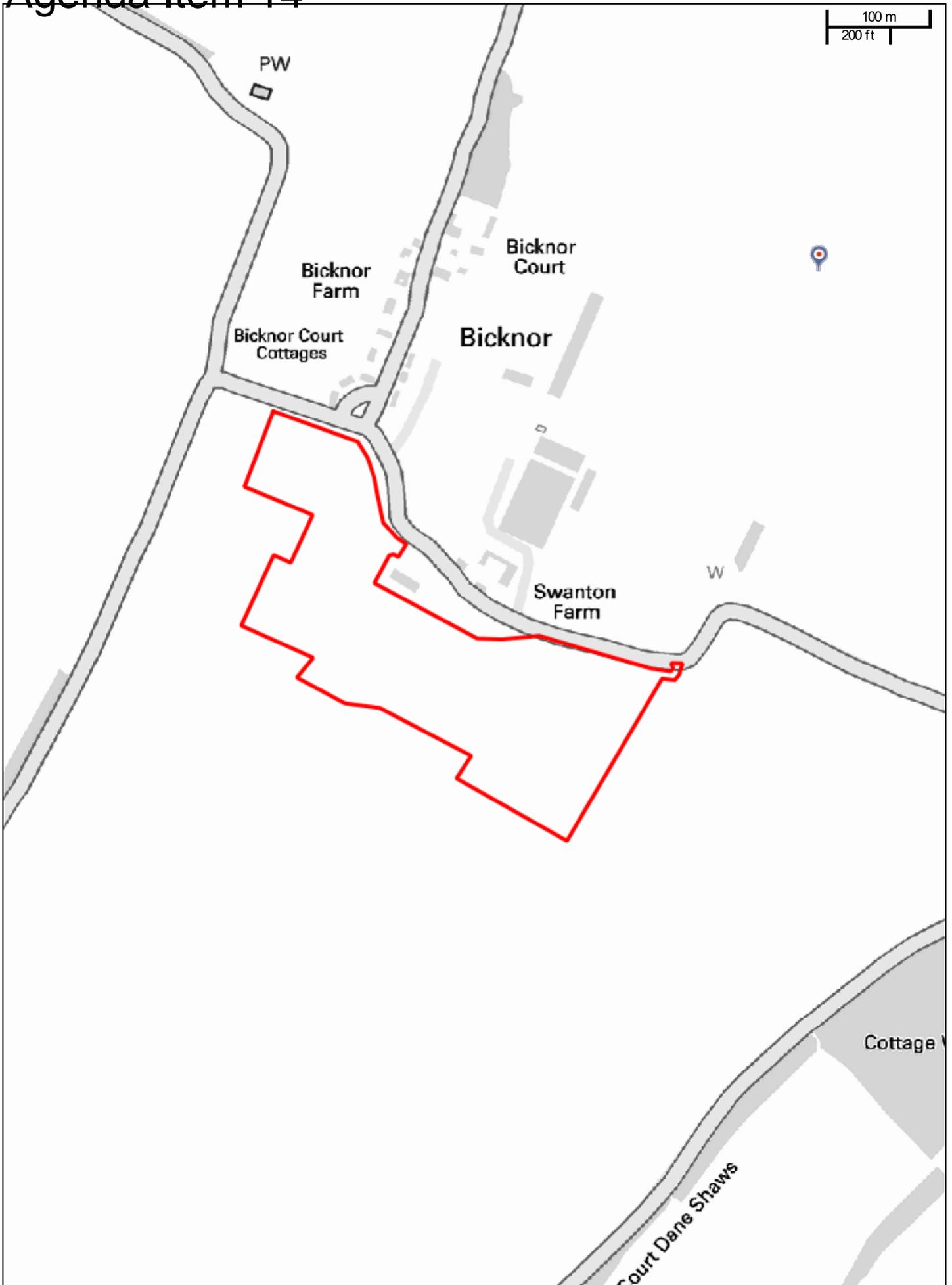
#### **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

6.1 Once the Committee has made its decision, information on the training dates and times will be sent to all Committee Members and Substitute Members.

## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	Training will ensure planning decisions are made using an up to date knowledge and understanding of national and local planning policies and legislation which will contribute towards keeping Maidstone Borough an attractive place for all and securing a successful economy for Maidstone Borough.	James Bailey Simon Rowberry
<b>Risk Management</b>	N/A	
<b>Financial</b>	Utilisation of Members Training Budget for optional external training	James Bailey Simon Rowberry Sam Bailey
<b>Staffing</b>	Officers will be required to carry out some of the training.	James Bailey Simon Rowberry
<b>Legal</b>	Members have a constitutional duty to undertake a minimum amount of training relative to the particular committee on which they sit; they also have a public responsibility to be able to make proper and lawful decisions.	James Bailey Simon Rowberry
<b>Equality Impact Needs Assessment</b>	Reasonable adjustments based on needs will be made to allow all members to participate in training. E.g larger size fonts	James Bailey Simon Rowberry
<b>Environmental/Sustainable Development</b>	Training will ensure planning decisions are made using an up to date knowledge and understanding of national and local planning policies and legislation.	James Bailey Simon Rowberry
<b>Community Safety</b>	N/A	
<b>Human Rights Act</b>	Training will ensure the Human Rights Act is considered where relevant.	James Bailey Simon Rowberry
<b>Procurement</b>	N/A	
<b>Asset Management</b>	N/A	

# Agenda Item 14



18/501312/FULL Swanton Farm, Bicknor Road

Scale: 1:5000

Printed on: 20/11/2018 at 14:47 PM by SummerF

<b>REFERENCE NO - 18/501312/FULL</b>		
<b>APPLICATION PROPOSAL</b> Provision of a cold store, concrete hardstanding, irrigation lagoon and associated engineering operations (including land raising/earthworks) and the upgrading of an existing track and access with structural landscape enhancement and screening		
<b>ADDRESS</b> Swanton Farm Bicknor Road Bicknor ME9 8AT		
<b>RECOMMENDATION</b> Pending S106		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>The proposal by reason of its size and bulk would harm the character and appearance of the countryside and would have a significant impact on the Kent Downs AONB and so the Borough Council needs to be satisfied that there are material considerations demonstrated to outweigh the harm.</p> <p>The proposal is clearly necessary for agriculture. The building is clustered with other built form and the use of land for workers caravans rather than being ad hoc sporadic development. The scheme includes significant engineering works to give topographical changes for screening purposes that are designed to be as natural in appearance as possible. KCC Highways and Transportation advise that the application would not have a material impact upon the safety and operation of the adjoining highway network and that there is no unacceptable impact on highway safety, nor are the residual cumulative impacts on the road network severe.</p> <p>The distance of the local residents from the proposed development combined with the imposition of conditions relating to noise and lighting mitigation means that any impact on residential amenity is not considered harmful enough to warrant refusal of the scheme. The provision of the reservoir benefits the functional need of the business to have access to irrigation water and to manage surface water run-off and provide biodiversity enhancements. These multi functional purposes of the reservoir are supported.</p> <p>The proposed building is large but the demands of modern fruit farming to support traditional orchards are such that it is justified. The need for efficiencies and economies of scale dictate a building of this form and scale.</p> <p>There is a strong economic case and national importance of an expanding agricultural enterprise at the forefront of technological and horticultural advances and which are endorsed by Government departments aiming to meet objectives to improve self sufficiency in food. Additional information has been submitted in regard of detailed structural landscaping scheme comprising a significant area of woodland and wetland wrapping around the building to include the Bicknor Road frontage; further details showing views from the south east being improved as a result of the landscaping proposed, and details of the energy efficiency of the building and conclusions in regard of scope for renewable energy measures to be incorporated into the scheme.</p> <p>Overall, it is considered that this proposal represents an exceptional form of development in the AONB, can be adequately screened with ecological net benefits and therefore planning permission should be granted.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Application called to Committee by Hollingbourne PC		
<b>WARD</b> North Downs	<b>PARISH/TOWN COUNCIL</b> Bicknor	<b>APPLICANT</b> AC Gotham And Son <b>AGENT</b> Bloomfields
<b>TARGET DECISION DATE</b> 04/12/18.		<b>PUBLICITY EXPIRY DATE</b> 20/11/18

## **MAIN REPORT**

### **1. BACKGROUND**

- 1.01 The application was deferred from the Planning Committee of 6 September 2018 with the following resolution:

*That consideration of this application be deferred to:*

- *Seek the submission of a detailed structural landscaping scheme comprising a significant area of woodland and wetland wrapping around the building to include the Bicknor Road frontage;*
- *Seek further details of how views from the south east could be improved as a result of the landscaping proposed; and*
- *Seek details of the energy efficiency of the building and how renewable energy measures could be incorporated into the scheme.*

- 1.02 The original report and Urgent update are annexed. At the meeting the following was verbally reported:

*The agent for the applicant provided further information (a) clarifying that the orchards to the south would be on wire supports three metres high and that the trees would grow to a height of up to four metres to provide landscape screening to complement the existing landscape screening and (b) indicating that the applicant would be willing to consider further woodland type screening as part of the landscape condition if required.*

### **2. PROPOSAL**

- 2.01 The application has been clarified/amended as follows.

#### Structural landscaping scheme

- 2.02 This has been revised to include a new wetland close to the originally proposed woodland planting to the NE of the building (ie south of the Bicknor hamlet). The depth of planting here is approx. 40-60m. A woodland belt of indigenous trees and understorey has also been proposed around the existing caravans and proposed caravans as well as to the south, east of the new CAS building and along Bicknor land. The woodland belt to the south and east of the building and parallel to Bicknor Lane is shown to be approx. 20-30m in width. The woodland belt extends to screening the approved storage maintenance building on the site.
- 2.03 New secondary hedging of mixed natives will be planted inside the poplar shelterbelts along the northern boundary and parts of the east and west boundaries and existing hedging on the rest of the boundary will be infilled with poplars where there are gaps to do so and will allowed to grow to at least 5m in height.
- 2.04 In summary there will be:
- 1,714m of secondary hedging
  - 61m of additional poplars to be provided in the existing hedge
  - 24,526 sqm of Dry Woodland Planting
  - 1,316 sqm of Wet Woodland Planting
  - 162 sqm of waterside planting
  - 10,707 sqm of Special meadow grass seed mix
  - 4,603 sqm of Wet and meadow grass seed mix

Views From The South East

- 2.05 Photomontages have been submitted indicating the degree of future screening of the site from the SE viewpoint and there are also photomontages for views from the east, west and north.
- 2.06 A section drawing has been provided which shows that an existing 3-4m high hedgeline combined with the topography (upwards slope) of the ground to the south of the building means that the visual impact of the new building is limited and once the woodland planting reaches a mature height (eg 12m), would not be visible at all from that viewpoint.

Energy Efficiency/Renewable Energy

- 2.07 The agent has advised that the proposed development was originally requested by the applicant to be designed to be compliant to BREEAM – “Very Good”. However, Specialist Energy consultants (BBS) confirm that a building of this use is not BREEAM assessed because it is technically a low energy facility and it is not occupied by people as such. The scheme should therefore have the suggested condition 19 imposed from the 6 September agenda.
- 2.08 However, the agent confirms it will include the following systems and would be constructed from materials which are as environmentally friendly as possible and enable the building to operate in the most energy efficient manner.
- 2.09 There are 2 types of panels being proposed for this facility:
- a non-fire rated composite panel from Kingspan specifically designed for cold storage facilities (filled with a QuadCore hybrid insulation core which rated Green Guide A+ as per the BRE Global “The Green Guide to Specification”)
  - Eurobond Panel complying to BES 6001 for responsible sourcing of construction products standard (ie an independent body has verified that the building material has been produced in a manner which has minimised its environmental impact and is sustainable). All of Eurobonds panels are fully recyclable
- 2.10 All the lighting will be LED and internally switched via timed motion sensors. The entire facility has an automated control system: less electricity is used and less noise is generated. Secondary Refrigeration Systems will be very energy efficient and have inbuilt controls which optimise the operation of the cooling machinery and reduce energy use. Modern systems use Glycol which is non-toxic, non-corrosive and has excellent thermodynamic properties. Energy saving defrost systems are combined with a pipe work system which had its own cold buffer built in.
- 2.11 Regulation 21(3) of the Building Regulations 2010 sets out the types of building that need comply with the energy efficiency requirements and exempt from the requirements are non-residential agricultural buildings with a low energy demand. The space at the CAS is purely for the controlled storage of apples, with no provision for any space to heated or cooled for occupancy by persons. Therefore the Building Regulations do not apply here for energy efficiency requirements (which would usually mandate the investigation into the use of low carbon or renewable technologies within the proposals).
- 2.12 Notwithstanding the above a renewable technologies feasibility assessment from BBS has also been submitted. It concludes:
- Solar Thermal panels/Bio Fuels/Heat pumps are not feasible as there is no heating or hot water demand in the building.
  - Wind Turbines and Photovoltaic panels are potentially applicable.

- 2.13 However, the report goes on to state that in order for a wind turbine to produce any worthwhile impact, it would need to be of a relatively large scale (rotor diameter 10m or above). This could be considered unacceptable within the local AONB environment. The orientation of the building results in the roof pitching towards SEE/NWW, which is not ideal for a photovoltaic installation. However, some level of power production could be achieved with a SEE facing array. During summer period (May-September), where photovoltaics are most effective there will be virtually no power demand at the site, as the stores will be empty awaiting the autumn harvest. Therefore, the energy efficiency of the site would not benefit significantly from their installation.
- 2.14 The applicant has also commissioned a desktop study to assess the options and viability for exporting energy to the Grid from Swanton Farm. They have concluded that it is highly unlikely that the UKPNL distribution network will be able to accommodate any export generation from Swanton Farm without major network reinforcement. The costs and time to undertake that is prohibitive and unviable, being a National Grid assessment; very limited capacity in the 33kV network in the area and at Sittingbourne Primary Sub station and very limited capacity for generation on the local 11kV network.

#### Other Changes to the application documents

- 2.15 A Legal Agreement has been drafted to ensure that the routing is now limited to the direction of turn into to or out of the site (rather than wider use of the highway network) which can be a MBC rather than KCC enforced matter. It will oblige that all HGVs owned or directly controlled by the owner and used for the purpose of the development shall follow the route shown on the HGV Routing Scheme Map (except in emergencies). The routing plan shows that HGVs will enter and leave with turns into and out of the new site entrance via Swanton Street only and thus away from Bicknor hamlet.
- 2.16 The agent has clarified that the proposed Finished Floor Level height for the building will be 155.230mOD.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Borough Local Plan 2017: SS1; SP17; SP18; SP21; SP23; DM1, DM2;  
DM3, DM4; DM6; DM8: DM21, DM30; DM36; DM37,  
Supplementary Planning Documents: Landscape Character Assessment Guidelines  
and Maidstone Landscape Character Study

### **4. LOCAL REPRESENTATIONS**

- 4.01 Relevant consultation on the additional/amended information has been carried out. No responses had been received at the time of writing the report.

### **5. APPRAISAL**

#### **Main Issues**

- 5.01 The key issues for consideration relate to:
- Additional proposed structural landscaping/ Views From The South East
  - Energy Efficiency/Renewable Energy
  - HGV routing

### **Additional proposed structural landscaping/ Views From The South East**

- 5.02 I am satisfied that the significant increase in the area and width of landscape screening to key areas of the site combined with the local topography means that the level of screening is acceptably commensurate to a building of this size in the AONB.
- 5.03 Similarly, the landscape screening has been designed to include a new wetland and so there will be net ecological benefits which is a material consideration in favour of the development overall.

### **Energy Efficiency/Renewable Energy**

- 5.04 The agent has submitted a number of documents that indicate that the building will be energy efficient both in terms of the insulation quality of the fabric of the building and the technology of the plant used to control the temperature when the fruit is being stored. The seasonal use of the building means that the energy demands will be relatively low and that there are no staff comfortable working temperatures needs to be factored in.
- 5.05 It is the seasonal and constant albeit low energy use of the building which means that the applicant's energy consultants do not consider that it is feasible to include renewable energy measures. The only ones that would provide the necessary type of energy at the right times of the year would be wind and PV panels. The AONB location would make large wind turbines inappropriate and the PV array.
- 5.06 A desk top study has concluded that it is not viable to export renewable energy from the site to the Grid.
- 5.07 I am satisfied that the applicant has fully investigated scope for Renewable Energy as required by the Planning Committee resolution but that this site and location does not lend itself to including such measures and it would be unreasonable to impose a condition to that effect.
- 5.08 The applicant has demonstrated in my view that condition 19 suggested in the 6th September agenda report is not necessary or reasonable as BREEAM does not relate to this type of building. I therefore suggest that this condition be deleted.

### **Other Matters**

- 5.09 The routing issue has been included in a draft legal agreement which is expected to be completed by the date of the Committee meeting.
- 5.10 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The proposed development falls into the zero charging category of the Maidstone adopted Charging Schedule. Consequently the CIL liability will be zero.

## **6. CONCLUSION**

- 6.01 As per the original recommendation, there are material considerations demonstrated to outweigh the harm to the character and appearance of the countryside and the adverse impact on the Kent Downs AONB.
- 6.02 The agent has responded positively to the Planning Committee requests as regards the detailed structural landscaping, a significant area of woodland and wetland wrapping around the building to include the Bicknor Road frontage and details of

how views from the south east could be improved as a result of the landscaping proposed.

- 6.03 Full details of the energy efficiency of the building have been submitted and there has been investigation into the feasibility of renewable energy measures albeit concluded that none can be reasonably incorporated into the scheme. They have demonstrated that the BREEAM condition is unnecessary. The routing issue has also been resolved by a legal agreement.
- 6.04 Overall, I remain of the view that there are exceptional circumstances of public interest to allow for planning permission to be granted within the AONB in line with the NPPF.

## 7. RECOMMENDATION

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee):

- all HGVs owned or directly controlled by the owner and used for the purpose of the development shall follow the route shown on the HGV Routing Scheme Map (except in emergencies). The routing plan shows that HGVs will enter and leave with turns into and out of the new site entrance via Swanton Street only and thus away from Bicknor hamlet.

and the imposition of the conditions as set out below:

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

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ACG&S-SF-250 sheet1 rev E; ACG&S-SF-250 sheet 2 rev E; ACG&S-SF-251 rev F; ACG&S-SF-252 rev E; ACG&S-SF-253a rev A; ACG&S-SF-253 rev F; ACG&S-SF-254 rev C; ACG&S-SF-260 rev E; ACG&S-SF-261 rev C; ACG&S-SF-262 rev A; ACG&S-SF-292 rev B; ACG&S-SF-293 rev A; ACG&S-SF-294 rev B; P1790/02; ACG&S-SF-300 rev B ; HLA-283-01 rev B ; HLA-283-03 rev A; HLA-283-101; 01.002.1769.02GF; 01.002.1769.01SF

Reason: To clarify which plans have been approved.

- 3) The building hereby permitted shall be used only for the storage of fruit that has been grown within Swanton Farm and/or Gibbens Farm (shown on approved drawings 01.002.1769.01SF and 01.002.1769.02GF) unless otherwise agreed in writing by the Local Planning Authority and it shall not be used for any other purpose.

Reason: The building in the AONB is justified only by the operational needs of Swanton Farm and Gibbens Farm.

- 4) No open storage of plant, materials, products, goods for sale or hire or waste shall take place on the land outside of the building.

Reason: To safeguard the character and appearance of the surrounding area.

- 5) No external lighting shall be installed on the site except in accordance with details to be submitted to and approved by the Local Planning Authority and they shall be retained as approved. The lighting will be controlled to be motion sensitive outside of normal working hours and not to remain on all night.

Reason: In the interests of avoidance of light pollution.

- 6) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved by the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 7) The building shall not be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:

- A description of the drainage system and its key components
- An as-built general arrangement plan with the location of drainage measures and critical features clearly marked
- An approximate timetable for the implementation of the drainage system
- Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities
- Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

The drainage scheme as approved shall subsequently be maintained in accordance with these details.

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction), as per the requirements of paragraph 103 of the NPPF and its associated Non-Statutory Technical Standards.

- 8) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with

the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 9) Details of the proposed colour of the wall, doors and roof materials to be used in the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development in the AONB.

- 10) The development hereby approved shall not commence above slab level until, details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building.

Reason: To ensure a satisfactory appearance to the development.

- 11) The approved details of the parking/turning areas shall be completed before the first use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access thereto.

Reason: In the interests of highway safety and to ensure efficient internal movements within the site

- 12) All HGVs shall use the access detailed in drawing P1790/02 which shall be completed in accordance with the details hereby approved before first use of the building hereby permitted. The approved sight lines shall thereafter be kept free of all obstruction to visibility above 1.0m high.

Reason: In the interests of amenity and highway safety.

- 13) The development hereby approved shall not commence above slab level until details of all fencing and boundary treatments (including acoustic barriers) with details of ongoing maintenance have been submitted to and approved by the Local Planning Authority. The approved fencing and boundary treatments shall thereafter be installed prior to first use of the building and retained thereafter.

Reason: To protect the amenity of adjoining occupiers and ensure a good standard of design is achieved.

- 14) No use of the development hereby permitted shall take place until the off-site highways improvements have been completed in the form of passing bays to Bicknor Road under a s278 agreement with the Local Highway Authority.

Reason: To ensure appropriate highway conditions are maintained within the locality.

- 15) The building hereby approved shall not be used until all land engineering to visually screen the building has been carried out strictly in accordance with the drawings ACG&S-SF-260 rev E; ACG&S-SF-292 rev B; ACG&S-SF-293 rev A; ACG&S-SF-294 rev B.

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

- 16) No HGVs shall enter or leave the site during the hours of 1800hrs and 0800hrs.  
Reason: In the interests of local amenity.
- 17) A Construction Management Plan shall be submitted to and approved by the Local Planning Authority before the commencement of any development on site to include the following: Routing of construction and delivery vehicles; Parking and turning areas for construction and delivery vehicles and site personnel; Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.  
Reason: In the interests of amenity and highway safety. These details are required prior to the commencement of the development as they form an intrinsic part of the proposal's construction.
- 18) The details of landscaping submitted for approval by the Local Planning Authority shall provide for the following 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 of maintenance. The proposal shall include a wetland and woodland area on site to enhance biodiversity. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding season following completion of the development (or such other period as may be agreed by the Local Planning Authority) and any trees or plants which within a period of 5 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. The landscape scheme shall specifically address the need to provide native species only.  
Reason: To ensure that the proposed development is satisfactorily integrated with its immediate surroundings and provides for landscaping.
- 19) The approved landscaping details shall be carried out during the first planting season following first occupation of the building. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the commencement of use, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.  
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.
- 20) Prior to the first use of the premises, all mitigation measures in the noise report hereby approved shall be implemented in full and retained thereafter including a 3m high by 3m wide barrier extending south from the south west corner of the cold store and a 2m high barrier in front of the accommodation units.  
Reason: To protect the amenities of the neighbouring caravan occupants.
- 21) Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details  
Reason: To protect the amenities of the area

- 22) The development hereby approved shall not commence above slab level until a landscape and ecological management plan (LEMP) has been submitted to and approved by the Local Planning Authority. This will need to detail all the proposed biodiversity enhancements in terms of number and location. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed;
  - b) Ecological trends and constraints on 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) Map;
  - h) Details of the body or organization responsible for implementation of the plan;
  - i) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The development should be implemented in accordance with the approved details.

Reason: To safeguard and improve natural habitats and features within the site

## **INFORMATIVES**

- 1) It is understood that the reservoir will be used for drainage, however if filled from a groundwater source then you may need an abstraction licence. If the proposal involves the retention of more than 25,000 m<sup>3</sup> of water above normal ground level and will require registration with the relevant Local Authority under the Reservoirs Act 1975, and an impoundment licence from us under Section 25 of the water Resources Act 1991. Further information can be found on <https://www.gov.uk/guidance/reservoirs-owner-and-operator-requirements>
- 2) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site. Information about how to clarify the highway boundary can be found at

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

- 3) You are advised to implement a suitable scheme of directional signage to ensure that the traffic associated with the new building follows suitable routes.
- 4) You are advised to discuss with KCC (Highways and Transportation) and the Parish Council: Provision of wheel washing facilities; Temporary traffic management/signage; Timing of deliveries during construction.

Case Officer: Marion Geary

# APPENDICES

**REFERENCE NO - 18/501312/FULL**

**APPLICATION PROPOSAL**

Provision of a Controlled Atmosphere Store, concrete hardstanding, irrigation lagoon and associated engineering operations (including land raising/earthworks) and the upgrading of an existing track and access.

**ADDRESS** Swanton Farm Bicknor Road Bicknor ME9 8AT

**SUMMARY OF REASONS FOR RECOMMENDATION**

The proposal by reason of its size and bulk would harm the character and appearance of the countryside and would have a significant impact on the Kent Downs AONB and so the Borough Council needs to be satisfied that there are material considerations demonstrated to outweigh the harm.

The proposal is clearly necessary for agriculture. The building is clustered with other built form and the use of land for workers caravans rather than being ad hoc sporadic development.

The scheme includes significant engineering works to give topographical changes for screening purposes that are designed to be as natural in appearance as possible

KCC Highways and Transportation advise that the application would not have a material impact upon the safety and operation of the adjoining highway network and that there is no unacceptable impact on highway safety, nor are the residual cumulative impacts on the road network severe.

The distance of the local residents from the proposed development combined with the imposition of conditions relating to noise and lighting mitigation means that any impact on residential amenity is not considered harmful enough to warrant refusal of the scheme.

The provision of the reservoir benefits the functional need of the business to have access to irrigation water and to manage surface water run-off and provide biodiversity enhancements. These multi functional purposes of the reservoir are supported.

The proposed building is large but the demands of modern fruit farming to support traditional orchards are such that it is justified. The need for efficiencies and economies of scale dictate a building of this form and scale.

There is a strong economic case and national importance of an expanding agricultural enterprise at the forefront of technological and horticultural advances and which are endorsed by Government departments aiming to meet objectives to improve self sufficiency in food.

Overall, it is considered that this proposal represents an exceptional form of development in the AONB and therefore planning permission should be granted.

**REASON FOR REFERRAL TO COMMITTEE**

Contrary to the views of Hollingbourne PC and Bicknor Parish Meeting.

6 September 2018

Application called to Committee by Hollingbourne PC.		
<b>WARD</b> North Downs	<b>PARISH/TOWN</b> Bicknor	<b>COUNCIL</b> <b>APPLICANT</b> AC Goatham And Son <b>AGENT</b> Bloomfields
<b>TARGET DECISION DATE</b> 15/11/18		<b>PUBLICITY EXPIRY DATE</b> 30/08/18

**Relevant Planning History**

18/500202/LAWPRO

Lawful development certificate (Proposed) fifteen mobile homes for seasonal agricultural workers.

Approved Decision Date: 08.03.2018

17/505779/AGRIC

Prior notification for the erection of 1no. Agricultural building.

Prior Approval Not Required Decision Date: 01.12.2017

13/1682

Details submitted pursuant to condition 2 (Materials) and conditions 5 (Lighting) appended to planning permission MA/13/1055 (Siting and over winter storage of seasonal workers caravans, erection of building for communal facilities along with associated fencing works)

Approved Decision date: 16.10.2013

13/1055

Siting and over winter storage of seasonal workers caravans, erection of building for communal facilities along with associated fencing works as shown on drawing no. : 13/280 rev 01, 02, 03, 04, appendix 3 showing schematic block plan, site and planting plan 6.6.13v1 and site location plan scale 1:10000.

Approved Decision date: 19.09.2013

**MAIN REPORT**

**1. DESCRIPTION OF SITE**

1.01 The development is proposed at the farm's existing yard which is located to the south east of the hamlet of Bicknor in the NE of the Borough. This is to the south of Bicknor Lane, opposite the northern part of Swanton Farm in the same holding and some dwellings and commercial premises.

1.02 Bicknor Lane is a single carriage way lane that has junction with Swanton Street (B2163) to the east which is inside a bend. This is a North-South link road through

6 September 2018

the North Kent Downs between Hollingbourne and Bredgar, parallel to Detling Hill. It has a national speed limit at the junction.

- 1.03 The site lies in the countryside and in the North Downs Area of Outstanding Natural Beauty (AONB). The Church of St James, a Grade II\* listed Church is approx. 500m to the NW and the Grade II\* dwelling of Court Lodge is approx. 200m to the north within the hamlet of Bicknor. The main hamlet of Bicknor is 185m from the proposed new building and 120m from the proposed reservoir.
- 1.04 There are no PROW near the application site but KH165 and KH166 run east-west through the hamlet of Bicknor.
- 1.05 Properties at Captains Farm and residential conversions within Apple Barn are on the opposite side of the Lane, 70m from the Controlled Atmosphere Store (CAS) as proposed and 130m from the proposed reservoir.
- 1.06 Swanton Farm as owned by the applicant extends to 107ha and was purchased last year by the applicant with the view to expanding top fruit production. This includes the intention to plant almost 60k new apple trees on almost 20 ha in 2018 with a longer term plan to plant a further 106,000 trees on the surrounding orchards in the next 5 years
- 1.07 The farm already contains 20 caravans permanently on the site for seasonal agricultural workers and then overwintered (approved under planning application 13/1055) located behind an existing agricultural building (erected under permitted development). The 2013 planning permission included an amenity building which has not been erected.
- 1.08 In December 2017 a prior notification was submitted for an agricultural storage building with reference 17/505361 to be sited to the east of the existing agricultural building. The building is yet to be erected.
- 1.09 A Certificate of Lawfulness for Proposed Development (18/500202) for a further 15 mobile homes temporarily sited (ie not overwintered) for seasonal agricultural workers was granted in March 2018. These are not yet in situ but are indicated to be sited to the west of the existing 20 caravans next to the proposed reservoir.

## **2. PROPOSAL**

- 2.01 This application as amended is for the provision of a Controlled Atmosphere Store (CAS), concrete hardstanding, irrigation lagoon and associated engineering operations and the upgrading of an existing track and access. The application now includes including land raising/earthworks as part of the mitigation and off site passing places on the public highway have been separately negotiated by KCC as Local Highway Authority.
- 2.02 The CAS will be used to store apples grown and handled by the applicant. The double span building will contain 25 cold store chambers, which will facilitate the storage of 20,575 bins of top fruit in the building.
- 2.03 The intention is that the building is used for fruit storage but also will enable the applicant to target very late season sales with the objective of displacing imported fruit in the summer months.
- 2.04 The use of the building will take place between the hours of 8am to 6pm.

6 September 2018

- 2.05 Swanton Farm is forecast to produce 16,500 bins of fruit by 2023 with the significantly smaller Gibbens Farm in Swale (which extends to 35.33 hectares and is located just 1.3 miles to the north via Swanton Street) forecast to produce 4,200 bins of fruit by 2023.
- 2.06 The facility is also intended by the applicant to be a potential back-up store if other stores in the applicant's control break or need repairing and for facilitating potential additional storage in heightened harvest periods for other farms in the locality.
- 2.07 The main double span building will be sited to the SE of the existing agricultural store building and to the east of the 20 permanent caravans. It will measure 69 metres in length by 69 metres in width with an electrical component room meaning that the total floor area covered by the building is 4,863 square metres. The building will measure 12.5 metres to ridge and 9.45 metres to eaves. Fruit bins to be stored 9 bins high, with further room for unstacking. Four chiller units will be provided to the rear (south) of the building away from the public highway and screened behind the building. A 3m by 3m acoustic screen is to be sited on the SW corner of the building, intended to contain noise outbreak to the workers' caravans.
- 2.08 The CAS building would align on its north and south elevations with the 20 caravans in situ.
- 2.09 The roof is indicated to be clad with single skin corrugated fibre cement sheets shown to be light grey in colour. Doors and walls are indicated to be Olive Green/Moorland Green. Vehicles will pass through the store via roller shutter doors, going into the store to leave via roller shutter doors on the opposite end.
- 2.10 A 10m wide concrete apron will be provided either side of the building on the east and west elevations and will be used by farm vehicles and by HGVs for collecting fruit to take it to the packing facility (at Flanders Farm in Medway). A concrete apron extending 26 metres will be provided in front of the building to serve as the unloading area and to operate as a turning area for farm vehicles and the unloading of fruit bins and equipment.
- 2.11 The concrete access track will measure 7m in width and will extend eastwards for approximately 170m parallel to Bicknor Lane before entering the Lane via an existing gateway. New gates will measure 8 metres in width and are to be painted green in colour.
- 2.12 The eastern access proposed to be used as part of this proposal is intended to move the majority of the vehicle movements related to the site further away from Bicknor hamlet and the Listed Church and closer to the Swanton Street junction,
- 2.13 In terms of the emptying of a chamber, this would result in an average of 6 HGV arrivals and 6 departures a day.
- 2.14 In terms of drainage, the site could drain via infiltration, but the intention is to have a reservoir to the west (beyond the caravans) of approx. 50m by 80m. This will be part of the Sustainable Drainage System (SuDS) for dealing with surface water run-off generated from any impermeable surfacing on site. It will be used for irrigation purposes for the surrounding orchards. The topography of the land has gives a natural flow of surface water run off to the west (so this reservoir is nearer the Listed Church and the hamlet of Bicknor).

6 September 2018

- 2.15 The irrigation pond will have storm capacity for high rainfall events. Infiltration trenches and gullies with trapped outlets offer de-silting and protection from hydrocarbons.
- 2.16 The banks of the reservoir would be covered with coir erosion control matting to aid the growth of selected grasses and other plant life to encourage future biodiversity potential.
- 2.17 Having regard to the Landscape Character Areas of the Borough, the objective for the Bicknor area is to “conserve and reinforce the very distinctive pattern of orchards, by avoiding their permanent loss through grubbing up and ensuring they are managed and replanted”. The Landscape and Visual Impact Assessment from the applicant’s consultant states that any perceived impact would be offset by the large amount of mitigation planting proposed.
- 2.18 The LVIA report acknowledges the site’s location within the AONB but judges it to be of Medium Sensitivity, claiming “the development would be perceived as an almost indiscernible new element.” The LVIA considers the proposal from 16 different views, two being considered near distance, thirteen being medium and one being a long distance view. In all of these cases the perceived impact of the proposal is claimed to be “Not Significant” at completion and after mitigation planting.
- 2.19 The mitigation strategy would include hedging predominantly Hawthorn and a mix of the following species: Field Maple, Hornbeam, dogwood, Beech, Holly and Blackthorn. A taller block of woodland type indigenous species to the NW to screen views in from Bicknor and the bridleway (KH 166), to include the following species would be proposed; Field Maple; Hazel; Beech and Common Oak.
- 2.20 As part of the landscape proposal, an existing Poplar hedge would be managed to grow up for greater height to assist screening the partial views from the northern part of Swanton Farm, Bicknor and PROW KH 165.
- 2.21 The LVIA claims that “there may be an incremental increase in lighting at night but this would be seen as a minor addition to that which exists at present and is judged as Not Significant.”
- 2.22 Since the application was originally submitted, further mitigation has been submitted in landscape terms. The main building is to be dug down by 1.5m to a Finished Floor Level (FFL) of 155.23m OD giving a ridge of 167.73m OD. The orchard to the east side is to be raised to approx. 160.216m OD with the arisings and re-planted with a new orchard. There will also be a gradual bund reaching 161.496m OD. To the south, the orchard will have a height of 159.11m OD.
- 2.23 The above means that the ridge of the new CAS will be 7.5m above the bund of orchard to the east and 8.6m above the orchard to the south.
- 2.24 Floodlights with side baffles are proposed to be installed above the sectional doors and low level bulk head lights are likely be used at the entrances to the plant room and across the front of the building. The bulkhead lights will be motion activated to provide safe pedestrian access. It is stated that the floodlights will only be used in the hours of darkness to provide safe loading and unloading conditions to and from the transport vehicles and will be controlled via manual switches. Due regard will be given Ecological impact in the design of the lighting.
- 2.25 The agent has submitted a supporting statement with key points as follows:

6 September 2018

- Britain is striving for greater food security which needs efficient and environmentally low impact new build storage to continue to improve market share, support food security and to meet the needs of the customer.
- There is an increased demand for British produce to be available wherever possible: emphasised by the country's desire to leave the EU and become more independent.
- A Report of the Fruit and Vegetable Task Force (August 2010) identifies that sustainable food security and production is a priority following the release of the Food 2030 Strategy.
- Controlled Atmosphere Storage is required so that the fruit can be kept in a very good condition for extended period of time. They also assist in preserving fruit as there is no longer use of post-harvest anti-fungal products
- Food production is overlooked in planning policy and those involved in the fruit industry are missing opportunities to meet contracts, apply for grants and generally be reactive to the market demand.
- This Campaign to Protect Rural England (CPRE) document recognised that in 2010 the UK was only 38% self-sufficient in fruit, with apples and pear self-sufficiency being very low. UK apple production almost halved between 1989 and 2003.
- AC Goatham and Son is an industry leader: one of the largest growers of apples and pears in the UK.
- They are promoting the consumption of British top fruit and actively involved in research to develop fruit varieties so they can be grown and stored for increased periods of time throughout the year.
- Awarded "Top fruit grower of the year" at the UK Grower awards February 2017, and the business was also a finalist across categories open to the entire horticultural industry including, "Best Production Manager", "Edible Grower of the year" and for the "Best Business Innovation" award for their growing methods.
- Awarded Kent Invicta Chamber of Commerce's Business of the Year in March 2017
- Won the Farmers Weekly Specialist Crop Grower of the Year award for their work in reviving the fortunes for British Conference Pear in October 2017
- top prize for fruit grown on its Maidstone Farm at Sutton Valance in the East Kent Fruit Society annual Top Fruit Competition 2017
- allocated grant funding in association with The East Malling Trust and Robert Mitchell Farms as a promotion of British produce
- Funding was awarded for the use of modern cold store technology at one of their other farms.
- Over the last eight years, AC Goatham & Son have significantly invested £30 million through their business: DEFRA in 2008 granted £1.8 million to enhance their facilities.

6 September 2018

- There are benefits from local food hubs working well with the supermarkets.
- In the 2018 season, 58,820 new trees will be planted across Swanton Farm, with further plans in the next 5 years to then plant a further 106,000 trees in surrounding fields.
- There are no storage facilities at Swanton Farm to store the fruit generated or forecast to be generated on this farm, whilst there is a shortfall across the business and Kent of modern CAS.
- Packing, grading and storage facility at Flanders Farm in Medway was opened in December 2017, this project is now complete and will have seen AC Goatham and Son investing another £10 million into supporting the horticultural industry and the
- Annual GVA of the business is forecast to rise to equate to 7% of all the GVA from farming in Kent.
- The increase in fruit production forecast will generate a requirement for more seasonal agricultural workers and storage facilities. Last season AC Goatham & Son employed 251 full time staff and 450 seasonal staff expected to rise to 312 full time staff, and in the order of 900 seasonal staff.
- The building will reduce dependence by the applicant and the partner farms on third parties for “overspill” and emergency facilities which is cost saving allowing inward investment.
- The location of the building is centrally located within the farm, accessible to the local road network and the surrounding orchards. The proximity to the mobile units serves as a security feature on site, but it allows staff to be on hand to deal with any emergency issues relating to the stores (e.g. power loss).
- The location of the building has also been chosen so that it can be sunk into the landscape to reduce its perceived impact and following a recommendation coming forward from the Landscape Visual Impact Assessment.
- The natural topography allows a gravity fed drainage system to operate for dealing with surface water.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017 SS1;SP17;SP18; SP21; SP23;DM1, DM2; DM3, DM4; DM6; DM8: DM21,DM30; DM36; DM37,

Landscape Character Assessment Guidelines and Maidstone Landscape Character Study

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

6 September 2018

4.01 11 letters of support from local fruit farms

- there is a national shortage of high quality cold stores
- Government support for more British food produce throughout the year
- new varieties and techniques are resulting in larger yields
- Swanton having its own facilities allows existing local cold stores to serve other local farms.
- Reduces the handling of the fruit
- The new building will spread the traffic throughout the year
- Benefits other local businesses
- The scheme includes tree planting which is a landscape gain
- The irrigation lagoon supports water recycling in times of more restrictions of water usage.

4.02 18 objections received from local residents raising the following (summarised) issues

- Current operations have inconsiderate HGV drivers resulting in dangerous manoeuvres near the junction
- Support the idea behind the proposal but it needs to be sited away from Bicknor, nearer the Sittingbourne to Hollingbourne Road.
- concerned about the grant funding that is being sought- that should not put pressure on the Council to rush the application through
- Applicant does not live in Bicknor
- No evidence this is for Swanton's fruit,
- Inadequate evidence that can increase the yield per acre from 25 bins per acre to 80 bins per acre – vagaries of weather are not detailed.
- tree lifespan will be less than normal due to the intensity of the farming,
- Likely to become a regional hub and packing house.
- No mention of the grading needed before storage or there needs to be will be double transportation.to a grading facility prior to sale.
- No 'social value' to the community
- fully support the AONB's comments
- Overlooking and loss of outlook
- Smells and rats from waste
- Inadequate sewers

6 September 2018

- Light pollution
- Will add to flooding, including to Grade II listed house
- Building and access should be the SE corner of their site.
- noise of the cold storage fans, fork lift truck vehicles, beeps,
- average speeds are significantly higher than 20 mph
- lorry traffic noise
- too large in size, looks industrial the heart of the village
- visible from the village of Bicknor, too close to residents
- will blight the landscape not in keeping with AONB
- proposed irrigation pond - significant mosquito breeding
- Rural lanes around Bicknor are already full of rubbish in the picking season
- area such as Bicknor, noise travels significantly
- potentially 210 workers in a migrant industrial site, dwarfing Bicknor
- Workers playing loud music late at night and general chatter.
- No amenities for the workers; workers, isolated public transport links in town and the supermarkets
- No clear route for the articulated vehicles
- vehicles would be going past St James Church, a grade II listed building
- dangerous access to the Hollingbourne-Bredgar Road, a 60mph road with a blind corner
- Vision splays to main road are not owned by the applicant so no control.
- Have been accidents locally, contrary to Transport report
- Danger to walkers, dogs, families and cyclists.
- inadequate passing bays
- Increasing the pollution in an area of natural outstanding beauty.
- Mud/dust over the road, hazard for local residents
- surrounding roads are single track, narrow, twisty and very poorly kept
- Deterioration on surfaces already barely fit to drive on.
- local villages of Hollingbourne, Bredgar, and Tunstall could be adversely affected
- seasonal workers might live off site and travel to work by car

6 September 2018

#### 4.03 CONSULTATIONS

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

#### 4.04 Bicknor Parish Meeting–

- Bicknor is a small hamlet in the Kent ANOB and borders several Ancient Woodlands, there are residential properties close by. Scale of industrialisation in the heart of the village is obscene and excess.
- request that the applicant revise the scale and location of the development as it fails to meet MBC Policy DM1,8,30, and 36.
- Concerned about encroachment up to the boundaries of Ancient Woodland in Gorham wood. These new high intensity farming methods may impact the wildlife and fauna in surrounding areas.
- Deciduous nature of the vegetation opens up views of the site in the winter months. Attempts to moderate the impact through colour, double span roof and orientation but will appear as a very large industrial structure, entirely out of scale with other agricultural buildings in the locality
- Locate the building on other holdings that belong to Goatham & Son outside the AONB. Using the building to hold fruit not produced on Swanton Farm is considered wholly inappropriate in view of the scale of the proposed cold store and sensitive location.
- Important to ensure that any planning permission issued is conditioned to ensure that the new store is only used to store fruit from Swanton Farm, so as not to result in any increase in vehicles on the surrounding rural road network.
- Noise and Light Pollution
- Transportation of 200+ workers on a daily basis added to the daily arrival and collection of fruit bins creates significant noise levels.
- Additional 15 caravans; seasonal workers can create significant amounts of noise, and the lack of facilities results in them walking around trying to
- Security lighting should be low level or motion activated rather than on throughout the night.
- Background noise will be audible over the entire locality.
- Electricity demands will impact on residential supplies.
- Sewage system is not fit for purpose. But no plans have been submitted for its replacement.
- this winters rain has reduced Bicknor Lane to a river with negative impact on the roads

6 September 2018

- The drainage lagoon will be less than 50 yards from the new caravans and 150 yards from the village. Concerns about the impact of air-borne infection from this standing water in a period of hot weather
  - New store could also provide a back-up store in the event of other stores operated by the applicants elsewhere needing repair, or for "overspill" for other (unspecified) farms in the locality.
  - Swale BC refused to allow apples not grown in Swale to be stored in Swale. One might ask why MBC do not follow this approach.
  - The cold store, additional caravans and any new buildings should be further away from the village.
  - Narrow single track lanes surrounding Bicknor are already of an extremely poor quality, with potholes and mud over the road with inadequate clean-up, leaving a hazard for local residents.
  - The lanes are single track with no recognised or made-up passing places, and HGVs and buses do not reverse. This will add to journey times in and out of the village for all residents.
  - The Hollingbourne-Bredgar Road at Swanton Street from Bicknor Road is a blind corner, particularly in the summer.
  - The B2163 is already very busy and used as a rat run
  - Traffic on South Green Lane will come through the village and have to avoid Fourayes and Swanton Farm vehicles.
- 4.05 Hollingbourne PC: The development would generate a far greater amount of HGV traffic coming through the Hollingbourne village when visiting Swanton Farm. Hollingbourne already has a substantial problem with the amount and speed of vehicles driving through it, particularly with heavy vehicles. Traffic signs at the entrance of the village are largely ignored by lorry drivers.
- 4.06 Bredgar PC: The Council recognises the importance of supporting farming as part of the rural economy, and the reality of modern farming methods, it does not object PROVIDED THAT 1. The impact on the AONB is mitigated to the fullest extent possible and the AONB Management Plan is taken into account and adhered to as closely as is feasible. 2. The proposed hedgerow and woodland planting is made a mandatory condition of any approval of the application, and minimizes the impact on the views across the landscape, in particular, from our perspective, from the road into Bredgar. 3. The issue of light pollution is carefully considered and restrictions placed on lighting arrangements. 4. The inevitable heavy traffic is minimised by placing a restriction on the source of the fruit to be stored – ideally, to that grown at Swanton Farm only. Further, consideration should be given to the scale and precise location of the proposed development in relation to the size and character of the village of Bicknor whose residents will suffer the greatest impact.
- 4.07 Kent AONB: Historically orchards have played an important part in the special character of the AONB landscape and the AONB Unit is supportive of proposed additional orchard planting, especially in this locality where orchards are typical of landscape character along with associated alder and poplar shelter belts.

6 September 2018

- 4.08 Vegetative screening along the lanes is mostly in the form of poplar tree belts. Gaps in this, including in the vicinity of the road junctions on Swanton Lane with the lanes leading to Bedmorton and Swanton Farm, allowing views into the site. Furthermore, the deciduous nature of the vegetation opens up views of the site in the winter months. While it is recognised that attempts have been made to moderate the impact of the proposed building on the surrounding landscape through choice of colour, incorporation of a double span roof and orientation of the roof span, the cold store would nevertheless appear as a very large industrial structure, entirely out of scale with other agricultural buildings in the locality and an intrusive addition to this otherwise very area. Opportunities should be sought for reducing the scale of the building should be sought, or locating the building on other holdings in less sensitive areas outside the AONB.
- 4.09 Using the building to hold fruit not produced on Swanton Farm is considered wholly inappropriate in view of the scale of the proposed cold store and sensitive location. Any planning permission issued should be conditioned to ensure that the new store is only used to store fruit from Swanton Farm, so as not to result in any increase in vehicles on the surrounding rural road network.
- 4.10 In view of the elevated and remote location any lighting must be carefully managed, in accordance with policy SD7 of the Kent Downs AONB Management Plan for dark skies at night. Further information on proposed lighting and potential light spillage is required and it should be controlled to be motion sensitive outside of normal working hours and not to remain on all night.
- 4.11 In respect of the LVIA, the sensitivity assigned to many of the receptors is stated to be low to medium; receptors in nationally protected landscapes such as AONBs are generally regarded to be of a higher sensitivity. The magnitude of impact is underplayed from some of the viewpoints, in particular in winter months from viewpoints 5,6,7 and 8 would result in a significant impact.
- 4.12 Imperative that the mitigation measures are secured by condition. Gapping up of the existing poplar hedges is proposed at numerous viewpoints as well as the provision of an additional secondary hedge, however such measures are not carried through to the mitigation plan- brings into question the conclusions of the LVIA; also the proposed mitigation measures outlined for the irrigation lagoon must be secured.
- 4.13 The proposed cold store would have a detrimental impact on the Mid Kent Downs Landscape Character Area of the Kent Downs AONB that would weaken the characteristics and qualities of natural beauty and landscape character and disregard the primary purpose of the AONB designation, namely the conservation and enhancement of its natural beauty. The application is considered to be contrary to policies SD1, SD3, SD8 and LLC1 of the Kent Downs AONB Management Plan 2014 - 2019. The Management Plan has been formally adopted by all local authorities in Kent in which the AONB occurs, including Maidstone Borough Council. Management Plans are a material consideration in determining planning applications/appeals as set out in the NPPG. The application is also considered to be contrary to policy SP17 of the adopted Maidstone Local Plan which states great weight shall be given to the conservation and enhancement of the Kent Downs AONB.
- 4.14 KCC Highways and Transportation-
- 4.15 A speed survey between in April 2018 on Bicknor Road north of the site access identified 85%ile speeds of 24.1 miles per hour northbound and 23 miles per hour southbound. Visibility splays of 2.4 by 90 metres and 2.4 by 32 metres will be

6 September 2018

provided; the use of the existing reconfigured access is considered acceptable for the scale of the proposals.

- 4.16 The Farm's 2018 production levels are 7,500 bins of apples. Therefore, assuming each lorry has a capacity of 75 bins of apples but only leaves half full and the produce is harvested over a 4-month period between July and October, 230 lorry movements would be required to transport it from site to the processing facility at Flanders Farm. HGV movements are concentrated over a short period (July to October) of time. Some of the machinery equipment that the farm requires is also transported onto site, rather than being stored in situ.
- 4.17 An automated traffic count in April 2018 averaged 7-day average hourly two-way flows of 10 vehicles but the survey was not undertaken in peak harvest season (July to October) when local farmers are harvesting their produce and is therefore unlikely to be representative of peak flows on Bicknor Road.
- 4.18 Therefore, assuming each trailer has a capacity of 60 bins this amounts to 56 tractor and trailer movements over the harvest period. The forecast HGV movements (HGV) will be 2.5 times higher without the proposed cold store. This is due to the store providing the capability for goods to be transported in HGVs with full loads.
- 4.19 275 HGVs would be required to empty the store would be in addition to the tractor and trailer movements required to transport the fruit from Gibbens Farm to the store at Swanton Farm. The alternative scenario where there is no proposed store would require goods to be transported in HGVs with half loads. If each lorry was to only leave with a load of 30 bins of apples 685 HGVs would be required to transport the produce from site to store; all of which will use the local rural highway network. By transporting the produce offsite in full loads, the number of movements is decreased, along with the likelihood of conflicts between road users on local roads, given the changes in produce volumes that are already planned over the period to 2023. Should the proposals be granted permission the produce would be taken to the on-site cold store straight away and then distributed to the packaging and processing facilities in Medway as demand dictates. This will have the effect of reducing the intensity of HGV movements on the local highway network.
- 4.20 An additional 15 mobile homes on Swanton Farm will provide accommodation for an overall total of 60-90 people, all of whom will be transported around the farm in small buses/coaches with a capacity of up to 32 passengers. The loading and unloading of apples will be undertaken by the seasonal workers that will be accommodated in the mobile homes. There will be a negligible change in staff vehicular traffic movements because of the proposals.
- 4.21 The applicant has also obtained prior approval for an additional agricultural building north of the proposed store. As a result, machinery and equipment for the farms operations can be stored on site, rather than having to be transported in as required. This will remove some of the movements associated with farms existing operations.
- 4.22 The formalisation and hard surfacing of existing informal passing bays along Bicknor Road would better enable the route to accommodate the two-way nature of traffic movements. The applicant has proposed to undertake the works which should be secured and implemented under a S278 agreement with Kent County Council as Local Highway Authority.
- 4.23 Produce from the farm will be transported to the pack house in Medway for processing and packaging. Vehicles travelling to the Pack House will route via

6 September 2018

Hollingbourne and then onto the A20 and M20, or north via Swanton Street before joining the A249. The applicant has indicated they intend to avoid both Bredgar and Hollingbourne. Although both routes are constrained, it is not considered that either will be made any worse due to the overall reduction in traffic movements associated with the site.

- 4.24 The applicant has provided further swept path analysis demonstrating that a vehicle can turn within the development's curtilage and exit onto the public highway in a forward manner. A limited amount of parking will be provided for operatives because car ownership levels amongst the seasonal workers are predicted to be low. However, some site operatives may still choose to bring a private vehicle and will therefore require a degree of parking provision. A clear space of approximately 66 square metres will be provided between each caravan. These areas could be used to meet the parking demands that seasonal workers may generate for the duration of their employment at the site.
- 4.25 The personal injury collision record for Bicknor Road at its junction with Swanton Street has been checked for the last 19 years up to 30th September 2017, via crash map ([www.crashmap.co.uk](http://www.crashmap.co.uk)), and is considered to have a good personal injury collision record.
- 4.26 Request conditions including a Construction Management Plan; construction vehicle loading/unloading and turning facilities; parking facilities for site personnel and visitors; provision and permanent retention of the vehicle parking spaces and vehicle loading/unloading and turning facilities; completion and maintenance of the access and visibility splays.
- 4.27 Southern Water: The applicant will need to ensure that arrangements exist for the long term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity to avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.
- 4.28 KCC (Drainage). The proposed use of an oversized irrigation pond, trenches and a soakaway would be adequate to manage an increase in impermeable areas. At the detailed design stage we would recommend further ground investigations are carried out at proposed location of the lagoon along with information about proposed invert level and soakage zone of the infiltration trenches. This should consider the presence of Head Deposits over the Chalk which will offer poor infiltration rates. We would recommend a Condition for a detailed sustainable surface water drainage scheme.
- 4.29 Natural England: No comment: not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.
- 4.30 KCC Ecology: additional information confirms that the development will not result in a loss of the windbreak - there is no requirement for additional ecological surveys to be carried out. The application provides opportunities to incorporate features into the design which are beneficial to wildlife and this is in accordance with the NPPF.
- 4.31 Environment Agency: No objection if the reservoir will be used for drainage although if involves the retention of more than 25,000 m<sup>3</sup> of water above normal ground level and will require registration under the Reservoirs Act 1975, and an impoundment licence under Section 25 of the water Resources Act 1991.

6 September 2018

- 4.32 Kent Police: We recommend that the building should be appropriately alarmed and may benefit from CCTV to cover the main elevations of the proposed building and the main vehicle entrance gates. Access control could also be considered for these gates, including an audio visual intercom system. Doorsets and roller shutters should be to an appropriate security standard, for example LPS1175 SR1.
- 4.33 Environmental Protection: (initial comments) Land contamination and air quality are not significant factors in this application. The floodlighting of the yard has potential to cause disturbance to nearby residences. Concerned about the issue of noise mainly from the movement of HGVs on residential premises immediately opposite. No details of hours of operation of the yard or HGV deliveries and collections have been. There is also potential for noise disturbance to be caused by plant associated with the development. Given the close proximity to the residential premises and the likely very low background sound level in the area.
- 4.34 An alternative location nearer to the access point has been put forwards by local residents. This location would be further from noise sensitive receptors and make successful mitigation more likely.
- 4.35 (Additional comments): Noise report submitted to assess the potential noise impact from the proposed cold store. The HGV movements and loading and unloading activities have not been considered HGVs will not operate at night. It has also been confirmed that the proposed revised access road will take the HGVs further away from residential properties and the daytime HGV movement along with the daytime loading and unloading activities will not increase. The applicant will need to confirm the hours of operation.
- 4.36 A BS4142:214 assessment shows that the residential properties located on the site are below the assessment criteria and would therefore not be affected by the noise from the plant for the proposed cold store. However, the calculated noise level for the most affected caravan has been predicted to be 45dB.
- 4.37 The lighting plans detail LED lighting with minimum light spill. The lighting plan would be acceptable for the proposed development and neighbouring land use and residents.
- 4.38 Reductions of 10 dB could be achieved at the most exposed unit via a combination of a 3m by 3m barrier extending south from the south west corner of the cold store and a 2m tall barrier in front of the accommodation unit itself. Although the applicant mentioned that HGV's will not operate at night. We would still require confirmation of hours for the proposed HGV movements/operations.
- 4.39 Agricultural Consultant- The applicants are large-scale local fruit growers, and packers of their own fruit, and other farmers' fruit, with their operational base at Hoo St Werburgh, They own or rent a total of 26 farms, mainly in the Medway and Swale areas.
- 4.40 This proposal relates to some 107 ha land which the applicants have recently purchased at Bicknor, including 90 ha of established orchards, and further arable land that is now planned to be planted with orchard fruit.
- 4.41 The land includes a seasonal agricultural workers' camp site (20 caravans),. A permitted associated building for communal/recreational facilities has not been erected. There is one relatively small general purpose farm building nearby and a building was recently given prior approval, as general farm storage.

6 September 2018

4.42 It appears that the new facility is very largely required for the storage of the output from the applicants' own orchards, and particularly Swanton Farm itself. Whilst this is a relatively large scale development, I consider it to be necessary for the purposes of agriculture in accordance with Policy DM36 1.(i) of the Adopted Local Plan 2017.

## **5. APPRAISAL**

### **Main Issues**

5.01 The key issues for consideration relate to:

- Principle of the Development in the Countryside
- Area of Outstanding Natural Beauty
- Landscape and Ecology
- Highways
- Drainage
- Residential Amenity/Noise

### **Principle of Development in the Countryside**

5.02 Strategic Policy SS1 states that protection will be given to the rural character of the borough and to the Kent Downs Area of Outstanding Natural Beauty and its setting.

5.03 Policy SP17 defines the countryside as land outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages defined on the policies map. It says that development proposals in the countryside will not be permitted unless they accord with other policies in this plan, they will not result in harm to the character and appearance of the area nor have significant adverse impact on the setting of the Kent Downs AONB. Policy SP17 recognises that agricultural proposals will be supported which facilitate the efficient use of the borough's significant agricultural land and soil resource provided any adverse impacts on the appearance and character of the landscape can be appropriately mitigated.

5.04 The preamble to the policy advises that countryside has an intrinsic character and beauty that should be conserved and protected for its own sake, whilst also maintaining a level of flexibility to support farming and the various aspects of the countryside economy. The importance of agriculture is considered: "Agriculture remains an important influence, fulfilling a number of important and varied roles in the countryside, contributing to the local economy, and managing and maintaining much of the valued landscape...However, in line with other businesses, agriculture needs to be able to react to new and changing markets and developments in technology. Agriculture in general is having to respond to the demand for produce to be available on a year-round basis and this has the potential for adverse impacts from intensive uses to be felt on the wider landscape and in terms of ecology and resources.

5.05 The use of modern CAS is a technological advancement in the top fruit industry to reduce the reliance on imported produce by significantly extending the shelf life of produce, making the market more stable in terms

6 September 2018

- 5.06 Policy DM 36 (New agricultural buildings and structures) states that proposals for new agricultural buildings or structures on land in use for agricultural trade or business which meet the following criteria will be permitted:
- (i) the proposal is necessary for the purposes of agriculture;
  - (ii) the proposal would not have an adverse impact on the amenity of existing residents
  - (iii). The building or structure would be located within or adjacent to an existing group of buildings, in order to mitigate against the visual impact of development, unless it can be demonstrated that a more isolated location is essential to meet the needs of the holding. Where an isolated location is essential the site should be chosen to minimise the impact of the building or structure on the character and appearance of the countryside.
- 5.07 The preamble to the policy is “potential negative impacts should however, be seen against the benefit that an increased growing season can have for the rural economy and the increased period where locally grown produce is available thus reducing reliance on imported produce.”.
- 5.08 Amenity impact (ii) will be considered later in this report. The proposal is clearly necessary for agriculture. The building is clustered with other built form and the use of land for workers caravans rather than being ad hoc sporadic development. It therefore complies with criteria (i) and (iii).
- 5.09 I am satisfied that overall, the scheme complies with policy DM356 ((i) and (iii)).It does not comply with Policy SP17 by virtue of the harm to the character and appearance of the area and the adverse impact on the landscape character of the Kent Downs AONB and so the Borough Council needs to be satisfied that there are material considerations demonstrated to outweigh the breach of that policy.

#### **Area of Outstanding Natural Beauty**

- 5.10 Policy SS 1 states that the Kent Downs Area of Outstanding Natural Beauty and its setting will be conserved and enhanced and this is reiterated in policy SP17 as mentioned above.
- 5.11 The NPPF paragraph 172 says great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:
- (a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
  - (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
  - (c) any detrimental effect on the environment, the landscape.. and the extent to which that could be moderated.

6 September 2018

- 5.12 In terms of (c), it is considered that this proposal as landscaped, including the amendments in terms of the lowering the building in the ground and land raising strike the right balance measured against these criteria an efficient use of agricultural land is achieved with minimised impact upon the appearance and character of the landscape. Criteria (a) and (b) in this case would be economic considerations and these are discussed below.
- 5.13 Policy DM37 is the specific policy for economic development in the countryside and permits the expansion of businesses in rural areas. However, whilst the supportive aims of the policy in respect of the development are relevant, the scale, size and impacts of this CAS would go beyond that which is permitted by the policy which restricts new buildings to those small in scale and where the building can be integrated into the landscape. The policy then states that where adverse effects would occur, the development should look to locate in one of the Economic Development Areas (EDA), within Maidstone or one the rural service centres. This is not in the EDA and would be a substantial expansion dwarfing the existing agricultural buildings on the site. Thus, the scheme would be contrary to Policy SP17 and DM37 and the key question is whether they are any material considerations which would outweigh this policy conflict.
- 5.14 In line with the NPPF policy (paragraph 80) of placing significant weight on economic growth and supporting the rural economy (paragraph 83), Local Plan Policy SP21 states that the Borough Council is committed to supporting and improving the economy of the Borough and providing for the needs of business. That is caveated as proposals for the expansion of existing economic development premises in the countryside, should have a scale and impact appropriate for its countryside location, in accordance with policy DM37
- 5.15 The agent was asked to explain why a non AONB site cannot be used of the development bearing in mind the extent of the land holdings of the applicant over North Kent includes many holdings that are not in the AONB.
- 5.16 The case submitted in response is:
- storage facilities need to be provided as close to the fruit trees as possible to ensures preservation of the fruit in optimum conditions and allowing it to be stored as long as possible through the year.
  - all of Swanton Farm is located within the AONB
  - On average, it takes two hours to load a fruit train. There are usually 5 teams of 6 in the orchard picking at any one time due to space, amount of equipment and for health and safety reasons. Once loaded, the fruit trains are driven back to the yard by tractor across the fields, where the produce is then unloaded (up to half an hour for this process). Without an onsite CAS, 30 fruit bins are loaded into an HGV (up to half an hour for this process).
  - To reduce the “decomposition” time an HGV would leave the site half full with 30 bins not the full 75.
  - If CAS are located on site, the fruit bins can be loaded straight off a fruit train and into a cold store chamber. Thus, reducing double handling, ultimately preserving the quality of the fruit.
  - Milstead Manor Farm is also located in the Kent Downs AONB.

6 September 2018

- Gibbens Farm is also located in in the Kent Downs AONB. This only generates a quarter of the fruit derived from Swanton Farm. This location is more visually intrusive.
- Ufton Court Farm is outside the AONB has the tenancy coming to an end in 2020.
- Pond Farm at Newington is outside the AONB but the tenancy arrangement is reviewed by the landowner on a yearly basis.
- The applicant owns 14 farms on a freehold basis which would be the only option for investment of this scale to take place.
- Gwelo Farm at Newington is 18 minutes from Swanton (which would require vehicles to go back through Bicknor after loading). Any proposal here would result in the fruit being double handled before being taken for packing at Hoo. This increases the movement of vehicles on the local rural road network, it further concentrates operations at two farms during harvest period and gives a logistical problem for drivers at a very busy time when fruit lorries are already in demand elsewhere moving fruit. Delays the time in which fruit can get into storage (thus degrading the quality) and increase cost in logistics.
- Stallance Farm, Griffins Farm and Boughton Mount Farm are all freehold farms outside of the AONB. These significantly smaller in size than Swanton Farm (respectively less than a third, a seventh and a tenth), all located too far from Swanton Farm, south of Maidstone in the opposite direction to the main packhouse facility at Hoo. Illogical to take fruit in the opposite direction from where it then needs to be packed. Risk of degrading the quality of the fruit which has to travel further, double handling and increases food miles.
- Coleshall Farm and Howt Green Farm, two further freehold farms are both located at Bobbing, outside of the AONB. Notwithstanding the unsuitable distance from Swanton Farm, movement of fruit to this site would require vehicles to go north out of their way of the eventual final destination of Flanders Farm. This is illogical and degrades the fruit quality, increase costs, increases food miles.
- Bloors Farm and Pump Farm are located to the north of Rainham, and it would therefore not be possible to get the fruit into stores quickly enough when coming from Swanton Farm.
- Gore Farm is outside the AONB is located at Upchurch and thus requires the movement of lorries further afield and does not allow fruit to get into the stores within 4 hours of picking.
- Flanders Farm is outside the AONB but is located over 22 miles away, which is too far away to meet the immediate requirement to get the fruit into long term storage within 4 hours from picking, sooner ideally
- Elmstone Court Farm is outside the AONB one-hour drive away and located in the opposite direction to the Hoo packhouse.
- It has been suggested that the applicant could buy another site, close by and not in the AONB to accommodate this cold store facility but unaware of such opportunities being available for land.

6 September 2018

- Buying or retrofitting additional sites is unviable, not least given the additional capital outlay for such facilities, and the premium cost of brownfield land.
  - The prospect of renting facilities, even if they were available locally would be extremely competitive and costly given the shortfall in such facilities, let alone Controlled Atmosphere stores.
- 5.17 The proposal at Swanton Farm comprises economic development which has been evidenced to be essential to an expanding business. Lack of any on site CAS would result in a severe shortfall in storage space for the business and those dependent on it.
- 5.18 Having regard to policy DM30(iv) there is no building suitable for conversion or to meet the modern facility needed to store fruit. In locality terms, the building is close to the existing built form of the existing farm yard (albeit buildings erected under agricultural permitted development rights or prior notifications). It is a location that has planning permission for the permanent caravans and an amenity block (latter not implemented).
- 5.19 In the light of the detailed appraisal from the agent on alternative sites, it is considered that there are no operationally realistic alternative available sites to the Orchards which could accommodate the projected growth of the business with the direct and indirect economic benefits that will accrue from the expansion of the business. This includes extra jobs directly and associated jobs in the supply chain and additional economic benefits generated.
- 5.20 Nationally, the government is committed to securing economic growth in order to create jobs and prosperity building on the country's inherent strength and to meeting the twin challenges of global competition and of a low carbon future. There is a clear national objective to become more self sufficient in food.
- 5.21 Thus it is clear there is an identified need for the new building within the AONB and significant economic benefits to the national agricultural economy in terms of top fruit will accrue from the application in accordance with the NPPF principles and the aims of local policies. The proposed development will be fundamental to expanding the agricultural enterprise and the aim to provide British apples to consumers and reduce the need to import fruit from other countries, therefore supporting the local and British economy.
- 5.22 The proposed building is large but the demands of modern fruit farming to support traditional orchards has been justified in my view. The need for efficiencies and economies of scale dictate a building of this form and scale. The retained agricultural consultant has endorsed the scheme as being agriculturally necessary for the farm of Swanton and Gibbens Farms. I am satisfied with the strength of the economic case which overrides breach in countryside and AONB protection policy and that the NPPF test for major AONB development is also met based on the national importance of an expanding agricultural enterprise at the forefront of technological and horticultural advances and which are endorsed by Government departments aiming to meet objectives to improve self sufficiency in food.
- 5.23 The AONB policy at national and local level however can only be justified in my opinion if the building is used for storage of orchard produce from the AONB. This would mean Swanton Farm and Gibbens Farm which are explicitly intended to share the new CAS. The design capacity of the CAS matches the forecast crop yield in 2023 of which 80% would be from Swanton Farm and 20% would be from Gibbens

6 September 2018

Farm. However, it would not be policy compliant for the store to be over sized to act as a more general “spare” capacity for the overall business when many of the holdings are not in the AONB except for genuine emergencies that are notified to the Council in advance. This would need to be the subject of a planning condition if Members are minded to permit the scheme.

- 5.24 Hence overall, it is considered that there is a clear need for the development, including national food supply considerations and refusing it would significantly impact on the local agricultural economy as it would mean that orchards in the AONB would be at a commercial disadvantage in future without being able to take advantage of new technologies and advancements in the production of top fruit.
- 5.25 It is my view that the agent has provided adequate evidence that there is no cost efficient way or scope for developing outside the AONB, or meeting the need for it in some other way.
- 5.26 The detrimental effect on the environment and the landscape can be mitigated by the land level changes, extensive landscaping and net ecological improvements.

### **Landscape and Ecology**

- 5.27 Paragraph 149 of the NPPF encourages long-term implications for water supply, biodiversity and landscapes. Paragraph 170 says that Planning decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity; minimising impacts on and providing net gains for biodiversity. Paragraph 175 opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 5.28 Policy DM3 (Natural Environment) aims to that new development protects and enhances the natural environment by incorporating measures where appropriate to protect positive landscape character and provide for the long term maintenance and management of all natural assets, including landscape character, associated with the development. The policy goes on to say that account should be taken of the Landscape Character Guidelines and the Kent Downs AONB Management Plan.
- 5.29 Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.
- 5.30 This development is dependant on the management of the wider landscape for orchards from the forthcoming additional planting this year and over the next 5 years. The application is accompanied by a Landscape and Visual Impact Assessment to ensure that any impacts are suitably mitigated and that the scale of the development is appropriate.
- 5.31 The area of land in question lies within character area 6, Bicknor and Hazel Street Orchards, as defined within the Maidstone Landscape Character Assessment. The guidelines for which are conserve and reinforce. The relevant actions for this area are as follows:
- Consider the generic guidelines for Dry Valleys and Downs

6 September 2018

- Bicknor and Hazel Street Orchards is situated within the Kent Downs AONB- nationally important designation with a high level of constraint
  - Conserve and reinforce the very distinctive grid pattern of orchards,
  - Conserve and reinforce the poplar and hazel shelterbelts
  - Conserve and reinforce the rural setting to the settlements
  - Conserve the historic settlements and buildings within the area
  - Conserve the narrow lanes and avoid road improvements that detract from their character
  - Seek to extend native woodland cover within areas of intensively farmed landscape
- 5.32 The Landscape Guidelines states that within this landscape character area screen planting should consist mainly of locally indigenous deciduous species. Although some simple species hedgerows are found in this area, with poplar used as a windbreak, mixed hedges are found and provide a better habitat for wildlife.
- 5.33 The selected plant species are not entirely in accordance with the Landscape Guidelines. Whilst there is a need to provide a reasonable proportion of evergreen species (and those that retain their leaves over winter) as screening but there should be only 25% Holly. *Quercus rubra* is not a native species and should be substituted by an appropriate native variety. These issues can be dealt with through landscape conditions.
- 5.34 The Preliminary Ecological Appraisal advises:
- No nearby ponds so unlikely that great crested newts would be present on site
  - Intensively managed orchard unlikely to be used by reptiles.
  - the site contains suitable habitat for breeding birds so bird nesting season is important to factor in when carrying out clearance
  - no further work is recommended with regards to dormice, badgers or bats
  - Mitigation will be carried out for small mammals including during construction
- 5.35 Paragraph 127 of NPPF says that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. The landscape mitigation provides new habitats.
- 5.36 The engineering that is a key part of the landscape strategy to give better screening what is undeniably a large bulky building are normally resisted in the AONB especially bunding which can appear alien. In this case, the topographical changes are designed to be as natural in appearance as possible- the screening is achieved by a dig down and very gentle gradients of land raising.
- 5.37 Landscaping and Ecological strategies would need to be secured by condition which would also require further detail on mitigation and enhancements in terms of the location and number and to make sure that the appropriate species and mixes are used and to ensure long term management and monitoring.

6 September 2018

5.38 The suggested enhancements are:

- Provision of ready-made bat boxes or tube
- Provision of barn owl boxes
- Provision of owl boxes in trees
- Planting of hedges with dormouse friendly species (using native species)
- Establish climbing plants on walls and other vertical structures
- Integration of green or grey roofs
- Provide suitable nesting areas for bumblebees

### **Highways**

5.39 Policy DM21 relates to assessing transport impacts. The application is supported by a Transport Assessment (TA).

5.40 The use of the new road and improved access will take vehicle movements further away from the nearest residents in Bicknor and closer toward Swanton Street.

5.41 KCC Highways have reviewed the car parking and proposed HGV movements on and off site and have no objections to the application, assessing that it would not have a material impact upon the safety and operation of the adjoining highway network. This is based on the conclusions of the TA that the HGV number increase from greater fruit yields is something that would happen in any event due to the change in agricultural practices and species. The CAS allows the HGVs to move off site as full vehicles which are more efficient practice rather than half full and it allows the HGV traffic to be spread over a longer period of time rather than peaking at harvest time.

5.42 KCC advise that there is no unacceptable impact on highway safety, nor are the residual cumulative impacts on the road network severe, hence it does not warrant refusal as per the national policy in the NPPF paragraph 109. The use of the junction of Bicknor Road and Swanton Street is an existing situation. KCC has negotiated with the applicant to formalise of a number of passing bays to Bicknor Lane to the east of the site where there has been verge damage from current operations. These are off site works that would be the subject of a s278 agreement so would be secured by a Grampian style condition.

### **Drainage**

5.43 The scheme is also supported by Sustainable Drainage System (SuDS) which have been reviewed by KCC as Lead Local Flood Authority who consider the strategy is acceptable in principle.

5.44 The provision of the reservoir benefits the functional need of the business to have access to irrigation water and to manage surface water run-off and provide biodiversity enhancements. These multi functional purposes of the reservoir are supported.

5.45 The SuDS scheme needs to demonstrate that it deals with the surface water from the development for which planning permission is sought. Current flooding issues

6 September 2018

mentioned by the objectors will obviously pre-date the development but the applicant's strategy to retain surface water for irrigation purposes would indicate that there is scope to mitigate past problems if they arise from the application site.

- 5.46 There are no foul drainage proposals from the development. Staff amenities are said to be provided by existing facilities.

#### **Residential Amenity/Noise**

- 5.47 Policy DM36(ii) as mentioned above requires that there should be no adverse impact on the amenity of existing residents from agricultural development. Policy DM1 of the Local Plan is a general policy that protects amenities from development.
- 5.48 The landscape mitigation and the changes in levels reduces the site's visual impact on the public domain of Bicknor Road. The colour of the roof and walls can be reviewed by the imposition of a condition to ensure that its visual impact is reduced as far as practicable.
- 5.49 The noise impact of the scheme has been considered by the Environmental Protection team and subject to an hours condition for HGV movements and acoustic screening to the caravans from the chillers on the southern elevation, they are of the opinion that noise can be satisfactorily mitigated by condition and that the position of the chiller units relative to local residents are screened by the building itself and by the distance such that no harm to amenity should occur.
- 5.50 The distance of the local residents from the proposed development combined with the imposition of conditions relating to noise mitigation and lighting mitigation means that any impact on residential amenity is not considered to warrant refusal of the scheme in my opinion.

#### **Other Matters**

- 5.51 The site is not in an Air Quality Management Area (policy DM6 of the MBLP) and the scheme produces no additional traffic other than would happen anyway from the increased yields which is not something that can be controlled from a planning point of view.
- 5.52 In terms of Local Plan Policy SP18 (securing the sensitive management and design of development which impacts on heritage assets and their settings) and DM4 (designated and non-designated heritage assets) the building is sufficiently far from the listed buildings in the vicinity so as not to affect their settings in my opinion.
- 5.53 Policies DM1 and DM2 of the MBLP relate to Principles of Good Design and Sustainable Design. Policy DM30 (Design principles in the countryside) sets out a number of criteria that need to be met when development is carried out in the countryside. The first three criteria are relevant to this proposal, namely; "i. The type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features; and ii. Impacts on the appearance and character of the landscape would be appropriately mitigated. Suitability and required mitigation will be assessed through the submission of Landscape and Visual Impact Assessments to support development proposals in appropriate circumstances;"
- 5.54 It is considered that the proposal has been designed in terms of its form and materials to acceptably meet the functional requirements of the business. Conditions can be imposed with regard to the building's finish ensures the proposal serves its

6 September 2018

functional purpose, whilst remaining consistent in appearance to modern agricultural buildings which are coloured to blend into the local landscape. Due to the dig down and the landscape screening, it will be the colour of the large roof span (rather than the walls) that is particularly important and how that is viewed against the landscape will dictate the most appropriate colour (which may not be light grey as proposed).

- 5.55 Policy DM8 of the Local Plan relates to external lighting: a minimal amount of lighting is proposed on site for the purposes of security and safety to allow the safe unloading and loading of fruit bins.
- 5.56 The LVIA considers lighting, concluding that there may be an incremental increase in lighting at night but this would be seen as a minor addition to that which exists at present. The landscape mitigation should assist in reducing the visibility of the lighting and a conditions would be imposed to ensure that it is designed to minimise light pollution of the dark skies.
- 5.57 Policy DM 2 (Sustainable design): this building can be conditioned to achieve BREEAM which could incorporate decentralised energy sources, such as renewable energy.
- 5.58 Most of the matters raised by objectors are dealt with in the main report. Issues with the current farm operations, such as conflicts with inconsiderate HGV drivers or the seasonal workers needing local amenities, sewage problems, rubbish or vermin are not directly related or material planning considerations with this application.
- 5.59 The fears that this will be converted to a regional hub/packing operation cannot form part of the decision as it needs to be judged on its own merits. The Highways advice from KCC is clear that it has been judged in highway terms on the very specific matter of storing fruit that is being picked from the 2 local farms. A packing operation is a totally different proposal that would not be supported at this location. Similarly, a building for a regional hub or packing operation in the AONB would breach the NPPF with no justification for doing so.
- 5.60 The use of surface water drainage ponds for irrigation on farms is a common practice for water conservation and concerns about this being a source of air borne infections or mosquitos cannot be used as reasons to refuse this element of the overall scheme.

## **6. CONCLUSION**

- 6.01 The proposal by reason of its size and bulk would harm the character and appearance of the countryside and would have an adverse impact on the Kent Downs AONB and so the Borough Council needs to be satisfied that there are material considerations demonstrated to outweigh the harm.
- 6.02 The proposal is clearly necessary for agriculture. The building is clustered with other built form and the use of land for workers caravans rather than being ad hoc sporadic development.
- 6.03 The scheme includes significant engineering works to give topographical changes that are designed to be as natural in appearance as possible.
- 6.04 KCC Highways and Transportation advise that the application would not have a material impact upon the safety and operation of the adjoining highway network and

6 September 2018

that there is no unacceptable impact on highway safety, nor are the residual cumulative impacts on the road network severe.

- 6.05 The distance of the local residents from the proposed development combined with the imposition of conditions relating to noise mitigation and lighting mitigation means that any impact on residential amenity is not considered to warrant refusal of the scheme in my opinion.
- 6.06 The provision of the reservoir benefits the functional need of the business to have access to irrigation water and to manage surface water run-off and provide biodiversity enhancements. These multi functional purposes of the reservoir are supported.
- 6.07 The proposed building is extremely large but the demands of modern fruit farming to support traditional orchards has to be acknowledged in my view. The need for efficiencies and economies of scale dictate a building of this form and scale.
- 6.08 There is a strong economic case and national importance of an expanding agricultural enterprise at the forefront of technological and horticultural advances and which is endorsed by Government departments aiming to meet national objectives to improve self sufficiency in food.
- 6.09 Overall, I am of the view that there are exceptional circumstances of public interest to allow for planning permission to be granted within the AONB in line with the NPPF.

## **7. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

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

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

- 2) The building hereby permitted shall be used only for the storage of fruit that has been grown/produced within Swanton Farm or Gibbens Farm unless agreed in writing by the Local Planning Authority and shall not be used for any other purpose.

Reason: The building in the AONB is justified only by the operational needs of Swanton Farm and Gibbens Farm.

- 3) No open storage of plant, materials, products, goods for sale or hire or waste shall take place on the land outside of the building.

Reason: To safeguard the character and appearance of the surrounding area.

- 4) No external lighting shall be installed on the site except in accordance with details to be submitted to and approved by the Local Planning Authority and they shall be retained as approved. The lighting will be controlled to be motion sensitive outside of normal working hours and not to remain on all night.

6 September 2018

Reason: In the interests of avoidance of light pollution.

- 5) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved by the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 6) The building shall not be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:
  - A description of the drainage system and its key components
  - An as-built general arrangement plan with the location of drainage measures and critical features clearly marked
  - An approximate timetable for the implementation of the drainage system
  - Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities
  - Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

The drainage scheme as approved shall subsequently be maintained in accordance with these details.

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction), as per the requirements of paragraph 103 of the NPPF and its associated Non-Statutory Technical Standards.

- 7) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where

6 September 2018

information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 8) Details of the proposed colour of the wall, doors and roof materials to be used in the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development.

- 9) The development hereby approved shall not commence above slab level until, details of hard landscape works have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure a satisfactory appearance to the development.

- 10) The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them

Reason: In the interests of highway safety and to ensure efficient internal movements within the site

- 11) All HGVs using the CAS hereby approved shall only use the routes detailed in the letter dated 1 June 2018 from Crosby Transport Planning. All HGVs shall use the access detailed in drawing P1790/02 which shall be completed in accordance with the details hereby approved before first use of the building hereby permitted. The approved sight lines shall thereafter be kept free of all obstruction to visibility above 1.0m high.

Reason: To ensure highway safety of the site and the locality.

- 12) Prior to the commencement of the development hereby approved, details of all fencing and boundary treatments, including acoustic barriers, including details of ongoing maintenance shall be submitted to and approved by the Local Planning Authority. The approved fencing and boundary treatments shall thereafter be installed prior to first use of the building and retained thereafter.

Reason: to protect the amenity of adjoining occupiers and ensure a good standard of design is achieved

6 September 2018

- 13) No use of the development hereby permitted shall take place until the off-site highways improvements have been completed in the form of passing bays to Bicknor Road (as generally indicated on drawing 180702 P1790) under a s278 agreement with the Local Highway Authority.

Reason: To ensure appropriate highway conditions are maintained within the locality

- 14) The building hereby approved shall not be used until all land engineering to visually screen the building has been carried out strictly in accordance with the drawings ACG&S-SF-260 rev E; ACG&S-SF-292 rev B; ACG&S-SF-293 rev A; ACG&S-SF-294 rev B..

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

- 15) No HGVs shall enter or leave the site during the hours of 1800hrs and 0800hrs.

Reason: In the interests of local amenity

- 16) A Construction Management Plan shall be submitted to and approved by the Local Planning Authority before the commencement of any development on site to include the following: Routing of construction and delivery vehicles; Parking and turning areas for construction and delivery vehicles and site personnel; Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

Reason: In the interests of highway safety.

- 17) The details of landscaping shall be submitted for approval by the Local Planning Authority shall provide for the following 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 of maintenance. The proposal shall include a woodland area on site to enhance biodiversity. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding season following commencement of the development (or such other period as may be agreed by the Local Planning Authority) and any trees or plants which within a period of 5 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. The landscape scheme shall specifically address the need to provide native species only.

Reason: To ensure that the proposed development is satisfactorily integrated with its immediate surroundings and provides for landscaping.

- 18) The approved landscaping details shall be carried out during the first planting season following first occupation of the building. Any seeding or turfing which fails

6 September 2018

to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

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

- 19) The proposed building shall achieve at least a BREEAM Very Good level. A final certificate should be issued within 6 months of first occupation of the building to confirm the Very Good BREEAM rating has been achieved which will be expected to include decentralised or renewable energy.

Reason: to ensure efficiency use of natural resources and achieve sustainable energy production in line with Policy DM2 of the emerging Maidstone Local Plan.

- 20) Prior to the first use of the premises, all mitigation measures in the noise report hereby approved shall be implemented in full and retained thereafter including a 3m by 3m barrier extending south from the south west corner of the cold store and a 2m tall barrier in front of the accommodation units.

Reason: To protect the amenities of the neighbouring caravan occupants.

- 21) Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details

Reason: to protect the amenities of the area

- 22) The development hereby approved shall not commence above slab level until a landscape and ecological management plan (LEMP) has been submitted to and approved by the Local Planning Authority. This will need to detail all the proposed biodiversity enhancements in terms of number and location. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on 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);

6 September 2018

- g) Map;
- h) Details of the body or organization responsible for implementation of the plan;
- i) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To safeguard and improve natural habitats and features within the site

- 23) The development hereby permitted shall be carried out in accordance with the following approved plans: ACG&S-SF-250 rev 1 E; ACG&S-SF-250 rev 2 D; ACG&S-SF-251 rev F; ACG&S-SF-252 rev E; ACG&S-SF-253a rev A; ACG&S-SF-253 rev F; ACG&S-SF-254 rev C; ACG&S-SF-260 rev E; ACG&S-SF-261 rev C; ACG&S-SF-262 rev A; ACG&S-SF-292 rev B; ACG&S-SF-293 rev A; ACG&S-SF-294 rev B; P1790/02;

Reason: To clarify which plans have been approved.

## INFORMATIVES

- 1) We understand the reservoir will be used for drainage, however if you plan to fill the reservoir from a groundwater source then you may need an abstraction licence. If the proposal involves the retention of more than 25,000 m<sup>3</sup> of water above normal ground level and will require registration with the relevant Local Authority under the Reservoirs Act 1975, and an impoundment licence from us under Section 25 of the water Resources Act 1991. Further information can be found on <https://www.gov.uk/guidance/reservoirs-owner-and-operator-requirements>.
- 2) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site. Information about how to clarify the highway boundary can be found at

6 September 2018

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

- 3) You are advised to implement a suitable scheme of directional signage to ensure that the traffic associated with the new building follows suitable routes.
- 4) You are advised to discuss with KCC (Highways and Transportation) and the Parish Council; Provision of wheel washing facilities; Temporary traffic management/signage ; Timing of deliveries during construction.

Case Officer Marion Geary

Ref: 18/501312/FULL

**Additional representations:**

**Kent AONB unit: Objection remains:** Welcomes the proposed lowering of the AOD of the height of the building by setting it lower into the ground and the provision of a natural gradient landform, planted with orchards species which would help moderate the visual impacts of the building on the AONB landscape, but the proposed cold store would have a detrimental impact on the Mid Kent Downs Landscape Character Area of the Kent Downs AONB that would weaken the characteristics and qualities of natural beauty and landscape character and disregard the primary purpose of the AONB designation, namely the conservation and enhancement of its natural beauty.

We disagree that the building is of a scale and type which is commonly seen in the area and therefore disagree that the building would not be incongruous.

Complexes of farm buildings which are of a similar scale are made up of a series of buildings with varying eaves heights, roof forms, profiles and materials which assist in breaking up the visual dominance of the buildings.

Proposals do not accord with the Design Principles of the Kent Downs AONB Unit's Landscape Design Handbook which recommends using changes of materials or colours and varied pitches and shapes for roofs.

Under this revised approach in the new NPPF, the potential for significant adverse impacts on the natural beauty of the AONB should now be foremost to the evaluation as to whether development is major or not.

**Agricultural Consultant:** The yields assumed for more modern, higher yielding varieties are broadly in line with what appears to be achievable from other reported data. The fruit produced on these holdings needs transporting via the local road system either immediately at harvest, or after a period of on-farm storage. Based on the Planning Statement, the large new packing facility at Hoo St Werburgh will be used.

**Bicknor Parish Meeting:**

Pleased to support responsible agricultural development but opposed to the industrialisation of this development:

- too big
- increases the likelihood of flooding several Grade II listed buildings
- visual, light and noise pollution especially on summer nights when windows will be open
- suggest move the development closer to the new site entrance eg 50m away from the village and closer to the new site entrance.

**Local Residents** 4 additional objection letters have been received:

- Concerns for safety of drivers, riders and pedestrians accessing Swanton Street / Hollingbourne Road which has poor visibility.
- a detailed assessment should have been undertaken in terms of monitoring the traffic flows: average speeds are significantly higher than 20 mph
- Poor and inconsiderate driving by Gotham's lorries

- In winter the hazards will be increased
- lane cannot facilitate such large and cumbersome vehicles
- current passing bays are not sufficient
- constant noise, light and movement
- No background noise survey has taken place,
- external condensers
- emergency generators
- Increase in seasonal workers : additional human and refuse waste
- flood risk
- CAS should be further distance from the village to a direct access from the B2163 Hollingbourne to Bredgar road
- Needs detection system for refrigerant leak
- harm to the local landscape AONB
- insufficient evidence that will be used for fruit picked at Swanton
- no evidence justifying the size, out of all proportion to the size of Bicknor village
- a Pack house is an inevitable step

### **Discussion:**

For clarification, the application was referred to the Planning Committee solely because having been called in by the neighbouring Hollingbourne PC.

The Parish Meeting and officers both sought a relocation of the building further from the hamlet of Bicknor but the applicant considered that there would be a worsening of landscape impact. The application needs to be considered on its merits as per the submission.

Suggested condition 2 is to be refined for clarity based on plans submitted showing the extent of the 2 farms. Suggested condition 11 includes a routing condition that needs to be the subject of a legal agreement so that KCC Highways and Transportation can enforce that element.

### **Recommendation amended**

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee):

- All HGVs using the CAS hereby approved shall only use the routes detailed in a routing plan to be submitted to and approved by the Local Highway Authority.

and the imposition of revised conditions 2) and 11) as set out below:

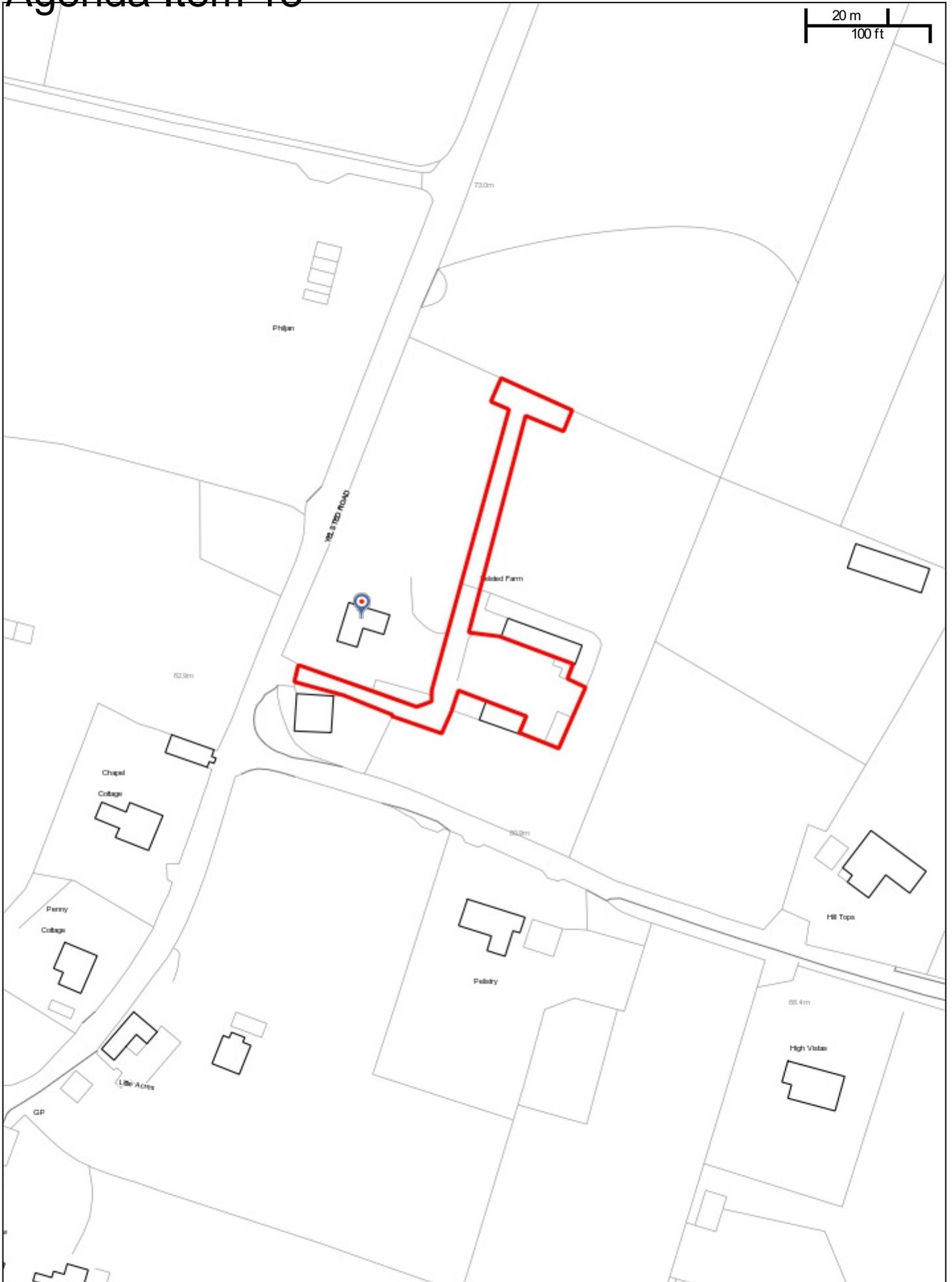
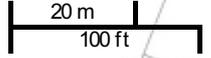
- 2) The building hereby permitted shall be used only for the storage of fruit that has been grown within Swanton Farm and/or Gibbens Farm (shown on approved drawings 01.002.1769.01SF and 01.002.1769.02GF) unless otherwise agreed in writing by the Local Planning Authority and it shall not be used for any other purpose.

Reason: The building in the AONB is justified only by the operational needs of Swanton Farm and Gibbens Farm.

- 11) All HGVs shall use the access detailed in drawing P1790/02 which shall be completed in accordance with the details hereby approved before first use of the building hereby permitted. The approved sight lines shall thereafter be kept free of all obstruction to visibility above 1.0m high.

Reason: In the interests of amenity and highway safety.

# Agenda Item 15



<b>REFERENCE NO - 18/501626/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing storage buildings and siting of a mobile home within the residential curtilage of the main dwelling for occupation by a gypsy and traveller family (retrospective).		
<b>ADDRESS</b> Yelsted Farm Yelsted Road Yelsted Sittingbourne Kent ME9 7UT		
<b>RECOMMENDATION</b> Grant Planning Permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance.</li> <li>- The visual and landscape impacts are acceptable.</li> <li>- The proposal will provide a valuable windfall addition to the stock of gypsy and traveller sites and assist in meeting the need for gypsy and traveller sites set out in the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment and policy SS1 of the local plan</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of Stockbury Parish Council		
<b>WARD</b> North Downs	<b>PARISH/TOWN COUNCIL</b> Stockbury	<b>APPLICANT</b> Mr George Treeby <b>AGENT</b> Agriquestrian Consultants
<b>TARGET DECISION DATE</b> 25/07/18		<b>PUBLICITY EXPIRY DATE</b> 08/06/18

### Relevant Planning History

95/0249

Use of the land for stationing of a mobile home for residential occupation and retention of part of existing concrete hardstanding as a base for the mobile home.  
Approved Decision Date: 19.05.1995

99/1678

Outline application for an agricultural dwelling with all matters except for means of access reserved for future consideration, as shown on 1:2500 Location Plan received on 23.08.99 and as amended by 1:500 Block Plan received on 27.10.99.  
Approved Decision Date: 25.02.2000

99/1678/01/C01

Approval of reserved matters pursuant to condition 01 of MA/ 99/1678 being siting, design and external appearance of an agricultural dwelling and landscaping - Submission of details received on 5 July 2000 pursuant to condition 1 of MA/99/1678/01 being levels detailed on drawing 1017/04 Preliminary/B.  
Approved Decision Date: 07.07.2000

13/0688

An application for a certificate of lawful development for the occupation of an agricultural dwelling permitted under MA/99/1678 on 25 February 2000 without complying with (occupancy) condition (ii) of that permission.  
Approved Decision Date: 10.06.2013

## **MAIN REPORT**

### **1. SITE DESCRIPTION**

- 1.1 The application site is occupied by a mobile home and attached veranda abutting the northern site boundary of Yelstead Farm. To the east of the mobile home is a small building used as a utility room and equipment store. To the west of the mobile home is a septic tank.
- 1.2 Yelstead Farm is a rectangular shaped site that is well screened on the Yelstead Road boundary and southern site boundaries. Site access is from Yelstead Road.
- 1.3 Just to the north of the site access is the farmhouse. To the south of the access is a single storey building used as a playroom with a storage building close by.
- 1.4 Situated centrally within the site is a group of outbuildings facing into a courtyard. These buildings are used for the maintenance and storage of plant and vehicles in connection with the applicant's landscape business.
- 1.5 A number of touring caravans are also present on site. The applicant advises he is a Gypsy and Traveller and these touring caravans are required to for him and his family to pursue a nomadic lifestyle in pursuit of work.
- 1.6 In a wider context the site lies outside any settlement, in open countryside and forming part of the Kent Downs AONB.

### **2. PROPOSAL**

- 2.1 Retrospective planning permission is sought to retain the mobile home. Also proposed is the demolition of storage buildings forming part of the business courtyard. What is described as a 'wildlife friendly' native species hedgerow is to be provided along the northern site boundary.
- 2.2 The following sets out applicant's personal circumstances and information on their Gypsy and Traveller status. Members are reminded that for Data Protection purposes information is anonymised.
  - Existing farmhouse occupied by 4 adults –mobile home occupied by 3 adults and two children ( one of secondary school age and one of primary school age).
  - Though related two separate family groups occupy the site.
  - The adult occupants of the mobile home will continue to live a travelling lifestyle in connection with their longstanding horticultural/landscaping business covering Kent, E and W Sussex, Surrey, Greater London and Essex.
  - No alternative pitches available at any KCC or Maidstone Council traveler sites.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents:**

- 4.1 One representation received which is summarised below:
- Supports development as it does not result in any more traffic or harm the character of the area

#### **5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

##### **Stockbury PC:**

Object to the proposal on the following grounds:

- The site is located outside of any settlement boundary.
- Site is situated in an unsustainable location that has poor access to services and transport and as a result the occupiers would have to rely on private vehicles contrary to policies SS1 and S17 of the Local Plan and the NPPF 2012.
- Erodes the openness of the surrounding area and is unjustified and unwelcome development in this rural setting.
- Harms the local landscape character and the beauty of the AONB contrary to policies SP17 and DM30 and the NPPF.

##### **Kent Highways:**

No objection.

#### **6. APPRAISAL**

- 6.1 Before considering the planning merits of the development screening needs to take place as to whether the application should have been accompanied by an Environmental Impact Assessment (EIA). Though the site falls within an Area of Outstanding Natural Beauty (AONB) the proposal is not of a scale or impact justifying an EIA. It should be stressed this is a technical assessment and has no bearing on the consideration of the planning merits of the development that is carried out below.

##### **Main Issues**

- 6.2 The main issues relate to whether the occupants of the mobile home meet the current gypsy and traveller definition and whether retention of the mobile home results in material harm to the rural and landscape character of the wider area.

##### **Principle of development**

- 6.3 The application site is located with the Kent Downs Area of Outstanding Natural Beauty in open countryside and consequently the development is assessed against the following local plan policies.

- 6.4 Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing AONB's which have the highest status of protection.
- 6.5 Policy SP17 of the Local Plan states that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted. The policy in particular refers to the need to safeguard the landscape character and setting of the Kent Downs AONB.
- 6.6 Policy DM15 states that planning permission for gypsy and traveller development will be granted if it would not result in significant harm to the landscape and rural character of the area. The requirement remains that development should be well related to local services, and would not harm the rural character and landscape of an area due to cumulative visual impacts. The policy requires sites to be well screened by existing landscape features, accessible by vehicles, not located in an area at risk of flooding and that wildlife considerations are taken into account.
- 6.7 Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features. The policy requires that impacts on the appearance and character of the landscape will be appropriately mitigated. It is stated that that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.
- 6.8 There is also Government guidance contained within 'Planning Policy for Traveller Sites' (PPTS) amended in August 2016. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.
- 6.9 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit Gypsy and Traveller sites to be located in the countryside as an exception to the general development restraint policies. The principle of permitting gypsy and traveller accommodation in this location is therefore supported by policy.

#### **Need for Gypsy Sites**

- 6.10 Local Authorities set their own target for the number of pitches to be provided in their areas in their Local Plans. The Council in partnership with Sevenoaks District Council commissioned a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012.
- 6.11 The GTAA concluded the following need for pitches over the remaining Local Plan period:
- Oct 2011 – March 2016 - 105 pitches
  - April 2016 – March 2021- 25 pitches
  - April 2021 – March 2026 - 27 pitches
  - April 2026 – March 2031 - 30 pitches

Total: Oct 2011 – March 2031 - 187 pitches

6.12 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit those actual needs may prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

6.13 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan.

#### **Supply of Gypsy sites**

6.14 Since the 1st October 2011 (the base date of the GTAA) up until the 30<sup>th</sup> September 2018 the following permissions for pitches have been granted (net).

Permanent/non-personal – 132

Permanent/personal - 25

Temporary/non-personal - 4

Temporary/personal – 35

6.15 Therefore a net total of 157 permanent pitches have been granted since 1<sup>st</sup> October 2011. A further 30 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

6.16 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The local plan allocates specific sites sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan.

6.17 The PPTS requires the Local Plan to identify a supply of 5 years' worth of deliverable sites against the Plan's pitch target. At the base date of 1st April 2016 the Council could demonstrate a 5.6 year supply of Gypsy and Traveler sites. However the 5 year supply position is reviewed on the 1<sup>st</sup> April each year.

6.18 As of the 1<sup>st</sup> April 2018 the Council can demonstrate 5.2 years' worth of deliverable pitches at the 1<sup>st</sup> April 2018.

6.19 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting temporary consents. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply.

### **Gypsy Status**

- 6.20 The planning definition of 'gypsies & travellers' as set out in the PPTS, has been amended to exclude those who have ceased to travel permanently. Annex 1 of the PPTS defines gypsies and travellers as: -

*"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such".*

- 6.21 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependents', health or education needs or old age. To determine whether an applicant falls within the definition in terms of ceasing travel temporarily, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.22 A matter first to be addressed is whether living in a house for many years affects the gypsy and traveller status of the occupants of the mobile home. It is understood that while living in the house they also lived a nomadic lifestyle in pursuit of work. The house was used as a permanent base with the outbuildings acting as a maintenance and storage hub in support of the applicants landscape business. It is highlighted that living in a house does not prevent an individual recommencing a gypsy and traveller lifestyle involving living in a mobile home as long as they continue to live a nomadic lifestyle in the pursuit of work.
- 6.23 Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance. As such it is considered that based on the submitted details the mobile home occupants are gypsies and travellers that have led and will continue to lead a nomadic lifestyle in pursuit of work and therefore fall within the revised definition set out above.

### **Landscape Impact**

- 6.24 Mobile homes are generally considered to comprise visually intrusive development out of character in a countryside setting. Consequently, unless well screened or hidden away in unobtrusive locations, they are normally considered unacceptable in their visual impact. They are normally only permitted on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 6.25 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure.
- 6.26 Policy DM15 specifically relating to gypsy and traveller development, states, amongst other things, that permission will be granted if a site is well related to local services, and would not harm the rural character and landscape due to cumulative visual impacts. The site should be well screened by existing

landscape features. The site should be accessible by vehicles, not located in an area at risk of flooding and that wildlife considerations are taken into account.

- 6.27 The site is identified as falling within open countryside and the Kent Downs Area of Outstanding Natural Beauty (AONB). Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing AONB's which have the highest status of protection. Policy SP17 of the local plan states amongst other things that great weight should be given to the conservation and enhancement of the Kent Downs AONB and that development should not have a significant adverse impact on the settings of the Kent Downs AONB. Policy DM30 also requires that account should be taken of the Maidstone Borough Landscape Character Guidelines SPD.
- 6.28 The mobile home is located at the back of the application site in a well screened location. The mobile home is not visible from outside the site and as a consequence it is considered to meet the visual requirements of policy DM15. The proposal will not result in material harm to the rural and landscape quality of the area and is in line with the provisions of the NPPF and policies SP17 and DM30 of the local plan.

### **Cumulative Impacts**

- 6.29 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not should dominate the nearest settled community and or place undue pressure on local infrastructure. In addition policy DM15 of the Local plan states, amongst other things, that permission will be granted if a site would not harm the rural character and landscape of an area due to cumulative visual impacts.
- 6.30 Dealing first with the whether the development dominates the nearest settled community. With the the modest number of persons involved, the development does not dominate the nearest settled community.
- 6.31 Regarding cumulative visual impacts this is an isolated and 'stand alone' gypsy and traveller site and no cumulative visual impacts are identified as a consequence.

### **Sustainability**

- 6.32 Gypsy and traveller sites are mainly located in the countryside and published planning guidance acknowledges this. As such normal sustainability principles relating to siting and access to facilities do not apply.
- 6.33 Nevertheless policy DM15 states, amongst other things, that local services, in particular school, health and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport.
- 6.34 It is acknowledged that the site occupies an isolated rural location remote from public transport and services. However as the occupants of the mobile home were previously living on site in the existing farmhouse there will be no material change in site circumstances and as a result no justifying objection on sustainability grounds.

**Amenity**

- 6.35 There are no nearby residential dwellings that would experience direct loss of outlook or amenity arising from the development.

**Highways**

- 6.36 The potential impact on the local highway network and the site access have both been considered and found to be acceptable. Kent Highways raises no objection.

**Wildlife**

- 6.37 The intention to provide a native species hedgerow running along the northern site boundary will provide additional screening while also contributing to wildlife habitat. A planning condition is recommended to seek the planting of this hedge.

**Other matters:**

- 6.38 Government Guidance states that the retrospective timing of a planning applications submitted is a material consideration that should be taken into account in determining such applications. However, guidance on how much weight this should be given is not clear. Furthermore the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives and to take a positive approach. As such, when assessed against planning criteria the fact that retrospective planning permission is being sought is not, on its own sufficient to weigh significantly against the development.

**7.0 CONCLUSIONS:**

- 7.1 The key conclusions are considered to be as follows:

- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance.
- The visual and landscape impacts are acceptable.
- It will provide a valuable windfall addition to the stock of gypsy and traveler sites and assist in meeting the need for gypsy and traveller sites set out in the GTAA and policy SS1 of the local plan

- 7.2 In the circumstances it is considered the impact of the development is acceptable and planning permission should be granted as a consequence.

**7. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

1. The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: To reflect the special circumstances of the application.

2. No more than 1 caravan and 1 tourer, (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the character and appearance of the countryside.

3. Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the night time rural environment and in in the interests of amenity and ecology.

4. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority.

Reason: In the interests of the visual amenity.

5. The landscaping and planting proposals shown on drawing number 2490/2 shall be carried out in the first available planting season following the date of the planning decision notice. Any planting becoming dead dying or diseased within 5 years of planting shall be replaced by specimen/s of the same size and species in the same location.

If the planting is not implemented within the first available planting season the use of the site for gypsy and traveller purposes shall cease, the mobile home, touring caravan any hardstandings and other related development be removed and the site restored to its previous condition.

Reason: in the interests of visual amenity.

6. Within 6 months of the date of the decision notice the buildings shown as being demolished on drawing 2490/8 shall be removed from the site with all resulting material removed from the site.

Reason: in the interests of visual amenity.

7. The development hereby approved shall only be carried out in accordance with drawing no: 2490/1, 2, 3A, 7 and 8.

Reason: In the interests of amenity.

Case Officer: Graham Parkinson

# Agenda Item 16

## REPORT RELATING TO SIGNIFICANT COSTS WARNING

### APPLICATION 18/501745/REM – LAND TO THE EAST OF HERMITAGE LANE, MAIDSTONE, KENT

#### 1.0 Recommendations

**Recommendation 1: That Planning Committee does not pursue the reasons for refusal of the reserved matters details as advanced at the Committee meeting on 8 November 2018.**

**Recommendation 2: That Planning Committee agrees either route option 3 or 2 through the woodland, and approves the reserved matters details, and provides a justification for the choice.**

#### 2.0 Reasons for Recommendations

2.1 There is considered to be no realistic prospect of defending the Planning Committee's reasons for refusal at appeal. Attempting to defend the reasons for refusal will expose the Council to a high risk of a significant adverse costs award. This is on the grounds of unreasonable behaviour, through inappropriately applying paragraph 175(c) of the NPPF to the reserved matters details. This risk of an adverse costs award is in addition to the Council's costs of defending an appeal, which would also be significant.

2.2 On this basis, Planning Committee is strongly recommended to approve either route option 3 or 2 through the woodland, and approve the reserved matters details, and provide a justification for the choice.

#### 3.0 Background

3.1 This application for reserved matters details was originally reported to Planning Committee on 27<sup>th</sup> September 2018 with a recommendation for approval. The layout details recommended for approval included a route (Option 3) through Ancient Woodland in order to link the site to earlier phases of the approved development. Members deferred a decision for the following reasons:

*1. Examine in more detail the impact of vehicular access Options 2 and 5 through the woodland taking into account the visual impact of the works and any works necessary to meet health and safety requirements, including lighting; and*

*2. Ask whether further renewable energy measures can be provided in this Phase of the development and whether tunnels can be provided under roads to facilitate the safe passage of wildlife.*

3.2 The applicant worked up detailed plans for Options 2 and 5 as requested and the application was reported back to Planning

Committee on 8<sup>th</sup> November. Officers advised Members that Option 3 remained the acceptable and appropriate route. This also remained the applicants preferred route but Option 2 was forward as an alternative should Members wish to pursue it, as it did not result in the loss of any Ancient Woodland. Therefore exceptionally, the Committee had two alternative layout routes before them.

3.3 Members decided, contrary to the recommendation of the Head of Planning and Development, to refuse permission for either layout route (Options 2 and 3) for the reasons set out below:

*1. The loss or deterioration of ancient woodland which would result from this reserved matters application would be contrary to paragraph 175 (c) of the National Planning Policy Framework and no wholly exceptional reasons have been identified for that. The two proposed routes through the woodland would either lead to direct loss or deterioration of ancient woodland through damage to the integrity of the woodland block which would undermine its ecological function.*

*2. The disturbance caused at construction and operational stage would further disturb and damage the ancient woodland.*

3.4 Prior to the vote being taken, the Development Manager advised the Committee that the proposed reasons for refusal were not sustainable and could result in significant costs against the Council at appeal and issued a significant costs warning. Since a significant costs warning had been issued, and the Committee agreed to refuse permission, the decision was deferred until its next meeting pursuant to paragraph 30.3 (a) of Part 3.1 of the Council's Constitution and paragraph 17 (a) of the Local Code of Conduct for Councillors and Officers Dealing with Planning Matters (Part 4.4 of the Constitution).

3.5 Both committee reports are attached at the **Appendix**.

3.6 Counsel's advice has been sought on the proposed grounds for refusal, the likelihood of success at appeal, and the financial implications but is subject to legal privilege and so cannot be disclosed at this time for the risk of prejudicing any potential future appeal. However, in considering the advice, commentary on these issues is included under Section 4.0 below.

4.0 Advice

*Recommendation 1: That Planning Committee does not pursue the reasons for refusal of the reserved matters details as advanced at the Committee meeting on 8 November 2018.*

4.1 This is an application for the approval of reserved matters details pursuant to outline permission 13/1749, which was allowed at appeal by the Secretary of State (SoS) in 2015. It relates to, amongst other

things, the layout of Phase 4 of the development and so involves settling the siting of an internal access road through the woodland to connect Phase 4 to the main development.

- 4.2 At the public inquiry, three routes through the woodland were included in the applicant's proposals and the applicant's preferred route was known as Option 3. The SoS decided that:

*"Option 3, if taken forward, would result in an absolute loss of about 0.03ha of Ancient Woodland, equating to only 1.8% of the designated area... The Secretary of State agrees with the Inspector's assessment ...of the ecological effects of the proposal on the basis of option 3. Although the small loss of Ancient Woodland would technically infringe the requirements of adopted Local Plan policy H12 which calls for the retention, without qualification, of trees and woodland, the Secretary of State agrees with the Inspector that the ecological effects of option 3 would be acceptable, notwithstanding the minor loss. He therefore agrees that the tests of Framework paragraph 118, bullets 1 and 5 are clearly met in this case...." (paragraph 14)*

- 4.3 The tests of paragraph 118 no longer exist as the new NPPF has a different wording. However, of great importance is the fact that the SoS held that bullet 5 of paragraph 118 was met by Option 3. This was that the loss or deterioration of Ancient Woodland was clearly outweighed by the need for and benefits of the development in this location. The outline permission did not require the implementation of Option 3 because the SoS accepted that there might be better options once detailed appraisal of alternatives had taken place at reserved matters stage. However, the SoS had decided upon a principle issue that a route was possible to Phase 4.

- 4.4 Case law has established that reserved matters approval cannot not be withheld on a ground that has already been decided in principle at the grant of outline planning permission. Otherwise this would be to reopen an issue already decided and frustrate the permission that has been granted. The SoS has decided as a principle issues that an acceptable route is possible to Phase 4.

- 4.5 An application for reserved matters approval is not an application for planning permission. This is relevant because paragraph 175 of the revised NPPF states (with my underlining):

*When determining planning applications, local planning authorities should apply the following principles:.....*

*c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>58</sup> and a suitable compensation strategy exists; ...*

*Footnote 58: For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.*

- 4.6 The application before the Committee is a reserved matters application, it is not a planning application and so the advice in paragraph 175 of the NPPF does not apply to it. The impact upon Ancient Woodland was a principle matter that was decided upon by the SoS at the outline application stage. The SoS expressly found that the harm caused by Option 3 was clearly outweighed by the need for and benefits of development in this location, which was the necessary test at the time of the outline application.
- 4.7 The grounds for refusal refer to the loss of Ancient Woodland (Option 3) and deterioration of Ancient Woodland (Option 2), and undermining the ecological function of the Ancient Woodland through damage to the integrity of the woodland block, and that this would be contrary to paragraph 175 (c) of the NPPF without exceptional reasons. The second reason refers to disturbance and damage caused through construction and it is assumed that 'operational' means once occupied.
- 4.8 For the reasons outlined above, paragraph 175(c) is not grounds for refusing both layout options and to do so would take into account irrelevant considerations for a reserved matters application. Indeed, the reason paragraph 175 and other paragraphs in the NPPF are worded this way are so any changes to national policy are not applied to reserved matters details, as this would unreasonably frustrate an outline permission. In addition, it is an overriding matter that the SoS found there is a route to Phase 4 which passes the balancing exercise set out in national planning advice, so to refuse the proposed options would deviate from the outline planning permission and re-open a principle issue which has already been determined.
- 4.9 On this basis, Counsel's advice is that to pursue the grounds of refusal for either layout route (Options 2 and 3) would be entirely unreasonable, would have no chance of success at appeal, and will expose the Council to a high risk of a significant adverse costs award.

*Recommendation 2: That Planning Committee agrees either route option 3 or 2 through the woodland, and approves the reserved matters details, and provides a justification for the choice.*

- 4.10 If Planning Committee decide not to pursue the grounds for refusal the changes to national policy are material considerations but the higher bar now set by paragraph 175(c) is simply not engaged. Exceptionally Planning Committee has two route/layout options before them from the applicant, and needs to decide how it balances the loss of Ancient Woodland from Option 3, against a greater overall ecological harm from Option 2. It would not be unreasonable to decide that Option 2 is preferable, for example, on the basis that as a material consideration, revised national policy gives a high level of protection to Ancient

Woodland but the Committee should express clear reasons if it prefers Option 2 to Option 3 or vice versa.

- 4.11 As has been advised throughout by officers and KCC ecologists, the ecological impact of Option 2 is considered to be greater than Option 3 for the reasons outlined in the committee reports, and officers therefore continue to recommend Option 3.

#### 5.0 Alternative Action and Process

- 5.1 Should Planning Committee continue with the grounds for refusal the Head of Planning and Development (or his representative) will on the advice of the Legal Officer present and in consultation with the Chairman of the meeting, immediately after the vote has been taken, refer the application to a special meeting of the Policy and Resources Committee for determination, in line with the Council's Constitution.

#### 6.0 Conclusion

- 6.1 For the reasons set out in this report, Members are advised that the Council's reason for refusal could not be sustained at appeal and attempting to defend the reason for refusal would be unreasonable, thereby exposing the Council to a significant adverse costs award, in addition to having to bear the its own costs defending the appeal. It is therefore recommended that Planning Committee does not pursue the reasons for refusal of the reserved matters details as advanced at the Committee meeting on 8 November 2018.
- 6.2 It is advised that Planning Committee agree either route Option 3 or 2 through the woodland, and approve the reserved matters details, and provide a justification for the choice. Officers continue to recommend route Option 3.

#### 7.0 Relevant Documents

- 7.1 Appendix: Committee Reports (27<sup>th</sup> September and 8<sup>th</sup> November)

# APPENDICES

27 September 2018

<b>REFERENCE NO - 18/501745/REM</b>			
<b>APPLICATION PROPOSAL</b>			
Approval of Reserved Matters for appearance, landscaping, layout and scale for Phase 4 comprising 71 dwellings with associated infrastructure, pursuant of outline approval 13/1749.			
<b>ADDRESS</b> Land To The East Of Hermitage Lane, Maidstone, Kent			
<b>SUMMARY OF REASONS FOR RECOMMENDATION – (APPROVE SUBJECT TO CONDITIONS)</b>			
<ul style="list-style-type: none"> <li>• The site (for 71 houses) forms part of the wider housing allocation for 500 houses in the Local Plan under policy H1(2), and benefits from outline planning permission.</li> <li>• The proposals comply with the relevant criterion under policy H1(2), other relevant policies within the Local Plan, and parameters of the outline permission.</li> <li>• The development is considered to be of a high quality in terms of its design, layout, and materials.</li> <li>• The proposed vehicle access through the woodland is considered on balance to represent the best option when considering impacts upon Ancient Woodland, ecology, and the woodland amenity value as a whole.</li> <li>• Permission is therefore recommended.</li> </ul>			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Councillor Robertson has requested the application be reported to Planning Committee due to the large scale nature of the proposals which are on a prominent site and which will have a considerable impact on the local area especially the ancient woodland.			
<b>WARD</b> Allington	<b>PARISH COUNCIL</b> N/A	<b>APPLICANT</b> Croudace Homes Ltd <b>AGENT</b> Croudace Homes Ltd	
<b>DECISION DUE DATE</b> 05/10/18		<b>PUBLICITY EXPIRY DATE</b> 31/05/18	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
13/1749	An Outline application for a Mixed-Use development comprising up to 500 residential dwellings, education facility and community	REFUSED – ALLOWED ON APPEAL	19.10.15

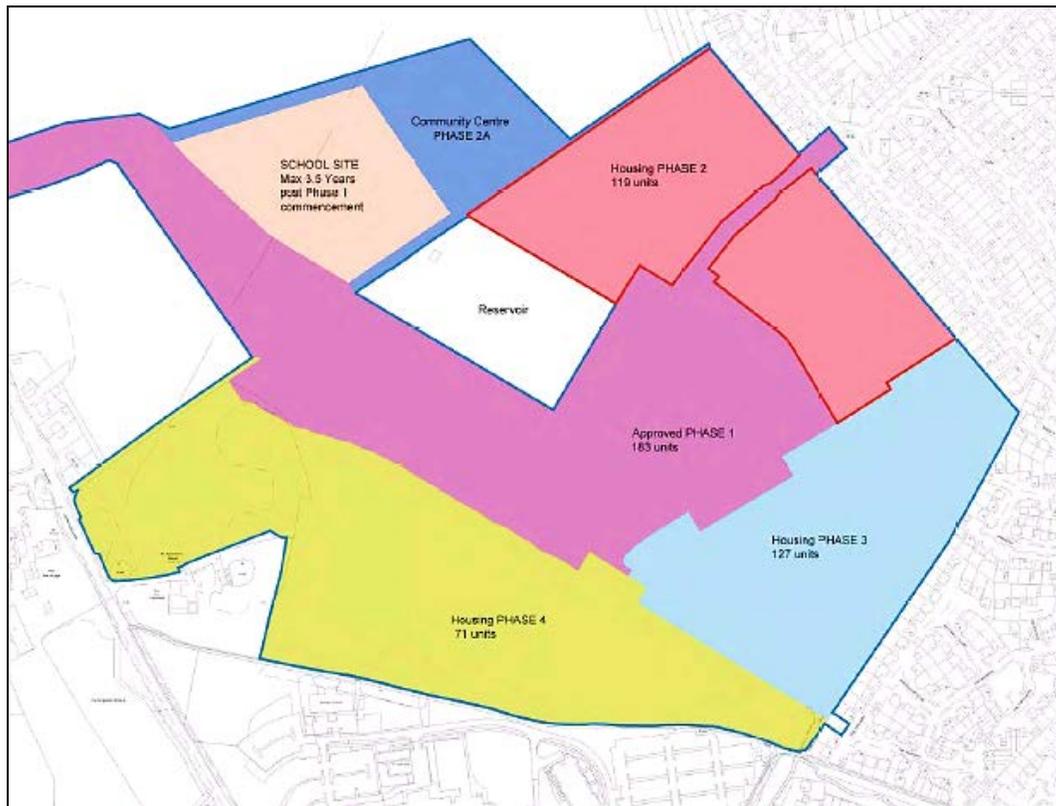
	centre. Provision of public open space associated infrastructure and necessary demolition and earthworks. The formation of 2No. new vehicular accesses from Hermitage Lane and Howard Drive. With access to be considered at this stage and all other matters reserved for future consideration.		
16/503641	Reserved matters of appearance, landscaping, layout and scale for Phase 1 for erection of 183 dwellings with associated infrastructure pursuant to outline approval ref 13/1749.	APPROVED	21.12.16
17/502767	Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale being sought) Phase 2 for the erection of 119 dwellings with associated infrastructure pursuant of 13/1749 allowed on appeal APP/U2235/A/14/2226326.	APPROVED	13.11.17
17/503680	Reserved Matters (Appearance, landscaping, layout and scale) for Phase 2A of the outline approval 13/1749 comprising Community Centre with associated infrastructure.	APPROVED	13.11.17
18/502875	Reserved matters of appearance, landscaping, layout and scale for Phase 3 of the outline approval comprising 127 dwellings with associated infrastructure pursuant to outline approval ref 13/1749.	UNDER CONSIDERATION	

## **1.0 DESCRIPTION OF SITE**

1.01 The larger housing site which has outline permission for 500 houses is located to the east of Hermitage Lane and houses are currently under construction within Phase 1. This reserved matters application relates to Phase 4 which is the grassed field on the south side of the belt of Ancient Woodland at the south end of the site which is also protected under a tree preservation order.

The woodland is to the north and east of the site, to the south is a public right of way (KB18) with a children's nursery and Maidstone Hospital beyond, and to the west is the dwelling 'The Old Hermitage'.

1.02 The site would be accessed via a proposed new road running through the woodland which will be discussed in the assessment below. This road would run off the approved layout for Phase 1. Phases 1 and 2 for housing have been approved which cover the majority of the northern part of the wider site and a community facility has also been approved under Phase 2A. The approved phasing plan is shown below.



Phasing Plan

Key: Purple (Phase 1), Pink (Phase 2), Blue (Phase 3), Yellow (Phase 4)

1.01 The site is allocated in the Local Plan under policy H1(2) for approximately 500 houses subject to a number of criterion.

## 2.0 PROPOSAL

2.01 The application seeks permission for the reserved matters of appearance, landscaping, layout and scale for 71 dwellings and includes a vehicular access through the ancient woodland (AW). There would also be a pedestrian link to the northwest corner which would run through the AW. A mix of detached and semi-detached houses of traditional design and two storeys in height are

proposed. The road through the woodland and the roads around the housing estate would not be put forward for adoption by KCC mainly to avoid the requirement for street lighting through the ancient woodland which will be discussed below. The layout and design will also be discussed in more detail in the assessment below.

2.03 It is important to note that under the outline application, the principle of housing development in this field being accessed through the woodland was accepted by the Planning Inspector and Secretary of State at the Public Inquiry. The precise route through the woodland was not set by the Inspector but various options were considered in detail and this will be discussed below. Therefore, this application cannot re-visit the principle of housing within this part of the site but can consider where it is accessed and whether the layout and design is acceptable.

### **3.0 POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP2, SP19, SP20, SP23, H1, ID1, H1(2), DM1, DM2, DM3, DM6, DM8, DM12, DM19, DM21, DM23
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Planning Guidance (2018)
- MBC Public Art Guidance (2018)

### **4.0 LOCAL REPRESENTATIONS**

4.01 **Local Residents:** 31 representations received raising the following (summarised) points:

- Harm and loss of Ancient Woodland.
- Harm to wildlife.
- Woodland is valuable to the local community.
- Loss of protected trees.
- Lack of infrastructure.
- Traffic and congestion.
- Lack of Environmental Impact Assessment.
- Disturbance through construction.
- Danger to pedestrians.
- Sink holes.
- Not the best option through the woodland.
- Lack of archaeological survey.
- Density is too high/houses should be reduced.
- Increased pollution.
- Lack of parking.
- Services should run under the road.

- Should not be a boardwalk.
- Routes through woodland should be signposted.
- Lack of affordable housing.

4.02 **New Allington Action Group:** Raise the following (summarised) points:

- Consideration should be given as to whether Phase 4 should be granted planning permission in view of recent sink holes.
- EIA is now required.
- Stronger protection for ancient woodland.
- Conditions are required to protect wildlife.
- Too many houses/too high density.
- 15m buffer zone to ancient woodland required.
- Proposed access is not the best option.
- Wildlife legislation must be adhered to.
- Drainage and sewers must be located under the road.
- Pressure and harm to woodland from new residents.
- Public right of way through woodland should retain its character.
- No cycles should be allowed in the woodland.

## 5.0 **CONSULTATIONS**

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

5.01 **Natural England: No objections** and refer to their standing advice.

5.02 **Highways England: No objections.**

5.03 **Environment Agency: No objections.**

5.04 **KCC Highways:** No objections subject to street lighting being provided in the site (not within the woodland) and conditions (which pass the relevant tests) relating to retention of vehicle and cycle parking.

5.05 **KCC PROW:** Would not want to see the PROW along the south boundary enclosed by vegetation or fencing and recommend reflective bollards where the footpath crosses the new access.

5.06 **KCC Lead Local Flood Authority: No objections** subject to detailed drainage calculations being provided via the outline conditions.

5.07 **KCC Ecology: No objections** to the layout and LEMP. Recommend a condition relating the translocation of ancient woodland soils.

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

- 5.09 **MBC Landscape: No objections.** Consider the proposed access route on balance to be acceptable; raise some issues re. proximity of trees to houses; and no objections to the landscaping scheme.
- 5.10 **MBC Environmental Health: No objections** and recommend conditions relating to air quality emissions reduction, electric vehicle charging points, and lighting.
- 5.11 **MBC Housing: No objections** to the mix of affordable housing and its location.
- 5.12 **Forestry Commission:** Refers to standing advice.
- 5.13 **Southern Water: No objections.**
- 5.14 **Kent Wildlife Trust:** Should not be lighting through woodland; LEMP must be secured; hedgehog gaps should be provided.

## **6.0 APPRAISAL**

- 6.01 The principle of housing development at the site has been accepted at the Public Inquiry under the outline consent and the site is allocated in the Local Plan for housing under policy H1(2). The key issues to consider are the following:
- The proposed vehicular access through the ancient woodland and footpath link.
  - Design, layout, scale, landscaping and compliance with the site allocation policy.
  - Highways, ecology and other matters.

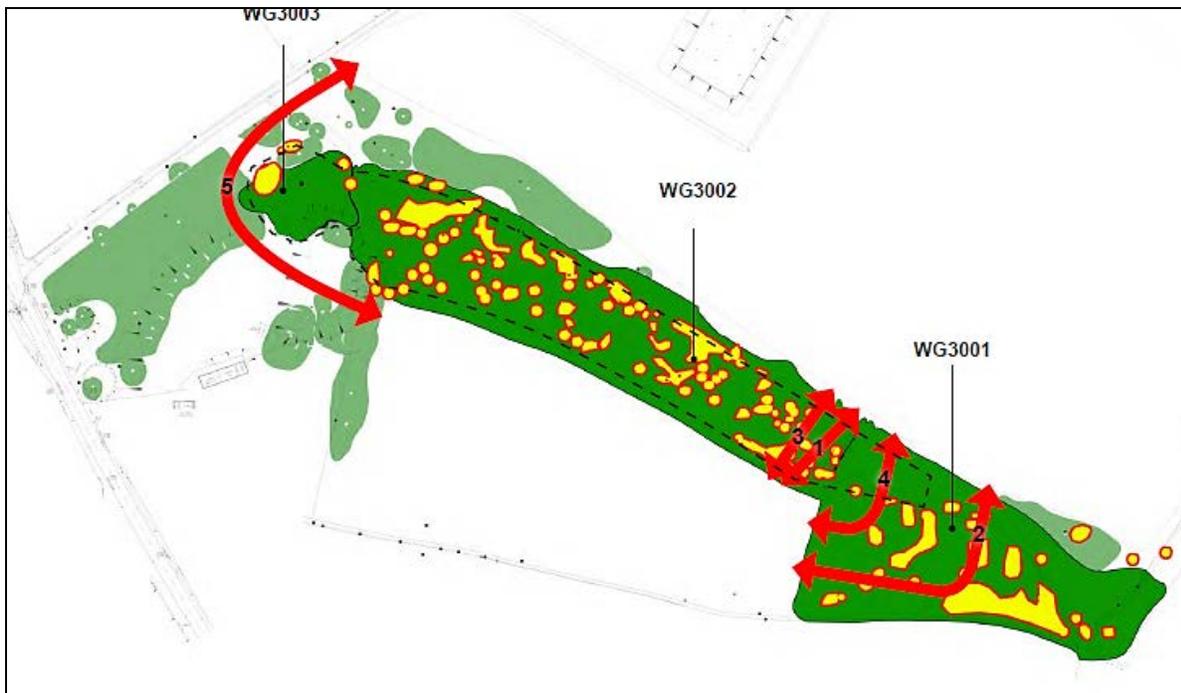
### Vehicular Access Through Woodland

- 6.02 Under the appeal, 3 routes through the woodland were included in the applicant's proposals. Two of these options were not preferred by the applicant and so were not assessed in detail by the applicant. The applicant's preferred option is that now proposed under this application (Option 3) and as more detail was provided on its impact, it was assessed by the Inspector. Because there was a lack of detail on any of the other options, or indeed alternative routes through the woodland, the Inspector did not insist on Option 3. However, he did assess Option 3 and concluded that the ecological effects would be acceptable notwithstanding the loss of ancient woodland (AW), when balanced against the benefits of the development.

6.03 Nonetheless it is important to note that the Inspector considered that other routes through the woodland had not been tested and should be explored under the reserved matters application. He states at paragraph 252 that,

*“There is therefore no convincing justification for a condition insisting on the selection of option 3 through applying the Parameters Plan. It should remain as an illustrative example only. I adopt that route for the purposes of this Report, but it needs to be understood that any finding that the development is acceptable on the basis of option 3 does not mean that some other option might not be found to be preferable at detailed stage.”*

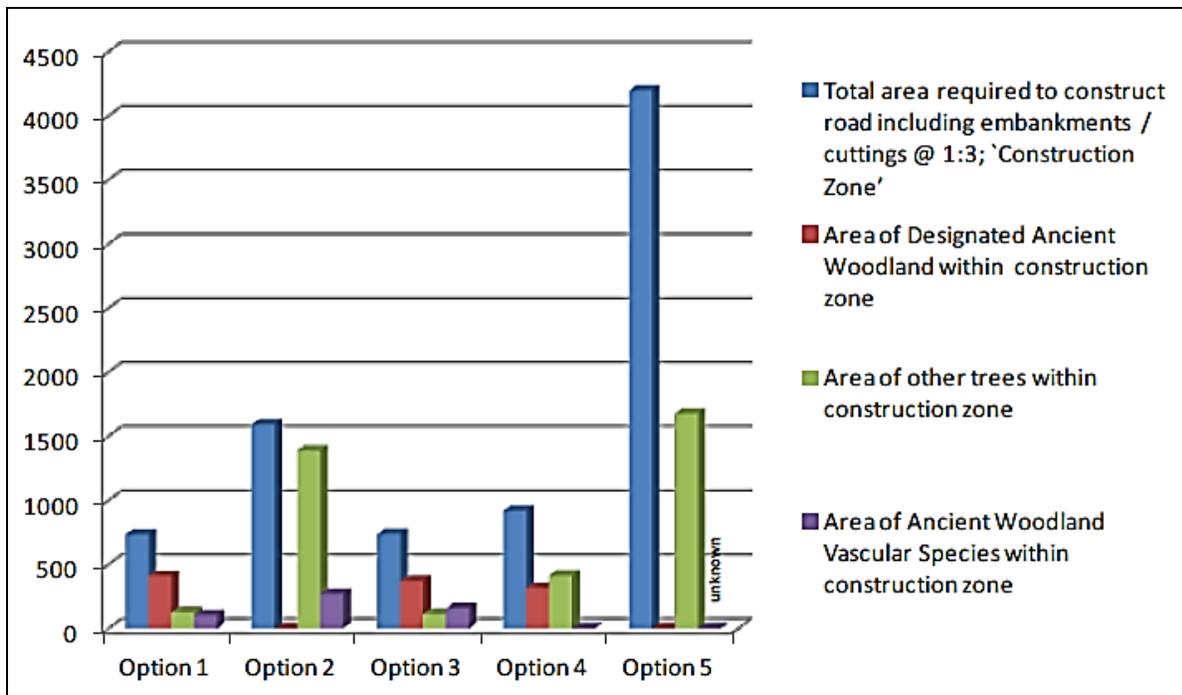
6.04 As such, the applicant has tested 5 routes through the woodland which can be seen on the plan below.



Key

Dotted Line: Extent of Ancient Woodland  
Yellow: Ancient Woodland Vascular Species

6.05 Each option has its pros and cons and some of the key impacts of each are set out in the graph below. This relates to the total area required to construct the road, area of AW affected, area of other trees/woodland affected, and area of AW indicator species.



6.06 Option 5 would run through an area that has significant changes in levels including a former quarry so would require extensive cutting and embankments, and would result in by far the longest access, significant engineering works which would be visible from the main entrance into the site, and loss of the most amount of trees/woodland groups. It would also still result in the loss of a small area of AW due to embankments (albeit lower than other options), and harm to ecology from the loss of the trees/woodland groups and some acid grassland where reptiles were present under the ecological assessment with the outline application. For these reasons it is not considered appropriate to take forward.

6.07 Option 2 avoids the AW but results in a much longer road through the woodland as a whole. Whilst it is not AW, a much larger area of the woodland would be lost, which still has significant ecological interest including ancient woodland indicator species, and the woodland (AW or otherwise) has value to the local community. KCC Ecology also consider that as the woodland is very small there is a need to ensure as much of it is maintained as possible. Due to the sheer amount of woodland impacted and for the reasons above, this is not considered to be an appropriate option.

6.08 Options 1, 3 and 4 all pass through AW with Option 1 resulting in the most loss of AW of the three. I therefore do not consider Option 1 is the appropriate option. This leaves Options 3 and 4.

6.09 Option 4 results in slightly less loss of AW (350m<sup>2</sup> against 395m<sup>2</sup>) and no loss of AW indicator species but a larger loss of woodland overall (747m<sup>2</sup> against 507m<sup>2</sup>) compared to Option 3. As such there is not a significant difference

between these two options in terms of ecological impact. Because of this, and whilst very balanced, KCC Ecology encourage the shortest route through the woodland, which is Option 3, and I agree with this. I note the Landscape Officer also considers this route on balance to be preferable. I am also well aware of the value of the woodland to the local community (AW or otherwise) and whilst I note local residents would clearly rather not see any road through the woodland, Option 3 would have the least impact upon the wider woodland in terms of its amenity value (notwithstanding the impact on AW).

6.10 The revised NPPF states at paragraph 175(c),

*“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists”*

6.11 The footnote to this paragraph gives examples of wholly exceptional reasons such as nationally significant infrastructure projects where the public benefit would clearly outweigh the loss or deterioration of habitat. Previously (and at the time of the appeal decision) AW was protected but the NPPF required a balance of the need and benefits of a development against the loss of any AW, and so set a lower bar. Policy DM3 of the Local Plan also seeks to protect AW from inappropriate development and avoid significant adverse impacts as a result of development.

6.12 Option 3 would result in the loss of 395m<sup>2</sup> of AW so wholly exceptional reasons are required to justify the loss of AW. Whilst the proposals are not a nationally significant infrastructure project, the alternative options to avoid the loss of any AW (no. 2), or less AW loss (nos. 4 and 5) are not better options on overall ecological grounds largely because they result in the loss of more trees/woodland overall. The expert ecologists at KCC are recommending Option 3 as this would have the least impact upon the woodland overall. One of the key reasons for protecting AW is for ecological grounds and so it is considered that choosing a route that results in less AW loss but more ecological harm would be a somewhat contradictory approach. As such, in this specific case, it is considered wholly exceptional reasons exist to allow the loss of a small area of AW and conflict with policy DM3 because outline permission has been granted for housing on the site, the outline permission has been implemented and is under construction, and the alternative options to access the site would have worse ecological impacts overall. In addition, the alternative options result in the loss of more woodland which is a valuable amenity to the local community.

6.13 The compensation strategy is the same as was considered suitable by the Planning Inspector at the Public Inquiry and secured being AW soil translocation (in the proposed AW buffer zone), ecological mitigation measures, new woodland planting in the northern field, management of all woodland, community orchard, parkland and grassland provisions, and

facilities to encourage to fauna. I consider this is a suitable compensation strategy for the loss of a 395m<sup>2</sup> of AW.

- 6.14 The proposed road itself would be kept to the minimum possible to provide a safe two way road and pavement on one side (5.5m road width and 2m pavement). As the land slopes down towards the north end of the woodland and Phase 1, small embankments would be required to the sides and resulting in a width between 9m-11m in total. No lighting would be provided to also limit its ecological impact and all services to the development would run underneath the road and this can be ensured by condition. New footpath ramps would be provided either side of the road on the existing public footpath.
- 6.15 In conclusion and whilst balanced, the applicant's proposed route through the AW (Option 3) is considered acceptable for the reasons outlined above.

#### Footpath Link

- 6.16 The footpath link would run from the northwest corner of the development into the AW to meet up with public footpath KB51. There is discussion of providing a boardwalk for this link within the Planning Inspector's decision (para. 256) where he felt there were merits with this approach as it would relieve trampling damage of the AW. Through pre-application discussions it was agreed that a more informal path would be the preferred option rather than a boardwalk. The applicant has therefore proposed a path with bark chippings. Advice from KCC Ecology outlines that the use of boardwalk or chips to create the path both have advantages and disadvantages but ultimately they would recommend the boardwalk to ensure the best protection of the AW as it is felt that the chip path may become muddy and walkers may veer off the path. I do not consider there is a significant difference between the two so conclude that bark chippings would be acceptable, and they would also not result in the loss of any trees. Conditions will be required to approve the construction details to ensure the minimum impact upon the AW, to prevent cycling such as bollards, and to ensure on-going maintenance of this path. KCC PROW do not wish to see bark chippings on the public footpath so they can be used up until the public footpath.
- 6.17 This link would result in the impact upon a small area of AW but it is considered appropriate to provide a designated footpath due to the increased population in the proximity. The proposed route is a clear desire line from Phase 4 to the public footpath and beyond to the future school and community centre. It is therefore considered better to have a clear path on this desire route rather than leave it to informal routes being established and the benefits outweigh any harm. This is considered on balance to be an acceptable reason for allowing a low impact upon the AW here.

#### Design & Layout

- 6.18 Considering the site policy requirements relevant to this phase first, the layout ensures that a 15m wide landscape buffer is provided between the AW and the proposed housing, and that root protection areas for trees within and adjacent to the AW would also be protected. The only intrusion into the buffer and root protection areas is for the access road into the site and the paths linking to the northwest corner. It must be noted however that the paths would not result in the loss of any trees.
- 6.19 In relation to the relevant parameters on the outline permission, all building heights are below or at 11m, as required by condition 20. The layout provides for 1.22ha of open space within Phase 4 which would mainly be natural/semi-natural alongside the woodland along with the woodland itself (3.2ha) which is in line with quantity and type specified in the original Design and Access Statement as required by condition 21. This is also in accordance with criterion 13 of the site allocation policy.
- 6.20 The layout is made up of four perimeter blocks of housing which provide strong street scenes with houses addressing all roads, and buildings turning corners with architectural detailing and/or windows. Buildings are positioned to provide end stops to views within the layout. The AW buffer forms part of a larger area of open space along the north boundary between 15-20m wide that would be planted with a woodland shrub mix and wildflower meadow with new trees. The northern road faces the AW buffer so that this space remains an open and an attractive part of the scheme and forms a green corridor supplementing the woodland with a surface water drainage pond towards the west end. Criterion 13 of the site policy states that the site should be maximised for the provision of open space, making best use of existing features within the site. The woodland would obviously be retained and the proposed landscaped area would supplement this and provide a good amount of natural/semi-natural open space here (just under 1.22ha). A small play area would be provided at the west end to complement other similar play areas throughout the wider site.
- 6.21 Along the south boundary houses are sited rear on to the public footpath. This provides surveillance of the footpath and through amendments new hedging has been set slightly off this PROW and boundary fences set back so that the footpath is not unduly enclosed. New pedestrian access points onto the footpath provide good connectivity here and mean that the development interacts well with the right of way.
- 6.22 The density equates to approximately 30 dwellings per hectare (dph) below the average density of 40dph outlined in the site policy and slightly below the density of the other phases (approximately 35dph). Buildings are set back from the roads with well-landscaped front gardens so that parking is not dominant. With mainly detached houses and spaces between at 1<sup>st</sup> floor level formed by garages in places, the layout has a 'rural' feel as opposed to the more urban fabric of phases 1 and 2 and as such the density is acceptable.

- 6.23 Generally exposed boundary treatments would be brick walling but on the eastern housing block ragstone walling would be used as this is the entrance to the site and an area where two new connection points to the southern footpath would be provided.
- 6.24 Houses and gardens would be laid out to ensure sufficient privacy and outlook and the development is a sufficient distance from the nearest neighbouring properties to the west (over 40m) so there would be no harmful impact.
- 6.25 In terms of parking, KCC Highways have raised no objections. The scheme provides a total of 177 parking spaces, including 17 visitor spaces. Most of the 3 bedroom houses have tandem parking but this allows more space for landscaping and I consider the approach here strikes the right balance between adequate provision and securing an attractive layout as per policy DM23.
- 6.26 Overall, the layout is considered to be of good quality providing a green corridor across the northern part of the site with the woodland area, buildings suitably addressing streets and good connectivity with footpaths around the site and complying with the requirements of policy H1(2), policy DM1 of the Local Plan, and the outline permission requirements.

#### Appearance & Scale

- 6.27 The site policy has no specific requirements for appearance and scale but policy DM1 seeks high quality design and positive responses to local character. As outlined above the heights are below the 11m limit set under the outline consent
- 6.28 The applicant has proposed a traditional appearance with mainly detached houses with gabled roofs (without any hips). Two storey gables are provided on some and projecting bay windows to provide interest. Detailing is provided on houses including decorative brick courses above some door and window openings, brick plinths, bay windows, porch overhangs, and chimneys on some house types. Materials proposed include red bricks, tile hanging, artificial white boarding to some elevations and in full on some house types, natural slate and clay tiles to roofs. These quality materials are secured by conditions as are samples.
- 6.29 Overall, I consider the appearance and scale of the buildings to be to a high standard in accordance policy DM1 of the Local Plan.

#### *Surfacing & Boundary Treatments*

- 6.30 Surfacing would be predominantly block paving for roads with sections of tarmac at junctions. All parking spaces and driveways would be block paved. The road through the woodland would be tarmac. The path towards the northwest corner linking to the play area would be a 'hoggin' path (mixture of

clay, gravel, and sand). Boundary treatments would include ragstone walling on the eastern block and otherwise brick walling on exposed areas. Fencing within gardens would provide privacy. Chestnut post and rail fencing (1.2m) would be provided along the road boundaries with the woodland and along the 15m AW buffer which is an appropriate treatment. Overall, I consider these details would provide a high quality appearance to the development.

### Landscaping & Ecology

- 6.31 The landscaping scheme provides a good number of new trees across the development with new hedges bounding front gardens. Species are mainly native particularly near to the woodland but more ornamental within the development itself which is acceptable. Overall, the landscaping scheme is of high quality, with much native planting, and would provide an attractive environment and setting for the development. The landscape officer originally raised so concern re. proximity of plots 324-326 to trees on the south boundary and future pressure due to shading but on balance does not consider this is grounds object. In response, the applicant as moved the houses slightly further away from the trees which reduces this issue.
- 6.32 One of the main implications for ecology is the new road through the woodland which is discussed above. In terms of the translocation of the AW soils there is the potential for some overlap with archaeology works and so a condition is recommend by KCC Ecology requiring details of the methodology for this taking into account any archaeological interests. The section 106 for the outline permission requires a Landscape and Ecology Management Plan (LEMP) for each phase and this has been submitted for phase 4 with the aim of delivering net biodiversity gains and protecting the AW. Enhancements include invertebrate boxes, bird and bat boxes across the site, Hibernacula, refugia and log piles. KCC Ecology has confirmed that the LEMP is acceptable.

### Highways

- 6.33 The access road through the woodland and within the development would not be offered for adoption by applicant (and this is not compulsory). The main reason for this is because with adoption comes the requirement for street lighting. Street lighting on the access road through the AW would be to the detriment of ecology and have a further negative impact upon the character of the woodland. KCC Highways have acknowledged the preference for no lighting but did raise concerns regarding speed reduction measures that were proposed on the woodland road including speed humps which they would require to be lit. The applicant has removed these measures and KCC now do not object because they consider the raised tables at the junctions at either end of the road would be sufficient to control speeds at a safe level. They recommend reflective bollards where the right of way crosses the road near the middle which would be acceptable and can be secured by condition.

- 6.34 Within the site, lighting would be provided which KCC advises would be necessary to ensure safety. KCC refer to a section within the layout where no footway is provided which is between plots 359-364 for around 55m. The applicant has designed this to be shared space areas and KCC advise that if this is the case then lighting should be provided which it is. As such, they have no objections with regard to highway and pedestrian safety.

#### Other Matters

##### *Affordable Housing*

- 6.35 Affordable housing would be provided at 30% which is in accordance with the outline permission of which 60% would be affordable rent and 40% shared ownership. The houses are focussed towards the southeast corner of the site and the house sizes are considered acceptable by the Housing section.

##### *Surface Water Drainage*

- 6.36 The strategy to deal with surface water from the houses and roads is through the proposed pond (which would have deep borehole soakaways) towards the northwest corner and the swale that leads to it. The surface water from the road through the woodland would discharge to a pond located to the northern boundary of the wider site. KCC LLFA advise that the strategy is acceptable and the finer details to determine matters such as the precise depth of the pond and swale, and size of pipes would be provided under the original outline condition. They also advise that there as the underlying strata is ragstone there is a risk of encountering loosely infilled features known as 'gulls'. If these features exists and are inundated with water from soakaways it could lead to ground instability (such as sink holes) and so the detailed design will need to be supported by comprehensive ground investigations and geotechnical assessment to ensure surface water discharges only occur into competent ground. This will be investigated under the recommend condition and if soakaways are not feasible then water would drain to other ponds on the wider site, where capacity could be provided. A condition will cover this scenario so that the pond area is suitably landscaped.

##### *Archaeology*

- 6.37 For archaeology, this was considered by the Planning Inspector at the appeal and condition 12 requires no development to take place until a programme of archaeological work in accordance with the Heritage Statement submitted under the outline application is submitted and approved. KCC have expressed disappointment that a Heritage Statement was not submitted with this application to consider archaeology and mitigation but suggest a condition if minded to approve. As stated above, this was considered at outline stage and there is already a condition in place on the outline consent which covers relevant issues.

## *Air Quality*

- 6.38 Environmental Health has requested an Air Quality Emissions Reduction condition. National Planning Guidance is clear on attaching conditions to reserved matters applications and states that, *“conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted. The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters.”* Basically this means that you can only impose conditions that relate to specific issues being considered at outline stage and not (in this case) to address the principle impact of 500 houses. The Inspector was satisfied with off-site highways improvements and a Travel Plan condition to deal with air quality. However, I do consider it is possible to attach a condition requiring charging points as this is a matter that relates to the design of the houses in line with policy DM23.
- 6.39 Condition 19 requires at least 10% of energy supply of each phase to come from decentralised and renewable or low carbon energy sources. This would be secured through PV panels on houses as per the previous phases, and would be discharged separately under the condition.
- 6.40 Issues raised by third parties not addressed in the assessment above or relating to principle matters considered under the outline permission concern the alleged need for an Environmental Impact Assessment (EIA). The outline application was ‘screened’ by both the Council and the Planning Inspectorate and it was concluded that an EIA was not required. Changes to the regulations in 2015 or 2017 do not affect this conclusion or mean that an EIA would now be required.
- 6.41 The outline consent was granted prior to the Council’s Public Art Guidance and so this cannot be applied to the reserved matters.

## **7.0 CONCLUSION**

- 7.01 I have considered all representations received on the application and for the above reasons the proposals are considered to be acceptable and provide a high quality development in accordance with site policy H1(2), and other relevant policies within the Local Plan. The proposed route through the AW is considered acceptable and wholly exceptional reasons exist to allow the loss of 395m<sup>2</sup> of AW and conflict with policy DM3 because outline permission has been granted for housing on the site, the outline permission has been implemented and is under construction, and the alternative options to access the site would have worse ecological impacts overall. Permission is therefore recommended subject to the following conditions.

## **8.0 RECOMMENDATION**

**GRANT PLANNING PERMISSION subject to the following conditions** with delegated powers for the Head of Planning to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Conditions:

1. The development hereby permitted shall be carried out in accordance with the most recent revised plans shown on the Drawing Register received on 11<sup>th</sup> September 2018.

Reason: In the interest of visual and residential amenity and to clarify which plans have been approved.

2. No development including site clearance shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS:5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of the road and footpath through the woodland and any aspect of the development that has the potential to result in an impact upon trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme.

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

3. No development including site clearance shall take place until details of tree protection including a tree protection plan in accordance with the current edition of BS:5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

4. No development shall take place until a soil translocation methodology demonstrating that the ecological and archaeological requirements (within the woodland and receptor site) have been met has been submitted to and

approved in writing by the local planning authority. The approved methodology shall be implemented as detailed within the approved plan.

Reason: In the interests of ecological protection.

5. No development above slab level shall take place until details of the equipping and laying out of the children's play area have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure satisfactory public open space.

6. No development above slab level shall take place until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved materials and they shall include the use of ragstone in walling as shown on the approved plans, clay tile hanging and roof tiles, slate roof tiles, and multi stock brickwork.

7. No development above slab level shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:

- a) Details and locations of swift bricks and bat boxes integral to buildings.
- b) Details and locations of bird and bat boxes.
- c) Wildlife friendly gullies.
- d) Retention of cordwood on site.
- e) Provision of 12cm square gaps under any new boundary fencing to allow passage of small mammals
- f) Timing of delivery of the above matters.

Works shall be carried out in accordance with the agreed details.

Reason: To protect and enhance biodiversity

8. No development above slab level shall take place until details of measures to prevent parking on landscaped/amenity areas have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

9. No development above slab level shall take place until details of any external meter cupboards, vents, or flues have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Such features shall be installed to limit their visibility from public view points.

Reason: To secure a high standard of design.

10. No development above slab level shall take place until details of plots where electric vehicle charging points can be installed have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

11. No development above slab level shall take place until details of reflective bollards to be positioned either side of the access road where it meets PROW KB51 have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.

Reason: In the interests of pedestrian safety.

12. No development above slab level shall take place until the following details for the pedestrian only footpath as shown on page 15 of the Design and Access Statement have been submitted to and approved in writing by the Local Planning Authority:

- The method of construction which shall be of a 'no dig' method.
- Specification of works including the base construction, retaining measures, and surfacing.
- Type and source of bark chippings (taking into account the ancient woodland soils)
- Mechanism and details for ongoing maintenance.
- Measure to prevent use by cycles at the south end of the footpath.

Reason: In the interests of protection the ancient woodland.

13. In the event that the proposed pond is not implemented and alternative surface water drainage measures are approved under condition 11 of the outline permission, details of landscaping in place of the pond and its implementation shall be submitted to and approved in writing by the local planning authority prior to the occupation of any dwellings.

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

14. The approved landscaping scheme shall be carried out before or during the first planting season (October to February) following occupation of the development. Any seeding or turving which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their

long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

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

15. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England ) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

16. No temporary or permanent lighting shall be installed on the vehicular access road through the woodland between the 15m ancient woodland buffers either side of the woodland shown by the dotted green lines on Site Layout Plan (Drawing no. DES-183-101E), or on the footpath link north of the 15m ancient woodland buffer shown by the dotted green line on the same plan.

Reason: In the interests of ecological protection.

17. All services for the development shall be run underneath the access road through the woodland.

Reason: In the interests of ecological protection.

Case Officer Richard Timms

<b>REFERENCE NO - 18/501745/REM</b>			
<b>APPLICATION PROPOSAL</b>			
Approval of Reserved Matters for appearance, landscaping, layout and scale for Phase 4 comprising 71 dwellings with associated infrastructure, pursuant of outline approval 13/1749.			
<b>ADDRESS</b> Land To The East Of Hermitage Lane, Maidstone, Kent			
<b>SUMMARY OF REASONS FOR RECOMMENDATION - (APPROVE SUBJECT TO CONDITIONS)</b>			
<ul style="list-style-type: none"> <li>• The site (for 71 houses) forms part of the wider housing allocation for 500 houses in the Local Plan under policy H1(2), and benefits from outline planning permission.</li> <li>• The proposals comply with the relevant criterion under policy H1(2), other relevant policies within the Local Plan, and parameters of the outline permission.</li> <li>• The development is considered to be of a high quality in terms of its design, layout, and materials.</li> <li>• The proposed vehicle access through the woodland is considered on balance to represent the best option when considering impacts upon Ancient Woodland, ecology, and the woodland amenity value as a whole.</li> <li>• Permission is therefore recommended.</li> </ul>			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Councillor Robertson has requested the application be reported to Planning Committee due to the large scale nature of the proposals which are on a prominent site and which will have a considerable impact on the local area especially the ancient woodland.			
(The application was deferred at the Committee meeting on 27 <sup>th</sup> September 2018)			
<b>WARD</b> Allington	<b>PARISH COUNCIL</b> N/A	<b>APPLICANT</b> Croudace Homes Ltd <b>AGENT</b> Croudace Homes Ltd	
<b>DECISION DUE DATE</b> 05/10/18		<b>PUBLICITY EXPIRY DATE</b> 31/05/18	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
13/1749	An Outline application for a Mixed-Use development comprising up to 500 residential dwellings, education facility and community centre. Provision of public open space associated infrastructure and necessary demolition and earthworks. The formation of 2No. new vehicular accesses from Hermitage Lane and Howard Drive. With access to be considered at this stage and all other matters reserved for future consideration.	REFUSED – ALLOWED ON APPEAL	19.10.15
16/503641	Reserved matters of appearance, landscaping, layout and scale for Phase 1	APPROVED	21.12.16

	for erection of 183 dwellings with associated infrastructure pursuant to outline approval ref 13/1749.		
17/502767	Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale being sought) Phase 2 for the erection of 119 dwellings with associated infrastructure pursuant of 13/1749 allowed on appeal APP/U2235/A/14/2226326.	APPROVED	13.11.17
17/503680	Reserved Matters (Appearance, landscaping, layout and scale) for Phase 2A of the outline approval 13/1749 comprising Community Centre with associated infrastructure.	APPROVED	13.11.17
18/502875	Reserved matters of appearance, landscaping, layout and scale for Phase 3 of the outline approval comprising 127 dwellings with associated infrastructure pursuant to outline approval ref 13/1749.	UNDER CONSIDERATION	

## **1.0 BACKGROUND**

1.1 This application was deferred at the Committee meeting on 27<sup>th</sup> September 2018 for the following reasons:

1. *Examine in more detail the impact of vehicular access Options 2 and 5 through the woodland taking into account the visual impact of the works and any works necessary to meet health and safety requirements, including lighting; and*
2. *Ask whether further renewable energy measures can be provided in this Phase of the development and whether tunnels can be provided under roads to facilitate the safe passage of wildlife.*

1.2 The original committee report is attached as an **Appendix**.

## **2.0 DESCRIPTION OF RESPONSE**

2.1 The applicant has worked up detailed plans for Options 2 and 5 and provided additional information in the form of further ecological assessment and impacts on trees, which will be discussed below.

## **3.0 REPRESENTATIONS**

3.2 **Local Residents:** Publicity expires 31<sup>st</sup> October.

## **4.0 CONSULTATIONS**

4.1 **KCC Highways: No objections** to either alternative access option.

- 4.2 **KCC Ecology: Re-affirm no objections** and advise that access Option 3 remains their preference.

## 5.0 **ASSESSMENT**

- 5.1 The applicant has worked up detailed plans for Options 2 and 5 as requested by Members.
- 5.2 Option 5, which is at the west end of the woodland, was discounted by officers on the basis that significant engineering works would be required due to major level changes, it would be by far the longest access, and would result in the loss of the most amount of trees/woodland groups. It would also result in the loss of a small area of Ancient Woodland (AW) (albeit lower than other options), and separate harm to ecology from the loss of the trees/woodland groups and some acid grassland where reptiles were present under the ecological assessment within the outline application. Detailed plans have now been worked up which reveal that the steep embankments required would actually extend outside the application site. On this basis, it is not possible to provide Option 5 and so it must be discounted. Notwithstanding this, it would require an amendment to Phase 1 which is under construction.
- 5.3 Option 2 avoids AW and detailed plans with further assessment have been provided. KCC Highways are not raising objections to the access and would not require any lighting as the bend in the road would sufficiently control vehicle speeds. Further ecological assessment has been submitted which concludes the following:

*"An objective assessment of the available route options to access Phase 4 has been undertaken based on existing ecological survey data and updated trees survey data obtained in October 2018. This includes a consideration of ancient woodland matters under the NPPF: 2018 update. Options 1, 4 and 5 are able to be screened out and Options 2 and 3 are taken forward for further analysis. In this regard, some 19 separate ecological parameters are assessed of which 16 are informative in identifying difference between the options. Of these some 81% of parameters record a reduced effect on biodiversity under route Option 3. Accordingly, it is concluded that route Option 3 is preferred in ecological terms."*

- 5.4 KCC Ecology agree with the conclusion and advise that as the whole woodland is small, management of the woodland needs to be effective as possible and therefore the access road that creates the smallest impact on the woodland is preferable. They comment that, *"Option 3 will result in the smallest loss of woodland and it will ensure that the areas of woodland either side of it are not significantly different sizes. Option 2 will result in a small area of woodland being separated to the other area of woodland by the road – while the information submitted as part of the planning application details that the ecologist were happy that the road would not result in a significant loss of connectivity we highlight that it is preferable if the woodland parcels are as large as possible. We understand that no lighting is proposed for either option however due to the increased length option 2 will mean that there will be cars driving through the woodland for longer with headlights on - therefore the impact from lighting on the woodland and species within it will be greater if Option 2 is implemented."*
- 5.5 So whilst Option 3 will result in the loss of some AW, the overall ecological impacts would be less. Therefore and as previously concluded, it is considered wholly exceptional reasons exist to allow the loss of a small area of AW and conflict with policy DM3 because outline permission has been granted for housing on the site, the outline permission has been implemented and is under construction, and the

alternative options to access the site would have worse ecological impacts overall with over double the length of road. In addition, Option 2 results in the loss of more woodland, and runs through the widest part of the woodland, which is a valuable amenity to the local community (notwithstanding the impact on AW).

- 5.6 The proposed road for Option 2 (like Option 3) has been kept to the minimum possible to provide a safe two way road and pavement on one side. Small embankments would be required to the sides, no lighting would be provided to limit the ecological impact, and all services to the development would run underneath the road and this can be ensured by condition. New footpath ramps would be provided either side of the road on the existing public footpath and reflective bollards where the right of way crosses the road near the middle can be secured by condition.
- 5.7 If Members were to conclude that Option 2 is the preferred route then this can be approved and the relevant plans would be referred to under Condition 1.
- 5.8 Lastly, the applicant has considered the request for further renewable energy measures and whether tunnels can be provided under roads to facilitate the safe passage of wildlife. The applicant proposes to fulfil the obligations stated in the outline approval (condition 19), to provide 10% of energy by renewable means (PV Panels) and not provide measures above this. This is considered entirely reasonable in view of the outline consent and policy requirements under DM2, which do not seek renewable measures. The applicant considers the provision of tunnels under the roads to be impractical and would increase the impact upon the area. Tunnels are not considered a reasonable or necessary requirement and so would not pass the tests for conditions.

## **6.0 CONCLUSION**

- 6.1 It is considered that the applicant has suitably investigated Options 2 and 5 as requested by Planning Committee. Option 5 is not possible as it requires development outside the application site. Option 2 would not require lighting and no objections have been raised by Kent Highways. The applicant maintains that the ecological impact of Option 2 is greater than Option 3, a view maintained by officers and KCC Ecology. As such, Option 3 is recommended for the reasons outlined above, and in the original committee report.

## **8.0 RECOMMENDATION**

**GRANT PLANNING PERMISSION subject to the following conditions** with delegated powers for the Head of Planning to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

### Conditions:

1. The development hereby permitted shall be carried out in accordance with the most recent revised plans shown on the Drawing Register received on 11<sup>th</sup> September 2018 (which for the avoidance of doubt approves access route Option 3).

Reason: In the interest of visual and residential amenity and to clarify which plans have been approved.

2. No development including site clearance shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS:5837 has been submitted to and approved in writing by the local planning authority. The AMS

should detail implementation of the road and footpath through the woodland and any aspect of the development that has the potential to result in an impact upon trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme.

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

3. No development including site clearance shall take place until details of tree protection including a tree protection plan in accordance with the current edition of BS:5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

4. No development shall take place until a soil translocation methodology demonstrating that the ecological and archaeological requirements (within the woodland and receptor site) have been met has been submitted to and approved in writing by the local planning authority. The approved methodology shall be implemented as detailed within the approved plan.

Reason: In the interests of ecological protection.

5. No development above slab level shall take place until details of the equipping and laying out of the children's play area have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure satisfactory public open space.

6. No development above slab level shall take place until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved materials and they shall include the use of ragstone in walling as shown on the approved plans, clay tile hanging and roof tiles, slate roof tiles, and multi stock brickwork.
7. No development above slab level shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:
  - a) Details and locations of swift bricks and bat boxes integral to buildings.
  - b) Details and locations of bird and bat boxes.
  - c) Wildlife friendly gullies.
  - d) Retention of cordwood on site.

- e) Provision of 12cm square gaps under any new boundary fencing to allow passage of small mammals
- f) Timing of delivery of the above matters.

Works shall be carried out in accordance with the agreed details.

Reason: To protect and enhance biodiversity

8. No development above slab level shall take place until details of measures to prevent parking on landscaped/amenity areas have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

9. No development above slab level shall take place until details of any external meter cupboards, vents, or flues have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Such features shall be installed to limit their visibility from public view points.

Reason: To secure a high standard of design.

10. No development above slab level shall take place until details of plots where electric vehicle charging points can be installed have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

11. No development above slab level shall take place until details of reflective bollards to be positioned either side of the access road where it meets PROW KB51 have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.

Reason: In the interests of pedestrian safety.

12. No development above slab level shall take place until the following details for the pedestrian only footpath as shown on page 15 of the Design and Access Statement have been submitted to and approved in writing by the Local Planning Authority:

- The method of construction which shall be of a 'no dig' method.
- Specification of works including the base construction, retaining measures, and surfacing.
- Type and source of bark chippings (taking into account the ancient woodland soils)
- Mechanism and details for ongoing maintenance.
- Measure to prevent use by cycles at the south end of the footpath.

Reason: In the interests of protection the ancient woodland.

13. In the event that the proposed pond is not implemented and alternative surface water drainage measures are approved under condition 11 of the outline permission, details of landscaping in place of the pond and its implementation shall be submitted

to and approved in writing by the local planning authority prior to the occupation of any dwellings.

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

14. The approved landscaping scheme shall be carried out before or during the first planting season (October to February) following occupation of the development. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

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

15. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England ) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

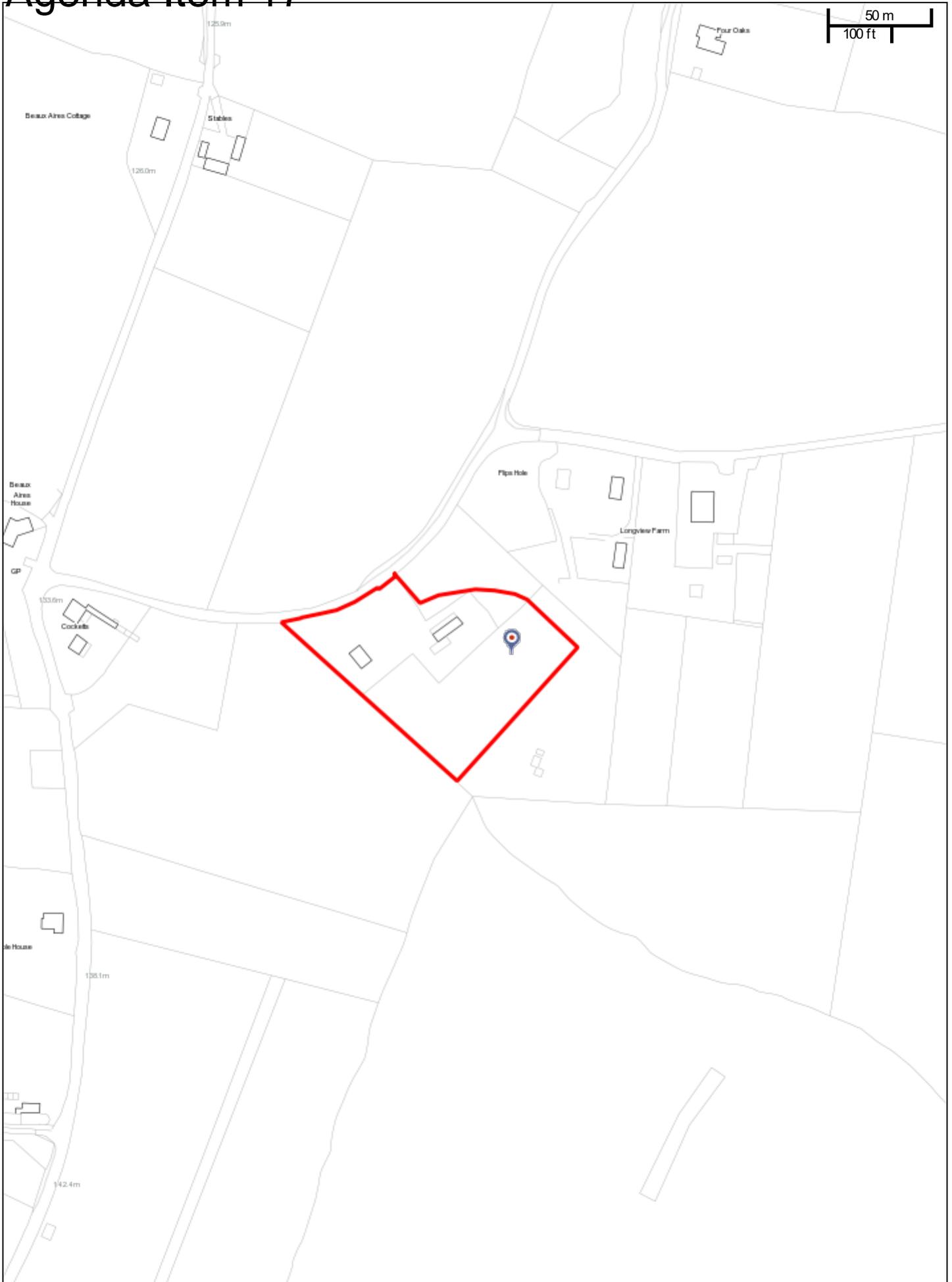
16. No temporary or permanent lighting shall be installed on the vehicular access road through the woodland between the 15m ancient woodland buffers either side of the woodland shown by the dotted green lines on Site Layout Plan (Drawing no. DES-183-101E), or on the footpath link north of the 15m ancient woodland buffer shown by the dotted green line on the same plan.

Reason: In the interests of ecological protection.

17. All services for the development shall be run underneath the access road through the woodland.

Reason: In the interests of ecological protection.

# Agenda Item 17



18/501979/FULL Seaview Farm, South Street Road

Scale: 1:2500

Printed on: 20/11/2018 at 13:31 PM by SummerF



<b>REFERENCE NO - 18/501979/FULL</b>		
<b>APPLICATION PROPOSAL</b> Retrospective application to allow siting of four additional residential mobile homes on site.		
<b>ADDRESS</b> Seaview Farm South Street Road Stockbury Sittingbourne Kent ME9 7QS		
<b>RECOMMENDATION</b> Grant Planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance.</li> <li>- The visual and landscape impacts are acceptable.</li> <li>- The development provides a valuable windfall addition to the stock of gypsy and traveller sites and will assist in meeting the need for gypsy and traveller sites set out in the Gypsy and Traveller and Travelling Showpeople Topic Paper (2016) and policy SS1 of the local plan.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of Stockbury Parish Council		
<b>WARD</b> North Downs	<b>PARISH/TOWN COUNCIL</b> Stockbury	<b>APPLICANT</b> Mrs Odette Butler <b>AGENT</b> n/a
<b>TARGET DECISION DATE</b> 30/07/18		<b>PUBLICITY EXPIRY DATE</b> 05/07/18

### Relevant Planning History

13/1841

Vary condition 1 of MA/06/0350 to allow an additional residential mobile home on site (making 2 mobile homes in total) for gypsy family use. Approved subject to conditions restricting site occupation to no more than two statics and one tourer and unrestricted use by any Gypsy and Traveller family.

Approved

Decision Date: 08.08.2017

12/0095

Retrospective application for the siting of two mobile homes and one touring caravan for gypsy/traveller occupation, fencing and hardsurfacing. Approved subject to conditions restricting site occupation to no more than two statics and one tourer

Approved

Decision Date: 19.04.2012

11/0610

An application for discharge of conditions relating to MA/10/1946 (Variation of condition 1 of permission MA/06/0350 to allow the siting of an additional touring caravan; and the construction of walls and gates around the site access; the laying of hardstanding and the erection of a small shed to form a utility building) being details of condition 2, brick sample of a Rochester Blend.

Approved

Decision Date: 13.05.2011

Variation of condition 1 of permission MA/06/0350 to allow the siting of an additional touring caravan; and the construction of walls and gates around the site access; the laying of hardstanding and the erection of a small shed to form a utility building

Approved

Decision Date: 01.04.2011

Retrospective application for the continued use of land for the stationing of one mobile home for a gypsy family – approved subject amongst other things to conditions allowing occupation by any Gypsy and Traveller family, no more than 1 mobile home/caravan

Approved

Decision Date 07.06.2016

The erection of a building for storage of agricultural implements and unsold produce.

Refused

Decision Date: 31.03.1967

The use of land as a residential site for nineteen caravans.

Refused

Decision Date: 30.03.1966

Outline application for a dwelling with access in connection with a small holding.

Refused

Decision Date: 26.02.1965

## **MAIN REPORT**

### **1. SITE DESCRIPTION**

- 1.1 The application site comprises an existing lawful Gypsy and Traveller site with planning permission for two statics and 1 tourer. The site is located in open countryside within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.2 There are two lawful caravans fronting the site while to the south east of these are 4 additional mobile homes which are the subject of this application. There is close boarded fence defining the south east site boundary beyond which is another gypsy and traveller plot falling within the red outline site area defining application 10/1946 and as such falls within part of a lawful gypsy and traveller site.
- 1.3 The site frontage has dense screening with further dense screening defining the south east and north west site boundaries.
- 1.4 Abutting the north east site boundary is the Flips Hole allocated gypsy and traveller site (policy GT1(13) ).

## **2. PROPOSAL**

2.1 Retrospective planning permission is sought to retain 4 mobile homes with their associated amenity areas and service roads.

2.2 The following sets out the applicant's personal circumstances providing clarification on the occupants of the mobile homes gypsy and traveller status. Members are reminded that for Data Protection purposes information has to be anonymised.

- **Mobile home 1:** Occupied by two adults –both no longer living a nomadic lifestyle due to one having long health issues with care provided by the other occupant.
- **Mobile home 2:** Occupied by 1 adult – away all summer mainly in the west of England and Wales carrying out paving work. Collects and sells Christmas trees in December/Jan - also contracted for snow clearing work.
- **Mobile Home 3:** Occupied by one adult and child of primary school age. Does not currently pursue a nomadic lifestyle due to caring commitments.
- **Mobile Home 4:** Occupied by 1 adult – away all summer mainly in the west of England and Wales carrying out paving work. Collects and sells Christmas trees in December/Jan and also contracted for snow clearing work.

## **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017: SP17, DM15, DM30

Supplementary Planning Documents Planning Policy for Traveller Sites (PPTS) (2015)

Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)

## **4. LOCAL REPRESENTATIONS**

### **Local Residents:**

4.1 None received

## **5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

### **Stockbury PC**

Objects to the proposal on the following grounds

- Retrospective planning application and the applicants have ignored planning law by developing the site without prior planning consents while there have been numerous previous retrospective planning applications for this site.
- The site, which was originally a field with one old barn on it, is over

- developed and the application is unclear about what is currently on the site.
- Supporting site plans are incorrect and should be reviewed to ensure that the total site is included in the site plan with all current buildings.
- Concerned that there is not a coherent plan of the site showing all additional access points that have been created by the site owner in the last few months.
- Site located outside of any settlement boundary and consider it is situated in an unsustainable location having poor access to services.
- Erode the openness of the surrounding area and are an unjustified and unwelcome development in the rural setting.
- The development is harmful to the local landscape character and the beauty of the AONB.

### **Kent Highways**

No comment.

## **6. APPRAISAL**

- 6.1 Before considering the planning merits of the development it first needs to be determined through a screening process whether the application should have been accompanied by an Environmental Impact Assessment (EIA). Though the site falls within an Area of Outstanding Natural Beauty the development is not of a scale or impact justifying an EIA. It should be stressed this is a technical assessment and has no bearing on the consideration of the planning merits of the development carried out below.

### **Main Issues**

- 6.2 The application site area relating to planning permission ref: 10/1946 includes the whole site area that is the subject of the current application under consideration. Application ref: 12/0095 granted planning permission for two mobile homes to be sited abutting the south east site boundary of the current application site.
- 6.3 As such planning permission exists for a total of 2 Gypsy and Traveller plots restricted to the north west part of the site. However the application site area granted planning permission under ref: 10/1946 also covers, the site, the subject of this application. As such though planning permission has been granted for two Gypsy and Traveller plots abutting the north west site boundary of the current application site the use of the whole site for Gypsy and Traveller purposes (including the current application site) has lawful use for Gypsy and Traveller purposes.
- 6.4 The key issues are therefore whether the occupants of the mobile homes meet the current Gypsy and Traveller definition and whether retention of the additional mobile homes on a lawful Gypsy and Traveller site results in material harm to the rural and landscape character of the wider area.

### **Principle of development**

- 6.5 The application site is located within the Kent Downs AONB in open countryside and consequently the development is assessed against local plan policies as follows.
- 6.6 Paragraph 172 of the NPPF states that great weight should be given to

conserving and enhancing AONB's which have the highest status of protection. Policy SP17 of the Local Plan states that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted and in particular refers to the need to safeguard the landscape character and setting of the Kent Downs AONB.

- 6.7 Policy DM15 states that planning permission for Gypsy and Traveller development will be granted if it would not result in significant harm to the landscape and rural character of the area. The requirement remains that development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and also that wildlife considerations are taken into account.
- 6.8 Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated and that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.
- 6.9 There is also Government guidance contained within 'Planning Policy for Traveller Sites' (PPTS) amended in August 2016. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.
- 6.10 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit Gypsy and Traveller sites to be located in the countryside as an exception to the general development restraint policies.

#### **Need for Gypsy Sites**

- 6.11 Local Authorities set their own target for the number of pitches to be provided in their areas in their Local Plans. The Council in partnership with Sevenoaks District Council commissioned a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

- Oct 2011 – March 2016 - 105 pitches
- April 2016 – March 2021- 25 pitches
- April 2021 – March 2026 - 27 pitches
- April 2026 – March 2031 - 30 pitches

Total: Oct 2011 – March 2031 - 187 pitches

- 6.12 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit those actual needs may

prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

- 6.13 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan.

#### **Supply of Gypsy sites**

- 6.14 Since the 1st October 2011 (the base date of the GTAA) up until the 30<sup>th</sup> September 2018 the following permissions for pitches have been granted (net).

Permanent/non-personal – 132  
Permanent/personal - 25  
Temporary/non-personal - 4  
Temporary/personal – 35

- 6.16 Therefore a net total of 157 permanent pitches have been granted since 1<sup>st</sup> October 2011. A further 30 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

- 6.17 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The local allocate specific sites sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan.

- 6.18 The PPTS requires Local Plans to identify a supply of 5 years' worth of deliverable sites against the Plan's pitch target. At the base date of 1st April 2016 the Council could demonstrate a 5.6 year supply of Gypsy and Traveller sites. However the 5 year supply position is reviewed on the 1<sup>st</sup> April each year.

- 6.19 As of the 1<sup>st</sup> April 2018 the Council can demonstrate 5.2 years' worth of deliverable pitches at the 1<sup>st</sup> April 2018.

- 6.20 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting temporary consents. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply.

#### **Gypsy Status**

- 6.21 The planning definition of 'gypsies & travellers' as set out in the PPTS, has been amended to exclude those who have ceased to travel permanently. Annex 1 of the PPTS defines gypsies and travellers as: -

*"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants'*

*educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such."*

- 6.22 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition in terms of ceasing travel temporarily, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.23 Occupants of two mobile homes do not carry on nomadic lifestyle due to age and infirmity, the need to provide care along with childcare responsibilities. The two adults living in two mobile homes have provided limited information of their nomadic lifestyle.
- 6.24 Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance. As such it is considered that based on the submitted details the site occupants are gypsies and travellers that have led, will continue to lead or will in the future lead a nomadic lifestyle and therefore fall within the revised definition set out above.

**Landscape Impact:**

- 6.25 Mobile homes are generally considered to comprise visually intrusive development out of character in a countryside setting. Consequently, unless well screened or hidden away in unobtrusive locations, they are normally considered unacceptable in their visual impact. They are normally only permitted on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 6.26 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and, or place undue pressure on local infrastructure.
- 6.27 Policy DM15 specifically relating to Gypsy and Traveller development, states, amongst other things, that permission will be granted if a site is well related to local services, would not harm the rural character and landscape if an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.
- 6.28 The site is identified as falling within open countryside and the Kent Downs AONB. Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing AONB's which have the highest status of protection. Policy SP17 of the local plan states amongst other things that great weight should be given to the conservation and enhancement o the Kent Downs AONB and that development should not have a significant adverse impact on the settings of the Kent Downs AONB.

- 6.29 Policy DM30 also requires that account should be taken of the Maidstone Borough Landscape Character Guidelines SPD.
- 6.30 The site frontage onto South Street Road is already well screened by dense tree planting. The only break in this is the site access. The mobile homes, the subject of this application, are located between the two existing plots close to site frontage and the two mobile homes permitted under application ref: 12/0095 abutting the south east site boundary.
- 6.31 The site is well screened with dense woodland along its whole south west and north west site boundaries. The mobile homes are also situated between existing mobile homes on a site that already has planning permission for Gypsy and Traveller use.
- 6.32 It is therefore considered that this is an inward looking, self contained and well screened gypsy and traveller site. The 4 mobile homes are not perceptible from outside the site and as a consequence it is considered the development meet the visual requirements of policy DM15. The development will not result in material harm to the rural and landscape quality of the area contrary to the provisions of the NPPF or policies SP17 or DM30 of the local plan.

**Cumulative Impacts:**

- 6.33 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and or place undue pressure on local infrastructure. In addition policy DM15 of the Local plan states, amongst other things, that permission will be granted if a site would not harm the rural character and landscape of an area due to cumulative visual impacts.
- 6.34 Dealing first with the potential impact on the nearest settled community, given the modest number of persons involved in the development this would not be the case.
- 6.35 Regarding cumulative visual impacts the allocated Gypsy and Traveller site to the north east and the application site are both well screened. It is considered that neither their individual or cumulative impacts have any material landscape impact.

**Sustainability**

- 6.36 Gypsy and traveller sites are mainly located in the countryside and guidance acknowledges this. As such normal sustainability principles relating to siting and access to facilities do not apply.
- 6.37 Nevertheless policy DM15 states, amongst other things, that local services, in particular school, health and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport.
- 6.38 It is acknowledged the site occupies an isolated rural location remote from public transport and services. However this site is no more unsustainably sited when compared to existing Gypsy and Traveller development permitted on the same site and the adjoining allocated site. In the circumstances it is considered it would appear perverse to take exception to

this development on unsustainable siting grounds.

### **Amenity**

- 6.39 There are no nearby dwelling that would experience direct loss of outlook or amenity arising from the development. Landscape quality is public asset maintained in the wider public interest and harm to the wider landscape has been addressed above.

### **Highways**

- 6.40 Kent Highways has not commented due to the small nature of the proposal but given good sight lines to the access, low traffic generating potential of the use and limited traffic using South Street Road, no harm to the free flow of traffic or highway safety is identified.

### **Wildlife**

- 6.41 Though development should be used an opportunity to bring about wildlife improvements, the retrospective nature of the development means there is limited potential here.

### **Other matters**

- 6.42 Government Guidance states that planning applications submitted retrospectively is a material consideration that should be taken into account in determining such applications. However, guidance on how much weight this should be given is not clear. Furthermore the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such, when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.

## **7.0 CONCLUSIONS:**

- 7.1 The key conclusions are considered to be as follows:
- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance.
  - The visual and landscape impacts are acceptable.
  - It will provide a valuable windfall addition to the stock of G&T sites and assist in meeting the need for Gypsy and Traveller sites set out in the GTAA and policy SS1 of the local plan
- 7.2 In the circumstances it is considered the impact of the development is acceptable and planning permission should be granted as a consequence.

## **7. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

1. The site shall only used as a caravan site for gypsies or travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: To reflect the special circumstances of the application .

2. No more than 5 caravans and 5 tourers, (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority. This number includes the existing plot fronting South Street Road falling within the application site.

Reason: To safeguard the character and appearance of the countryside.

3. Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the night time rural environment and in in the interests of amenity and ecology.

4. No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use.

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

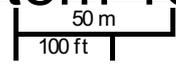
5. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority.

Reason: In the interests of the visual amenity.

6. The development hereby approved shall only be carried out in accordance with drawing no: 6553/13.

Reason: In the interests of amenity.

Case Officer: Graham Parkinson



18/502925/FULL Land at Vicarage Road, Yalding.

Scale: 1:2500

Printed on: 20/11/2018 at 14:22 PM by SummerF



<b>REFERENCE NO -</b> 18/502925/FULL		
<b>APPLICATION PROPOSAL</b> Section 73 application for removal of condition 17 (decentralised and renewable or low-carbon sources of energy) of application 16/508660/FULL for erection of 65 residential dwellings, together with access, parking and drainage.		
<b>ADDRESS</b> Land At Vicarage Road Yalding Kent		
<b>RECOMMENDATION</b> Application Permitted		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The scheme intends to use low carbon technologies in accordance with Building Regulations which can help reduce emissions. Hence, the scheme will still meet the reason for imposing the condition, namely "to ensure an energy efficient form of development". The NPPF expects local planning authorities to adopt nationally described standards to secure energy efficiency and low carbon emissions. There is no local planning policy justification for retaining planning conditions on energy efficiency or low carbon emissions for residential development. Requiring standards in excess of Building Regulations is contrary to national and local planning policies unless local requirements form part of a Local Plan following engagement with appropriate partners, are based on robust and credible evidence and pay attention to viability. Local requirements for Maidstone Borough do not exist at present. The condition as imposed does not meet the "reasonable" statutory test and it does not meet the "precision" and "necessary" tests of the NPPF. The site is in a sensitive setting at the edge of the village and close to public amenity areas, public footpaths and a listed Church. The orientation of the site and visibility in the public domain would mean that any scheme coming forward would need to be carefully balanced against visual impact.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called into Committee by Cllr Harwood: As a village on the frontline of climate change this application raises significant issues of principle, good design and national planning policy, and it is therefore important that democratically elected representatives discuss them and determine this application in public.		
<b>WARD</b> Marden And Yalding	<b>PARISH/TOWN COUNCIL</b> Yalding	<b>APPLICANT</b> Countryside Properties <b>AGENT</b> DHA Planning
<b>TARGET DECISION DATE</b> 02/10/18		<b>PUBLICITY EXPIRY DATE</b> 03/08/18

### Relevant Planning History

16/508660/FULL

Erection of 65 residential dwellings, together with access, parking, drainage

Approved Decision Date: 07.02.2018

18/502138/SUB

Submission of details application to discharge conditions 4 (construction management plan), condition 6 (arboriculture), condition 18 (contamination) and condition 23 (archaeology) of planning application ref: 16/508660/FULL for erection of 65 residential dwellings

Approved Decision Date: 20.11.18

18/502191/SUB

Submission of Details Pursuant to Condition 14 - Measures to minimise crime of approved planning application 16/508660/FULL

Approved      Decision Date: 14.06.2018

18/502701/SUB

Submission of details pursuant to Condition 2 (materials), Condition 3 (elevation detail), Condition 7 (soft landscape scheme), Condition 10 (hard surfaces), Condition 15 (electric vehicle charging points) and Condition 16 (boundary treatments) for planning permission 16/508660/FULL for 65 residential dwellings.

Pending Decision      Decision Date:

18/502925/FULL

Section 73 application for removal of condition 17 (decentralised and renewable or low-carbon sources of energy) of application 16/508660/FULL for erection of 65 residential dwellings, together with access, parking and drainage.

Pending Decision      Decision Date:

18/504061/FULL

Section 73 application for removal of condition 9 (details of the proposed pedestrian footpath route) of application 16/508660/FULL for erection of 65 residential dwellings, together with access, parking and drainage.

Pending Decision      Decision Date:

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The site is now under construction. It lies to the east of Yalding within the village boundary as defined by the Local Plan, with properties to the north along Vicarage Road, the allotments and church yard extension to the west and the Kintons Playing field to the south.
- 1.02 The parent planning permission relates to a development of 65 dwellings with access taken from Vicarage Road with a central access road leading through the site to the south with a number of secondary lanes leading from this. The development includes a mix of dwelling types including 1-2 bedroom flats and 2-4 bedroom dwellings along with parking provision, landscaping and open space including an area of woodland forming the southernmost part of the site which borders the playing fields, that has a planning condition to be opened up to public access.
- 1.03 The site falls gently from north to south although set at a higher level than the footpath to the south. The site abuts the rear gardens to properties on Vicarage Road to the north and has established hedgerows and trees to its eastern and southern boundaries although it is more open to the west and south west.
- 1.04 A vehicular access track runs parallel with the eastern boundary of the site which leads to the car park to the playing fields. A public footpath (PROW 193) runs along the south of the site and leads westwards into the village adjacent to the Church which is Grade I Listed.
- 1.05 Further informal undesignated footpaths run along the south of the Vicarage Road properties and also along the south western boundary to the allotments.

### **2. PROPOSAL**

- 2.01 The relevant condition is worded as follows:

*Prior to the commencement of development above damp proof course level details of how decentralised and renewable or low-carbon sources of energy will be*

*incorporated into the development hereby approved shall 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.*

- 2.02 Decentralised energy is defined in the NPPF as local renewable and local low-carbon energy sources. Renewable energy is defined in the NPPF as energy flows that occur naturally and repeatedly in the environment – eg wind, hydro, tidal, solar, biomass and geothermal heat.
- 2.03 The agent has indicated that the applicant will of course comply with Building Regulations and incorporate features for energy efficiency in all housing, but no renewable or low carbon energy sources as such. The specific features are low carbon boilers, insulation (fabric first), plug in for electric/hybrid cars.
- 2.04 The agent has submitted the following in support of the removal of the condition:
- *Following the revocation of the Code for Sustainable Homes in 2015, and the Deregulation Act 2015 relating to the Planning and Energy Act 2008, energy efficiency of residential dwellings have defaulted to the Building Regulations.*
  - *Part L of the Building Regulations sets minimum energy efficiency requirements broadly equivalent to the now revoked Code Level 4.*
  - *There are no nationally prescribed standards relating to decentralised and renewable or low carbon sources of energy for residential development.*
  - *Paragraph 96 of the NPPF (NB paragraph 153 in the 2018 NPPF) states that development should comply with adopted Local Plan policies on local requirements for decentralised energy supply.*
  - *There are no policies within the adopted 2017 Local Plan that require residential development to incorporate decentralised, renewable and/or low carbon energy generation.*
  - *Policy DM24 of the Local Plan relates to large scale renewable/low carbon projects such as wind farms, biomass, and solar farms and not small scale domestic renewable/low carbon energy production on residential sites and is not relevant to the proposed development.*
  - *The supporting text for policy DM2 Sustainable Design states:*  
*“In terms of energy efficiency and carbon emissions for residential development, this will be achieved through a strengthening of the energy performance requirements in Part L of the Building Regulations (incorporating carbon compliance, energy efficient fabric and services).”*
  - *Part 3 of Policy DM2 states:*  
*“In order to maximise carbon efficiency, all homes will be required to meet the strengthened on-site energy performance standards of Building Regulations.”*
  - *There is no policy justification for the provision of Condition 17 and it is not therefore necessary to make the development acceptable in planning terms.*
  - *The wording of the condition is ambiguous and imprecise and does not allow the Applicant to appreciate the scale or degree of the obligation placed upon them. It is not therefore considered that the condition meets the tests set out in Paragraph 206 of the NPPF (NB Paragraph 55 in the 2018 NPPF) which states that planning conditions should be:*  
*“necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other aspects”.*

- *The 2018 NPPF states that any local requirements for the sustainability of buildings should reflect the government's policy for national technical standards. Whilst paragraph 151 does refer to looking at renewables or low carbon energy supplies, it is clear that this should be 'plan led'. Paragraph 153 is also very clear on this matter – that development plan policies should be adhered to.*

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Borough Local Plan 2017: DM2; DM24

### **4. LOCAL REPRESENTATIONS**

**Local Residents:** 1 objection

- Global warming is a huge threat, and it is essential that all new buildings are built to minimise their energy requirements, and where energy is needed it is provided in as efficient and low impact way as possible. No use of solar gain, or other designed in approaches to minimising energy appear to have been made. Therefore beyond Building Regulations, this is the only measure to reduce energy impact. It should therefore be applied in full.

### **5. CONSULTATIONS**

- 5.01 Kent Police: no comments
- 5.02 Environmental Protection: no comments
- 5.03 KCC (Highways and Transportation): no highway implications
- 5.04 NHS West Kent: no change to previous request
- 5.05 KCC ( Drainage): no comments
- 5.06 Southern Water: comments unchanged
- 5.07 MOD: outside safeguarding area

### **6. APPRAISAL**

#### **Main Issues**

- 6.01 The key issues for consideration relate to:
- National Policy For Renewable And Low Carbon Energy
  - Local Policy For Renewable And Low Carbon Energy
  - The Legal Tests For A Condition
  - Impact on Setting and Visual Amenity

#### **National Policy for Renewable and Low Carbon Energy**

- 6.02 The current Government planning policy in the NPPF and NPPG supports the transition to a low carbon future and increased production of energy from

renewable sources by support for renewable and low carbon energy and associated infrastructure.

- 6.03 Paragraph 153 of the NPPF states that in determining planning applications, there should be account taken of landform, layout, building orientation, massing and landscaping to minimise energy consumption.
- 6.04 As background, the Code for Sustainable Homes was developed as a planning policy in the late 2000's with the last version being Technical Guidance published in 2010. The Code was a national standard for rating and certifying the performance of new homes with a view to encouraging continuous improvement in sustainable home building.
- 6.05 Essentially the Code set standards relative to the baseline position of Building Regulations. In response, LPAs generally imposed planning conditions to secure, inter alia, energy efficiency and renewable or low carbon energy.
- 6.06 In a Deregulation Act in 2015, LPAs were not allowed to require any level of the Code for Sustainable Homes to be achieved by new development in emerging Local Plans or SPD. There was a presumption against imposing planning conditions requiring the Code for Sustainable Homes unless there was a robust local evidence base.
- 6.07 The Government formally withdrew the code and the technical guidance as part of their Deregulation strategy because the Building Regulations had improved since 2010 and would be regularly updated.
- 6.08 In early 2016, the Government diverted from a "zero carbon homes policy" saying that they would keep energy efficiency standards under review, recognising that existing measures to increase energy efficiency of new buildings should be allowed time to become established. Essentially, the rationale was to rely on Building Regulations in terms of the 'fabric first' approach.
- 6.09 Therefore the energy efficiency of houses is under increasing scrutiny through the Building Regulations with SAP (Standard Assessment Procedure) testing of insulation and boilers etc so that there is a lessened need for 'renewables' because of the focus having been made on reducing the consumption of energy.
- 6.10 In summary, the NPPF expects local planning authorities when setting any local requirement for a building's sustainability to adopt nationally described standards. Local requirements should only form part of a Local Plan following engagement with appropriate partners, based on robust and credible evidence and with careful attention to viability.

#### **Local Policy for Renewable and Low Carbon Energy**

- 6.11 In a Local Plan context, this topic was discussed at the Examination in Public of the Local Plan in 2016/2017 with the same themes raised i.e. central government policy, Building Regulations and the need for a robust local evidence base. Renewables were advocated in both Kent and national design guidance but now it is more in relation to creating functional 'green' corridors etc and using existing natural features and orientation, topography, ground conditions etc.
- 6.12 Policy DM2 is the applicable policy in the adopted Local Plan. It had identical wording in the Regulation 19 draft Local Plan (2016). The preamble to the policy says:

*In terms of energy efficiency and carbon emissions for residential development, this will be achieved through a strengthening of the energy performance requirements in Part L of the Building Regulations (incorporating carbon compliance, energy efficient fabric and services).*

- 6.13 The Policy itself says: *In order to maximise carbon efficiency, all homes will be required to meet the strengthened on-site energy performance standards of Building Regulations.*
- 6.14 Policy DM24 Renewable and low carbon energy schemes relates to solar farms, wind farms and Biomass so is not relevant to this housing scheme.
- 6.15 On this basis, the agent is correct that there is no local planning policy justification for planning conditions on energy efficiency or low carbon emissions for residential development. Clearly developers may choose to go over and above Building Regulations on this matter, but that is their decision and not only is it not required by national or local planning policy, it is contrary to those policies unless local requirements form part of a Local Plan following engagement with appropriate partners, are based on robust and credible evidence and pay attention to viability.

#### **The Legal Tests for a Condition**

- 6.16 There are 3 statutory tests to planning conditions: reasonable, relevant to planning and relevant to the development. In addition, in the NPPF, the Government adds 3 further policy tests: enforceable, precise and necessary.
- 6.17 Every condition must always be justified by the local planning authority on its own merits on a case by case basis. The NPPG warns against imposing conditions requiring details that are not shown on approved plans. The submitted application papers for the original application indicated no PV panels nor other types of decentralised, renewable or low carbon energy and the NPPG advises that a condition should not be used that modifies the development in such a way as to make it substantially different from that set out in the application.
- 6.18 As the Local Plan does not have a policy basis for the condition, there is similarly a question mark as to whether the condition is reasonable or necessary.
- 6.19 There is also justification in my view regarding the agent's case that the condition as phrased could be viewed as imprecise as it does not clearly indicate the expectation of the LPA.

#### **Impact on Setting and Visual Amenity**

- 6.20 The majority of the site will have clay tiled roofs but a significant proportion are due to be roofed with artificial slate (fibre cement) and aesthetically, those would be the more suitable plots to have solar forms of renewable energy due to lesser visual quality.
- 6.21 However, the application site is in a sensitive setting at the edge of the village and close to public amenity areas, public footpaths and the setting of a listed Church. The orientation of the site is such that PV panels would ideally need to be on the southerly elevations of the dwellings that are consequently most visible in the public domain. In the light of the sensitivity of the setting, it is my view that any energy use from proposed solar sources would need to be carefully balanced against visual impact. Essentially, the measures would be best suited to rear garage roofs. There is not enough space on the site to make use of alternatives such as ground source heat.

#### **Other Matters**

- 6.22 As a s73 application, relevant conditions on the original planning permission would need to be re-imposed (and updated if necessary).
- 6.23 In this case, no deed of variation would be needed as the legal agreement for 16/508660/FULL has a clause that carries forward its obligations and covenants into

any new approval under s73. The removal of the condition and the recent date of the legal agreement do not necessitate any variation of the terms of that agreement.

- 6.24 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. However CIL Regulations provide for a section 73 consent to only trigger levy liability for any additional liability it introduces, which in this case is zero. Hence this application will not generate CIL payments.

## **7. CONCLUSION**

- 7.01 The scheme intends to use low carbon technologies in accordance with Building Regulations which can help reduce emissions. Hence notwithstanding the applicant's wish to remove the condition, the scheme will still meet the reason for imposing the condition, namely *"to ensure an energy efficient form of development"*.
- 7.02 The NPPF expects local planning authorities to adopt nationally described standards to secure energy efficiency and low carbon emissions. Local requirements for Maidstone Borough do not exist as they need to have first formed part of a Local Plan after engagement with appropriate partners and subject to robust and credible evidence whilst taking account of viability. This process has yet to take place.
- 7.03 Consequently at this point in time, there is no local planning policy justification for retaining planning conditions on energy efficiency or low carbon emissions for residential development.
- 7.04 Of course some developers may choose to go over and above Building Regulations on this matter, but that is their decision and not only is it not required by national or local planning policy, it is contrary to those policies unless local requirements form part of a Local Plan following engagement with appropriate partners, are based on robust and credible evidence and pay attention to viability as mentioned above.
- 7.05 The condition as imposed does not meet the "reasonable" statutory test and it does not meet the "precision" and "necessary" policy tests of the NPPF.
- 7.06 Moreover, the application site is in a sensitive setting at the edge of the village and close to public amenity areas, public footpaths and the setting of a listed Church. The orientation of the site and visibility in the public domain would mean that any scheme that did come forward would need to be carefully balanced against visual impact.

## **8. RECOMMENDATION**

**GRANT planning permission subject to the following conditions:**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
- Drawing 2855 209 Rev E House Type G1 Plans & Elevations
  - Drawing 2855 210 Rev E House Type G2 Plans & Elevations
  - Drawing 2855 212 Rev D House Type G4 Plans & Elevations
  - Drawing 2855 213 Rev G House Type H1 Plans & Elevations
  - Drawing 2855 214 Rev E House Type H2 Plans & Elevations
  - Drawing 2855 215 Rev E House Type H3 Plans & Elevations

Drawing 2855 216 Rev D House Type H4 Plans & Elevations  
Drawing 2855 217 Rev F House Type AF2-A Plans & Elevations  
Drawing 2855 218 Rev D House Type AF2-B Plans & Elevations  
Drawing 2855 220 Rev E House Type AF3-B Plans & Elevations  
Drawing 2855 224 Rev C Affordable Apartments Elevations 1  
Drawing 2855 226 Rev G House Type E3 Plans & Elevations  
Drawing 2855 227 Rev F House Type F3 Plans & Elevations  
Drawing 2855 228 Rev F Car Ports & Garages Plans & Elevations Sheet 1  
Drawing 2855 229 Rev E Car Ports & Garages Plans & Elevations Sheet 2  
Drawing 2855 230 Rev B House Type L1 Plans & Elevations  
Drawing 2855 232 Rev B House Types AF2-B Plans & Elevations  
Drawing 2855 235 House Type B1 Plans & Elevations  
Drawing 2855 238 House Type D2 Plans & Elevations  
Drawing 2695-LA-01P10 Illustrative Landscape Masterplan

Reason: To clarify which plans have been approved.

- 2) The development shall be carried out in accordance with details to be approved of the materials for hard surfaces and to be used and incorporated within in the construction of the external surfaces of the buildings which shall include Kentish Ragstone plinths to plots 64 and 65, stock brickwork, tile hanging, weatherboarding, and clay and slate roof tiles.

Reason: To ensure a satisfactory appearance of development.

- 3) Notwithstanding the details shown on the approved elevation drawings, the development shall be carried out in accordance with details to be approved of the following;
- i. Detail of brick arches to windows
  - ii. Reveals around doors and windows
  - iii. Extent and detail of first floor cladding including that to all elevations
  - iv. Soffit and Facia detail
  - v. Chimneys across the development

Reason: To ensure a satisfactory appearance of development.

- 4) The development hereby approved shall comply with the method statement for the demolition and construction of the development approved under ref 18/502138/SUB.

Reason: To ensure the construction of development is not detrimental to highway safety.

- 5) All existing trees and hedges on, and immediately adjoining, the site, shall be retained, unless identified on the approved site plan (or block plan in the absence of a site plan) as being removed, except if the Local Planning Authority gives prior written consent to any variation. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been

adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with the Local Planning Authority.

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

- 6) The development shall accord with the Arboricultural Method Statement (AMS) approved under ref 18/502138/SUB.

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

- 7) The development shall accord with a landscape scheme to be submitted and approved before first occupation which should be designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of new planting and the specification, and a programme of implementation and long term management.

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

- 8) All planting, seeding and turfing specified in the approved landscape details shall be carried out in accordance with the approved programme of implementation, and any seeding or turfing which fails to establish or any trees or plants which, within five years from their planting die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

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

- 9) Details of the proposed pedestrian footpath route through the southern area of woodland shall be submitted to and approved by the Local Planning Authority prior to first occupation. This route shall be informed by arboricultural information in accordance with the current version of BS5837 to ensure a suitable route is achieved whilst retaining the integrity of the woodland. The report shall also include an Arboricultural Method Statement and include a schedule of any required access facilitation works, a tree protection plan and specific details of the construction of the said footpath with existing and finished levels. Once approved the footpath will be constructed in accordance with the approved details prior to the occupation of 50% of the development and retained in accordance with such details.

Reason: To ensure integrity of the woodland is maintained as part of the development.

- 10) There shall be no occupation until hard landscape works have been implemented in accordance with details which have been submitted to and approved by the local planning authority.

Reason: To ensure a satisfactory appearance to the development.

- 11) The approved garages hereby permitted shall only be used for vehicular parking. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out to the garages so as to preclude the parking of a vehicle.

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

- 12) A landscape and ecological management plan (LEMP), including long term design objectives, management responsibilities and maintenance schedules for all landscaped and open areas other than privately owned domestic gardens, shall be submitted to and approved by the local planning authority prior to first occupation of any dwelling on the site. Landscape and ecological management shall be carried out in accordance with the approved plan unless the local planning authority gives written consent to any variation.

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

- 13) No dwelling hereby approved shall be occupied until the following highways works have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority:

i) Traffic calming to Vicarage Road

ii) The access to Vicarage Lane and appropriate visibility splays.

iii) Pedestrian Footpath from site access and tactile paving to create crossing point to northern footpath

Reason: To ensure compliance with Policy H1 (65) of the Maidstone Borough Local Plan and to ensure highway and pedestrian safety.

- 14) The measures to minimise the risk of crime approved under ref 18/502191/SUB shall be implemented before the development is occupied and shall be thereafter retained

Reason: To secure crime prevention and safety of the area.

- 15) No dwelling shall be occupied until a minimum of 1 electric vehicle charging point has been installed on each property in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

- 16) No dwelling shall be occupied until all related fencing, walling and other boundary treatments have been carried out in accordance with details and a timetable that have been submitted to and approved by the Local Planning Authority. Such details shall include ragstone walling as shown on drawing no. 2855-99-AF and shall include detail of bond, mortar mix and pointing detail.

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

- 17) The development should accord with the decontamination strategy approved under 18/502138/SUB. Any changes to these components require the express consent of the local planning authority.

A Closure Report shall be submitted upon completion of the works which shall include full verification details and should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Reason: To ensure the future development is not at risk from pollutants or contaminants.

- 18) Details of a "lighting design strategy for biodiversity" for the site shall be submitted to and approved in writing by the local planning authority prior to first occupation of the development. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The strategy shall:

a) Identify those areas/features on site that are particularly sensitive for bats and in which lighting must be designed to minimise disturbance, and;

b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

c) Include measures to reduce light pollution and spillage.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Reason: In the interest biodiversity protection and visual amenity

- 19) Development shall be carried out in accordance with a detailed foul water sewerage disposal strategy and implementation timetable for the site that has been submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be occupied until the approved foul water disposal has been fully installed.

Reason: To avoid pollution.

- 20) Development shall be carried out in accordance with a detailed sustainable surface water drainage design that has been submitted to and approved in writing by the local planning authority. The detailed drainage design shall demonstrate that:

i. Surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated onsite before being discharged at an agreed rate to the receiving watercourse.

ii. Measures to prevent silt, mud and other pollutants from entering the downstream watercourses during construction.

iii. Appropriate allowances for climate change have been incorporated into design.

Reason: In the interests of sustainable drainage.

- 21) No dwelling shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be

implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i. a timetable for its implementation, and
- ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: In the interests of sustainable drainage.

- 22) Archaeological investigation, recording and reporting shall be to the specification and timetable approved under 18/502138/SUB.

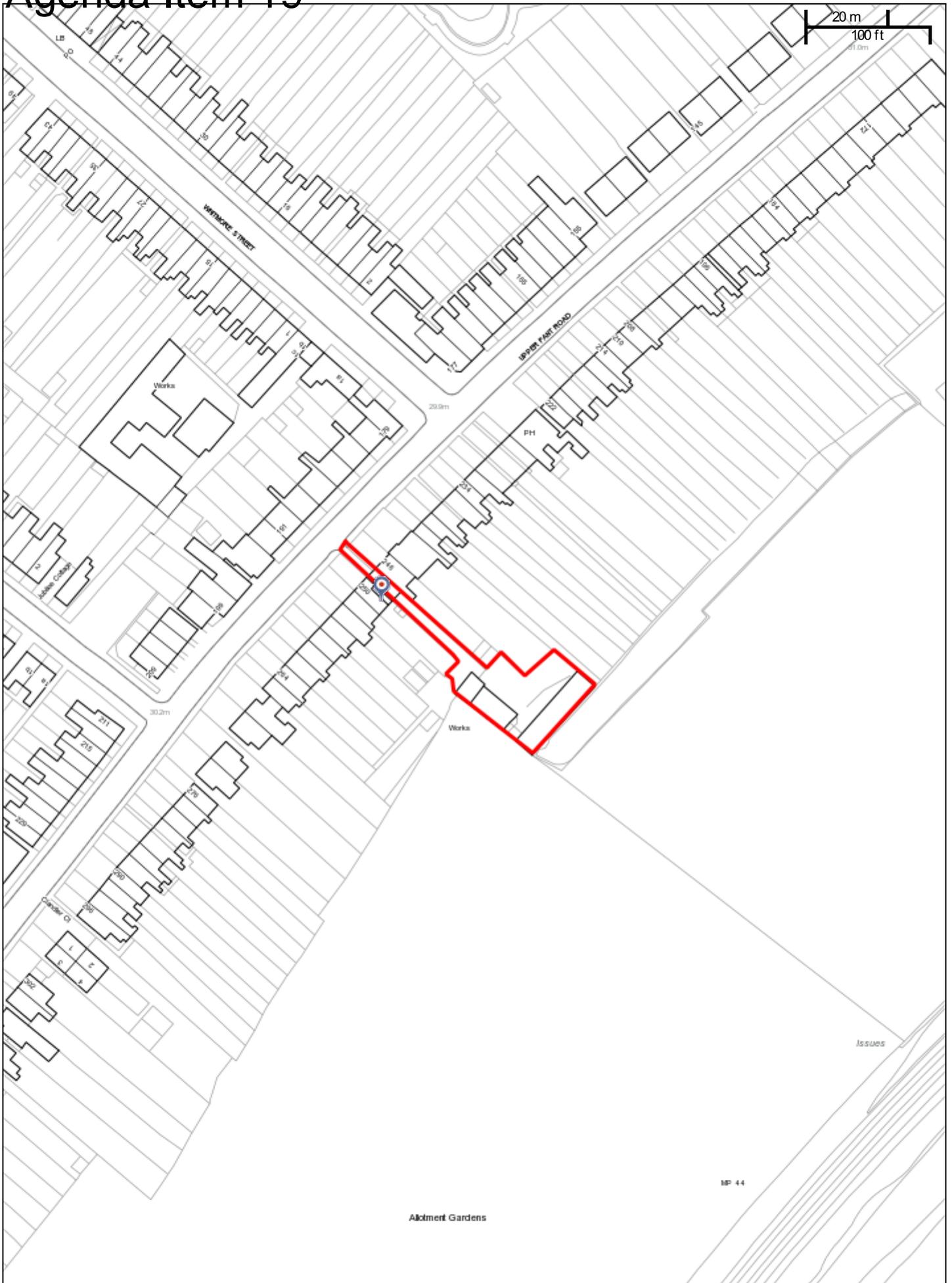
Reason: To ensure that features of archaeological interest are properly examined and recorded.

### **Informative**

- 1) This planning permission should be read in conjunction with the Deed of Agreement Pursuant to Section 106 of the Town & Country Planning Act 1990 dated 7 February 2018 in connection with planning permission 16/508660/FULL, as the obligations under that Section 106 agreement bind against this new permission.

Case Officer: Marion Geary

# Agenda Item 19



18/503763/FULL Land to the Rear of 244-250 Upper Fant Road

Scale: 1:1250

Printed on: 20/11/2018 at 13:59 PM by SummerF

<b>REFERENCE NO - 18/503763/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of two new dwellings.		
<b>ADDRESS</b> Land To The Rear Of 244 - 250 Upper Fant Road Maidstone Kent ME16 8BX		
<b>RECOMMENDATION</b> Grant planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>• The site has an existing use as an engineering workshop and this use would be more appropriate in the context of the locality.</li> <li>• Proposal relates to a redevelopment of the site to replace old and unsightly derelict buildings and enable a more efficient use of land in a sustainable location.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Cllr Harper requested the application is presented to the planning committee as he is concerned that it would have an adverse impact on the environment including the Fant Wildlife Site.		
<b>WARD</b> Fant	<b>PARISH/TOWN COUNCIL</b> n/a	<b>APPLICANT</b> Arrant Land <b>AGENT</b> Denizen Works
<b>TARGET DECISION DATE</b> 09/11/18		<b>PUBLICITY EXPIRY DATE</b> 13/11/18

### Relevant Planning History

MK/1/48/146 Use of land and existing premises as an engineering workshop and store Granted 08.02.4915/508874/FULL 4 x three bedroom houses Refused 10.03.2016 for the following reasons:

1. The proposals represent an excessive density that would result in a cramped and over-intensive form of backland development which would detract from the character and appearance of the surrounding area and the height of the proposed 3 storey development would be incompatible with the prevailing 2 storey height of development in the immediate vicinity of the site, along the south side of Upper Fant Road, contrary to the relevant guidance in the NPPF.
2. The scale of the proposed development is considered to be inappropriate on this sensitive backland site and would result in an unacceptable loss of residential amenity due to its overbearing impact and overlooking of the rear of the adjoining properties to the north, contrary to the relevant guidance in the NPPF.

### Appeal History:

15/508874 Appeal against the refusal for 4 three bedroom houses dismissed 12.08.2016

In her report the Inspector agreed with the officer's assessment, commenting on the cramped nature of the plot being out of keeping with the pattern and layout of surrounding development. It was also noted that the three storey development proposal would not accord with the two storey properties in the locality and would have a harmful effect on the character of the area. In terms of the amenity of neighbouring properties, the excessive fenestration would overlook the gardens resulting in visual intrusion by the occupiers of the proposed development.

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The site lies on the south-east side of Upper Fant Road to the rear of Nos 244 – 250 which are terraced properties fronting the road. The site measures approximately 23 metres x 24 metres and is served by an existing narrow access from Upper Fant Road. The undercroft access from Upper Fant Road is at lower ground floor level at No 248 Upper Fant Road, a two storey mid-terraced property on the road frontage.
- 1.02 The backland application site was previously used as a vehicle repair business for which permission was granted in 1949. The commercial use appears to have ceased trading some time ago and the site is now derelict and overgrown. The remains of the buildings used in conjunction with the former use can be seen on the site.
- 1.03 The vehicle access also serves several lock up garages close to the site entrance that are located in the rear gardens of neighbouring properties and outside the application site boundary. The site is within the Maidstone Urban Area with the rear site boundary adjoining Fant Nature Reserve and allotment gardens with the railway line beyond.

### **2. PROPOSAL**

- 2.01 The proposal is for the erection of two new dwellings. Dwelling 1 would be sited in a similar position to the original structure (on the right hand side as you get to the end of the access road) and dwelling 2 would be located on the opposite side of the site to your left as you get to the end of the access road.
- 2.02 Dwelling 1 would have a garage on the front boundary facing Upper Fant Road, with the dwelling positioned closely behind it. A side gate adjacent to the garage allows an access to the enclosed site with the front door immediately beyond it. The utility room and WC are enclosed, with the kitchen/diner overlooking the nature reserve and the living area to the rear of the property overlooking the amenity area. The stairs to first floor are located opposite the front door.
- 2.03 On the first floor, a family bathroom is located at the front of the property with the window facing the access road. Bedroom 3 is adjacent to it, with a window overlooking the nature reserve, and bedroom 2 is beyond it, with similar fenestration. Bedroom 1 is at the rear of the property with an ensuite and a balcony above the amenity area.
- 2.04 Dwelling 2 would have two parking spaces within the external circulation space. The front door is located at the southwestern corner of the property facing the access road. A bathroom is opposite and the first floor access is located to the side, with the study beyond it.
- 2.05 Bedroom 2 has views over the nature reserve with access out to the amenity area beyond. Another bathroom is located between this bedroom and the



- Out of character with pattern of development
- Loss of privacy, light, outlook
- Noise, smells and disturbance from activities and traffic movement
- Cramped development
- Risk of flooding
- Poor water pressure worsened
- Detrimental impact on separate garden area serving 248 Upper Fant Road
- Construction traffic will put further strain on the access road and safety of pedestrians
- Cramped overdevelopment
- Inadequate amenity space
- Excessive height
- Poor choice of materials
- Lack of boundary screening

## 5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

### Environmental Services

5.01 No objection subject to conditions and informative

### KCC Highways

5.02 No objection subject to conditions and informative

### Southern Water

5.03 Suggested informatives should the application be granted

### Archaeology

5.04 A watching brief condition is required before development commences.

### KCC Ecology

5.05 Conditions relating to the protection of species and enhancement of the application site in terms of biodiversity is required before development commences.

### Trees and landscaping

5.06 The trees in the vicinity are not of sufficiently high amenity value to warrant any objections in terms of future pruning/lopping in order to maintain light to the new dwellings. However, an arboricultural method statement would need to be provided in order to demonstrate root protection during the course of construction. A landscaping condition should also be added to ensure a satisfactory finish to the development.

## 6. APPRAISAL

### **Main Issues**

6.01 The key issues for consideration relate to:

- Principle of development
- Neighbour amenity
- Character of the locality

- Design
- Density
- Trees and landscaping
- Biodiversity
- Drainage
- Highway issues

#### **Principle of development**

- 6.02 Policy SS1 highlights that the urban area of Maidstone is the most sustainable location for new development. The urban area is the focus for a significant proportion of new housing as it is considered to be a good place to live and work. Policy SP2 acknowledges that local services are easily accessible in this location either on foot or from frequent public transport in the area.
- 6.03 DM1 encourages high quality design that respects the character of the area as well as the amenities of neighbouring properties. The locality will be adhered to, with regard being paid to scale, height, materials, detailing, mass, bulk, articulation, and site coverage. DM2 relates to sustainable design, along with the NPPF which references the social, economic and environmental roles of sustainable development.
- 6.04 The current use of the land as an engineering workshop would not be appropriate in this location in terms of noise and disturbance if a planning application for this use was being considered now. The subsequent change of use of the land and erection of two dwellings in this sustainable location within the urban area of Maidstone would be acceptable in principle providing the proposals would comply with the remaining relevant policies.
- 6.05 DM5 encourages development on previously developed land in Maidstone urban area, providing the site is not of high environmental value and the development proposal would be of an appropriate density. The existing site is largely covered with a concrete base. It currently comprises derelict buildings, overgrown with weeds. Formally used as an engineering workshop, it has been vacant for some years. The land would not be considered to be of high environmental value.
- 6.06 Policy DM12 identifies an expectation of achieving net densities of 35 dwellings per hectare. This site achieves a density of 42 dwellings per hectare which is compliant with the Maidstone Local Plan and therefore considered acceptable in policy terms. The earlier proposal was refused permission due to excessive density, the current proposal has sought to address these concerns with a reduction from a density of 84 dwellings per hectare.

#### **Neighbouring amenity**

- 6.07 The neighbouring properties in Upper Fant Road are separated from the application site by long rear gardens. Some of these neighbouring gardens include garages.
- 6.08 The second reason why the earlier permission was refused related to a loss of residential amenity in terms of overbearing impact and overlooking of the rear of the adjoining properties to the north. This revised application has sought to overcome these concerns with the changes outlined below.

- 6.09 The reduction in the height and size of the development proposal would reduce the adverse impact on the neighbouring properties that was highlighted by the Inspector's decision.
- 6.10 The revised scheme has substantially reduced the number of windows facing the neighbouring properties. The front elevations include a bathroom window on dwelling 1 and a landing window on dwelling 2. A condition is recommended to ensure that both of these windows are fitted with obscure glass, with another condition recommended to ensure no other windows are added.
- 6.11 The distance from the northwest (front) elevations of dwelling 2 to the rear elevations of the properties on Upper Fant Road would be approximately 41 metres and to the rear boundaries of their gardens the distance would be 4.0 metres. From dwelling 1 those distances would be 33 metres and 11 metres respectively.
- 6.12 Windows to the northeast (side) elevation of dwelling 2 comprise a WC and a secondary window to the living area and would potentially have long views across the ends of the amenity areas of the Upper Fant Road properties. Again, both of these windows could be obscure glazed and a restriction on no further windows added to the elevation.
- 6.13 Fenestration on the southeast of both properties would face the nature reserve which would be acceptable. The adjacent garden of No 248 is approximately 9.0 metres from the nearest part of dwelling 1. Any potential loss of privacy from fenestration on the southwest elevation of dwelling one (relating to the bedroom windows) would be from oblique views owing to the angled relationship of dwelling 1 with the amenity area. In addition to this, the existing trees would further prevent any issues in this regard.
- 6.14 The separation distance between the rear elevation of existing properties on Upper Fant Road and the new building elevation would exceed the 21 metres usually considered to be acceptable in terms of privacy-related issues. The usable space within the amenity areas, although closer (including the garden area for No 248), would not be unduly affected by the development proposal. The garden area for No 248 is located to the southwest of the application site and, as such, there would be insufficient adverse impact to warrant a refusal.

### **Design**

- 6.15 The dwellings in this locality are largely terraced and uniform in design and set evenly back from the highway on both sides of the road. The dwellings in the surrounding area are of traditional design and materials. The existing buildings along the road are generally two storeys in height with pitched roofs.
- 6.16 The drawings shown on the existing site section include single storey structures, ranging from 5.0 metres in height with lean-to roofs down to 3.0 metres. The proposed dwellings are of contemporary design, being simple, timber clad utilitarian buildings with lean-to roofs of corrugated sheet metal cladding. The highest part of the building 1 would be 9.0 metres and the lower part of the lean-to would be 5.8 metres. Building 2 would be 8.3 at the highest part and 5.4 metres at the lowest.

- 6.17 The previously refused application (referenced 15.508874) related to the proposed erection of four terraced dwellings that stretched across almost the full width of the site with a height of 10.8 metres. Although the slope of the site resulted in them being nearly 3.0 metres lower than the dwellings on Upper Fant Road, the development proposal was considered to be cramped form of development, visually harmful and detrimental to the neighbouring properties.
- 6.18 The current application would be 1.8 metres lower than the previous application, with lean-to roofs that reduced in height a further 5.4 metres. In addition to the reduction from three storeys to two storeys, there would also be a reduction in the number of proposed units from four to two which would result in more space around the site. The lean-to roofs, coupled with the additional space around the units, would reduce the cramped appearance on the site, bringing it in line with the heights of the surrounding properties on Upper Fant Road. In addition, the fenestration has been reduced and relocated to ensure that the visual intrusion that formed one of the issues with the previous application was addressed appropriately.
- 6.19 Given the height of the existing buildings on Upper Fant Road and the steady downward slope of the land from the properties to the application site, the proposed development, when seen from any vantage points from the wildlife site or allotments, would be viewed against the backdrop of the existing buildings. The site would be largely obscured from views from Upper Fant Road due to the uniform terraces along it. The reduced size, height and form of the units would be screened by trees from the footpath adjacent to the River Medway, 125 metres away. and would not be out of character with the locality.
- 6.20 The contemporary buildings would be constructed using materials that are not consistent with the surrounding properties, however, they would be more appropriate on this modern form. The use of the natural timber cladding would compliment the backdrop of the nature reserve, especially once the materials have weathered, and the lean-to roof would have a less obtrusive effect than a traditional pitched one. Notwithstanding this, a condition for the submission of material samples would ensure the final construction would be appropriate. The corrugated sheet metal cladding would be located on the lean-to roofs and, set at this shallow pitch. would be less obtrusive than a traditional pitched roof which would require a steeper pitch to successfully accommodate the tiles.
- 6.21 In terms of the scale and form of the two units, they have now been reduced in size to two storey buildings which emanate those fronting upper Fant Road. The space around the buildings would result in a less cramped development proposal and the materials would give the impression of a lighter structure, unlike a solid brick and tile form. In the proximity of a nature reserve, these materials provide a more natural alternative, yet their utilitarian form serves as a reminder to the more industrial use of the from which the site originated.
- 6.22 While it is acknowledged that this is a backland location, the land is previously developed and was in use as a vehicle repair garage that could have resulted in nuisance to neighbouring residential occupiers. The current application will remove this non-conforming use with a modest residential

development that is an appropriate scale and design in this backland location.

### **Trees and landscaping**

- 6.23 Additional information was included during the course of the application to set out the issues with regard to the trees and landscaping on the site. Further conditions are required to provide an arboricultural impact assessment with information to specifically identify any potential impact on the trees as a result of the laying of foundations.
- 6.24 Overall, it is considered that the amenity value of the trees adjacent to the site is not great enough to warrant a refusal of the application, this includes pressure to lop/prune them in order to retain sufficient light into the properties. However, a landscaping scheme would also be required incorporating one or two trees (such as Silver Birch or Rowen) and some native hedging, along with a condition to replace any lost or damaged/diseased planting following the construction in order to further enhance the development proposal and increase biodiversity on the site.

### **Biodiversity**

- 6.25 Policy DM3 seeks to ensure that new development would protect and enhance the natural environment wherever possible.
- 6.26 The preliminary ecology survey submitted to the Ecology Section suggested the presence of bats. For this reason, the Ecology Section requested that, in order to protect them, the Bat Conservation Trust's Bats and Lighting in the UK guidance should be adhered to in the lighting design. A condition has been added to ensure that the development will not harm the wildlife here.
- 6.27 The majority of the site comprises hard standing, although since it becoming vacant, it has become overrun with weeds. Having consulted with KCC Ecology, we have been advised that it is possible that some parts of the site are suitable for reptile use (made especially likely due to the adjacent Local Wildlife Reserve).
- 6.28 Due to the modest size of the site it is unlikely that there is a resident reptile population. However, as reptiles are protected, a condition will be added requiring construction works to stop should any wildlife be found on the site, and appropriate authorities contacted for advice. In addition, a further condition will be added to identify ecological enhancements such as swift boxes etc.
- 6.29 Finally, bearing in mind the ecological implications adjacent to the site, it should be noted that the original use (a garage repair workshop) would result in a higher likelihood of contamination than the current proposal. Environmental Services have requested a condition to ensure that all contaminants have been removed before commencement of construction, and this condition would have positive environmental implications as a result of these measures. The change of use to residential occupation would also reduce the chances of further contamination in the future.

### **Drainage**

- 6.30 Concerns have been raised by Southern Water with regard to drainage in the area, and they have requested informatives relating to the need to protect any sewers within the construction site, the need to apply to Southern Water to connect to them, and the importance of long term maintenance plans for SUDs. An informative has been added requesting the applicant discusses these matters with Southern Water.

### **Highways**

- 6.31 Policy DM23 states that 1 car space should be allocated for a two bedroom house in a suburban location, and 1.5 spaces should be allocated for a three bedroom house. Dwelling 2 has two spaces which exceeds the requirement for a two bedroom property. Dwelling 1 (a three bedroom property) has two spaces, however, it has not been demonstrated by a tracking programme that two cars would be able to manoeuvre adequately to leave the site in a forward gear. Notwithstanding this, the application site is located within a sustainable location where using public transport is encouraged. There is a frequent bus service into Maidstone on this route, and the bus stop is located approximately 100 metres from the application site. For these reasons it is considered that sufficient parking has been supplied.
- 6.32 The proposed development would be accessed via an existing track off Upper Fant Road, and provides a straight route extending under an existing terraced property. The access is existing and previous discussions have resulted in an agreement to insert additional fire prevention equipment within the dwellings during the construction process.

### **Other Matters**

- 6.33 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

## **7. CONCLUSION**

- 7.01 The application includes a more modest development proposal than the previously refused scheme, including the omission of two units, a reduction in height, bulk, massing and width of the building, and the relocation and reduction in fenestration, particularly on the boundaries which would result in adverse impact on the neighbouring properties.
- 7.02 For these reasons, it is considered that it has overcome the previous issues raised in the original planning application. Overall, the development proposal would be considered policy compliant and, as such, would be recommended for approval.

## **8.0 RECOMMENDATION**

GRANT planning permission subject to the following conditions:

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

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

- 2) The development hereby approved shall not commence until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A – E (inclusive) to that Order shall be carried out without the permission of the local planning authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area.

- 4) The development hereby approved shall not commence until, details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the local planning authority and the development shall be completed strictly in accordance with the approved levels;

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

- 5) Notwithstanding the details submitted, the development hereby approved shall not commence above slab level until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

- 6) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the northeast and northwest facing walls of dwellings 1 and 2 at first floor level and above, and the southwest facing wall of dwelling 2 at first floor level and above hereby permitted;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.

- 7) Before the development hereby permitted is first occupied, the proposed first floor bathroom and first floor landing windows on the northwest facing walls of dwellings 1 and 2, and the WC and dining area windows on the northeast facing walls of dwelling 2 shall be obscure glazed and shall subsequently be maintained as such to the satisfaction of the local planning authority;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of existing and prospective occupiers.

- 8) The approved details of the parking/turning areas shall be completed before first occupation of the buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England ) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;  
Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.
- 9) The development hereby approved shall not commence until a method statement for the demolition and/or construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for the following:
- Submission of a Construction Management Plan before the commencement of any development on site including the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.
  - Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.
  - Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.
  - Should works be required in the highway a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation ([webwww.kent.gov.uk/roads\\_and\\_transport.aspx](http://webwww.kent.gov.uk/roads_and_transport.aspx) or telephone: 03000 418181) in order to obtain the necessary Application Pack.
- Reason: To ensure the construction of development does not result in an adverse impact on highway safety.
- 10) The development hereby approved shall not commence until (including site clearance and demolition) an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme, include a tree protection plan and provide details of the foundations in relation to the tree roots.  
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 11) The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed provide details of on site replacement planting to mitigate any loss of amenity and biodiversity value [together with the location of any habitat piles] and include a planting specification, a programme of implementation and a [5] year management plan. The landscape scheme shall specifically address the following:  
Hard landscaping at the front of the application site  
Reason: In the interests of landscape, visual impact and protection of the amenity of the area and neighbouring gardens and to ensure a satisfactory appearance to the development
- 12) The approved landscaping associated with individual dwellings shall be in place at the end of the first planting and seeding season following completion of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following completion of the final unit. Any trees or plants, which, within a period of 5 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.  
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development
- 13) Each individual dwelling hereby approved shall not be occupied until a minimum of one electric vehicle charging point has been installed on the given building(s) with dedicated off street parking, and shall thereafter be retained for that purpose.  
Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 35 of the NPPF.
- 14) The development hereby approved shall not commence above slab level until details of a sensitive lighting plan to minimise disturbance to foraging bat behaviour, will be submitted to, and approved by, the Local Planning Authority. This will include the location and type of lighting to be installed and consideration of bat-sensitive areas to be illuminated. The approved plan will be implemented and thereafter retained.  
Reason: To avoid an adverse impact on biodiversity as a result of the development.
- 15) Prior to the first occupation of the development hereby approved, details of how the development will enhance biodiversity shall be submitted to, and approved in writing by, the Local Planning Authority. This will include the implementation of at least four of the recommendations in paragraph 4.10 of the Preliminary Ecological Appraisal and Bat Survey (KB Ecology Ltd. Jul 2018) and a timetable for implementation. The approved details will be implemented in accordance with the approved timetable and thereafter retained.  
Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- 16 Operational works will adhere to the precautionary measures in paragraph 4.4 of the Preliminary Ecological Appraisal and Bat Report (KB Ecology Ltd – July 2018). If reptiles are found during the works, the applicant is advised to stop work and follow advice from an independent ecologist.  
Reason: To avoid an adverse impact on biodiversity as a result of the development.
- 17 The development hereby approved shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.  
Reason: To ensure adequate sewage disposal and drainage arrangements.
- 18 The development hereby approved shall not commence until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
- a) A preliminary risk assessment which has identified:
    - all previous uses
    - potential contaminants associated with those uses
    - a conceptual model of the site indicating sources, pathways and receptors
    - potentially unacceptable risks arising from contamination at the site.
  - b) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS 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 consent of the local planning authority. The scheme shall thereafter be implemented as approved.  
Reason: In the interests of protecting the health of future occupants from any below ground pollutants.
- 19 A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;  
Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.  
Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

- 20 The development hereby approved shall not commence above slab level until details of all fencing, walling and other boundary treatment to be constructed will be submitted to, and approved in writing by, the Local Planning Authority. This will include details of openings to enable creatures to pass through amenity areas. The boundary treatment will be constructed before the occupation of the properties and will be maintained at all times. Reasons: In the interests of biodiversity and to avoid any loss of privacy for neighbours
- 21) The development hereby permitted shall be carried out in accordance with the following approved plans:
- |             |            |   |
|-------------|------------|---|
| 16 Jul 2018 | P010 Rev A | Proposed Ground Floor Plan              |
| 16 Jul 2018 | P011 Rev A | Proposed First Floor Plan               |
| 16 Jul 2018 | P012       | Proposed Roof Plan                      |
| 16 Jul 2018 | P030       | Proposed Elevation NW 1                 |
| 16 Jul 2018 | P031       | Proposed Elevation NW 2                 |
| 16 Jul 2018 | P032       | Proposed Elevation SW                   |
| 16 Jul 2018 | P033       | Proposed Elevation SE                   |
| 16 Jul 2018 | P034       | Proposed Elevation NE                   |
| 16 Jul 2018 | P040       | Proposed Site Section A                 |
| 16 Jul 2018 | P041 Rev A | Proposed Section AA                     |
| 16 Jul 2018 | P042 Rev A | Proposed Section BB                     |
| 16 Jul 2018 |            | Preliminary Ecological Appraisal & B... |
| 16 Jul 2018 |            | Design and Access Statement             |
| 20 Jul 2018 |            | Planning statement                      |
| 20 Sep 2018 | E000 Rev B | Location Plan                           |
| 20 Sep 2018 | P001 Rev A | Proposed Site Plan Amendment            |
- Reason: To clarify which plans have been approved.

### **INFORMATIVES**

- 1) The applicant is advised to discuss all drainage and sewerage matters further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk) or email [developerservices@southernwater.co.uk](mailto:developerservices@southernwater.co.uk)
- 2) This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.
- 3) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained, and that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
- 4) The applicant is reminded that broad compliance with the Mid Kent Environmental Code of Development Practice is expected.

Case Officer: Jocelyn Miller



## Appeal Decision

Site visit made on 12 July 2016

by **Nicola Davies BA DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 August 2016

---

**Appeal Ref: APP/U2235/W/16/3149302**

**Land to the rear of 244 to 250 Upper Fant Road, Maidstone, Kent, ME16 8BX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Edward Jones against the decision of Maidstone Borough Council.
  - The application Ref 15/508874/FULL, dated 13 October 2015, was refused by notice dated 9 March 2016.
  - The development proposed is four three-bedroom houses.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The applicant's name provided on the application has been given as Mr Edward May however, this has been given as Mr Edward Jones in subsequent documents, including those pertaining to appeal documents. I consider the name provided in the application has been given in error.

### Main Issues

3. The main issues raised in respect of the appeal are the effect of the proposal on:
  - a) The character and appearance of the area; and,
  - b) The living conditions of adjoining occupiers.

### Reasons

#### *The character and appearance of the area*

4. The character of the area, in general, is formed by terraced dwellings which front on to the highway with gardens to the rear. I observed on site a small number of three storey properties in Upper Fant Road, however in the main the terraced properties in the area are two storey with a small number incorporating additional accommodation within the roof space.
5. In contrast to the surrounding development the appeal site is situated behind road frontage development. The proposed rectangular building would be erected adjacent to three of its site boundaries. The remainder of the appeal

site would comprise parking and turning space and small decked outdoor amenity areas. The proposed building would be clearly constrained by the size and shape of the appeal site. In addition, the outdoor amenity areas would be substantially smaller in size and different in form to that of surrounding road frontage properties. As a result the proposed development would appear cramped within this constrained plot and would be out of keeping with the pattern and layout of surrounding development.

6. The proposed development would be three storeys, although the top storey would be partly contained within the roof. As noted above, the properties in the local area are, in the main, two storey. Although the land level is lower and the threshold of the ground floor and ridge height of the proposed dwellings would be lower than that of the properties in Upper Fant Road, the development would appear as a three storey building out of keeping with the existing development in the surrounding area.
7. Although the appeal site is not readily visible from Upper Fant Road, it would be clearly visible from a number of neighbouring properties and their gardens and from views from the Fant Nature Reserve and allotments to the south and south east of the appeal site. Whilst the land to the south east is a treed landscape, the contours of the land decrease, and as such, the proposed development would have an elevated position when observed from the south and south east. The declining contours of the land offer the site less screening. Whilst the proposal would incorporate decked terraces to the rear that would create a small gap between the proposed building and the Nature Reserve, the development would nonetheless be readily visible in longer views from the wider Fant Nature Reserve and the allotments to the south and south east of the appeal site.
8. For these reasons I conclude that the proposal would not reflect the development in the surrounding area and would have a harmful effect on the character and appearance of the area. The proposal conflicts with Paragraphs 17 and 56 of the National Planning Policy Framework (the Framework) which seeks new development to take into account the character of different areas and attaches great importance to the design of the built environment and that this should contribute positively to making places better for people. The proposed development also conflicts with Paragraph 58 of the Framework which requires new development to respond to local character and reflect the identity of local surroundings and materials and to be visually attractive as a result of good architecture and appropriate landscaping.

*The living conditions of adjoining occupiers*

9. Although the proposed development would have a reasonable separation from the existing terraced housing along Upper Fant Road, it would be in close proximity to the private rear gardens of adjoining properties, particularly those of 242 and 244 Upper Fant Road as the gardens of these properties directly abut the appeal site. The appeal site is at a lower land level to that of the existing terraced properties. The land level of the rear gardens of these properties gently declines over the length of the gardens.
10. The proposed building would be close to the boundaries of the appeal site where they abut the rear gardens of 242 and 244 Upper Fant Road and its height and overall size would dominate their adjacent garden amenity areas. It would be clearly visible to the occupiers of these adjoining properties and

significantly change the outlook from the rear gardens. As a result, the proposed building would be visually dominant and overbearing and introduce a harmful visual intrusion that would harm the living conditions at adjoining properties.

11. Furthermore, extensive fenestration is proposed to the upper storeys of the front elevation. The proximity of the proposed building and its relationship to the adjoining gardens would enable observation of them by its occupiers from the first and second floor bedrooms, studies and landing windows. As a result, the proposed development would not afford adjoining occupiers an appropriate amount of privacy as the gardens would be directly overlooked by the future occupiers of the proposed development. This would be harmful to living conditions of existing occupiers.
12. For these reasons, I conclude that the proposed development would be harmful to the living conditions of adjoining occupiers in respect of outlook and privacy. The proposal conflicts with Paragraph 17 of the Framework which aims, amongst other matters, to ensure a good standard of amenity for all existing occupants of buildings.

### **Other Matters**

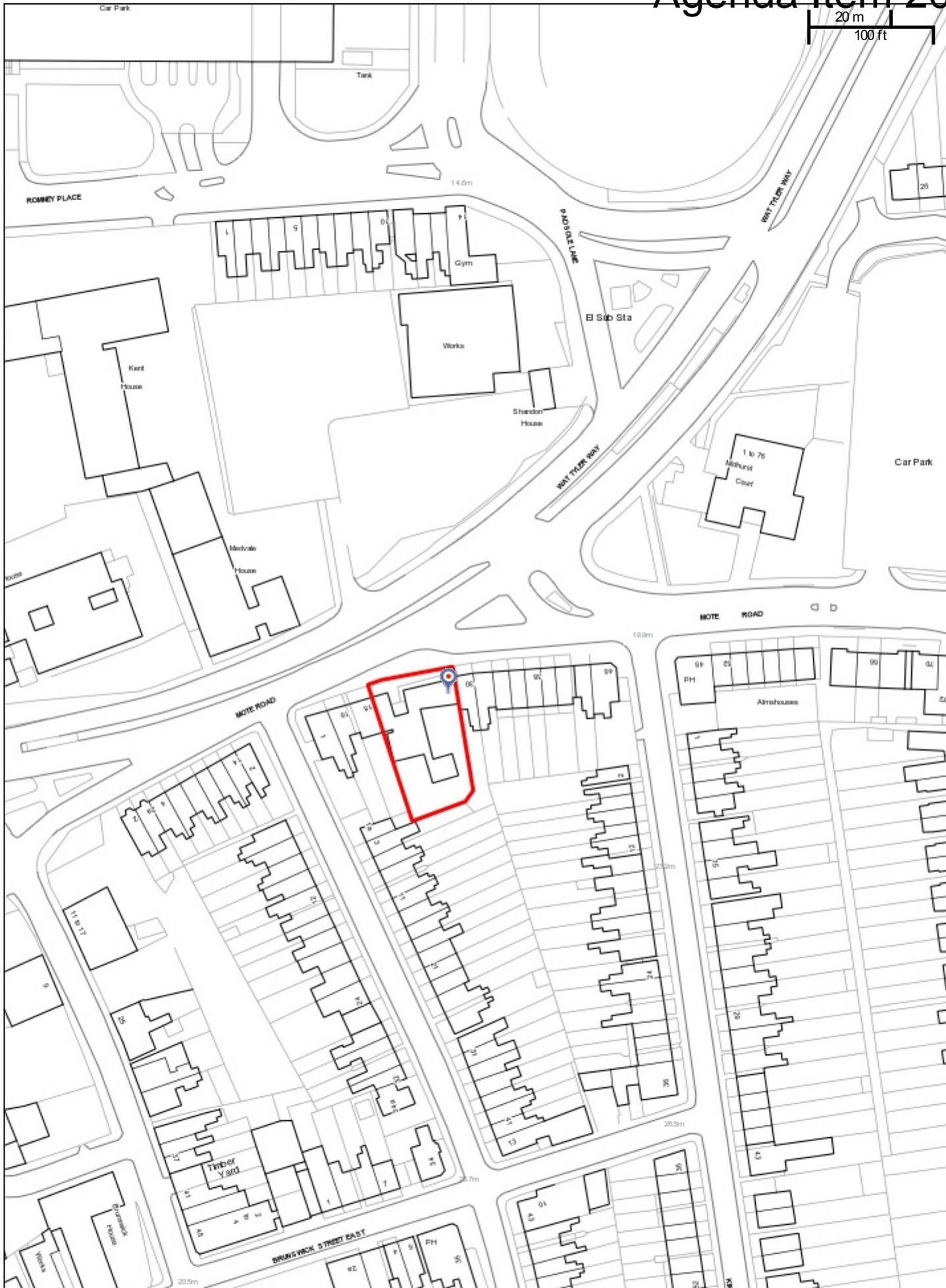
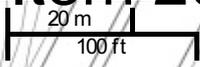
13. I acknowledge the proposal would provide four additional family homes on a brownfield site within the urban area in a sustainable location. Whilst the proposal would contribute four dwellings to the City's overall housing supply, this benefit would not outweigh the harm identified above.

### **Conclusion**

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Nicola Davies*

INSPECTOR



18/504734/FULL 20-28 Mote Road, Maidstone

Scale: 1:1250

Printed on: 20/11/2018 at 14:04 PM by SummerF



<b>REFERENCE NO -</b> 18/504734/FULL		
<b>APPLICATION PROPOSAL</b> The redevelopment of Maidstone Mosque with associated facilities including a residential flat, two retail units and ancillary accommodation (resubmission of 18/502567/FULL).		
<b>ADDRESS</b> 20-28 Mote Road Maidstone Kent ME15 6ES		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>• The site has an existing D1 use as a Mosque.</li> <li>• Proposal relates to a redevelopment of the site to replace old and unsightly buildings and to enable a more efficient use of the town centre site.</li> <li>• Proposed site frontage will reflect the character and appearance of the adjacent terraced buildings.</li> <li>• Site is sustainably located on edge of town centre and also near to many public car parks and public transport routes.</li> <li>• Provision of a modern community facility that is encouraged by local, national and government policies and guidance.</li> <li>• The overall number of worshippers is not expected to increase and an overall occupancy limit is to be imposed.</li> <li>• Significant weight should be attached to extant permission referenced 16/500411/FULL which permits a similar footprint of building and scale to the current proposal -</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Relates to an application where the Head of Planning and Development considers to be an exceptional case where there are wider issues of a public nature to consider.		
<b>WARD</b> High Street	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Dr Usmani <b>AGENT</b> Progetto Design LLP
<b>TARGET DECISION DATE</b> 02/11/18		<b>PUBLICITY EXPIRY DATE</b> 08/10/18

**Relevant Planning History**

79/1416

Extension to existing concrete slab to facilitate new portable buildings  
Withdrawn Decision Date: 09.09.1979

79/1719

Extension of existing concrete slab to facilitate new portable building  
Approved Decision Date: 20.11.1979

81/0809

Charity shop  
Approved Decision Date: 13.07.1981

86/1646

Change of use to light industrial  
Approved Decision Date: 24.03.1987

89/1687

Temporary change of use to offices and temporary provision of car parking area.  
Approved Decision Date: 05.12.1989

89/1823

Erection of five storey office block with associated car parking.  
Refused Decision Date: 14.12.1989

90/1648

Outline application for 11 flats and car parking.  
Withdrawn Decision Date: 30.12.1991

16/500411/FULL

Redevelopment of Maidstone Mosque with associated classrooms, library, offices, kitchen along with the addition of 3 shops and 1 residential flat.

Approved Decision Date: 21.12.2016

18/502567/FULL

The redevelopment of Maidstone Mosque with associated facilities including a residential flat, two retail units and ancillary accommodation (resubmission of 16/500411/FULL).

Refused Decision Date: 02.08.2018

18/504816/DEMREQ

Prior Notification for the demolition of all buildings at 20-28 Mote Road.

Prior Approval Granted Decision Date: 16.10.2018

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The application site is located on the south side of Mote Road on the edge of the town centre, approximately 400m from the main shopping centre. Although also adjacent to a residential area, the area is of mixed character containing a range of commercial, retail and office uses.
- 1.02 Multi-storey office buildings are located immediately opposite the site, with the multi-storey car park for the Chequers shopping centre and Sainsbury's Supermarket and its associated surface level car park located beyond. There are also a number of other public car parks located in the vicinity of the site.
- 1.03 The site was formally occupied by terraced housing, which suffered bomb damage during the war and was replaced by the present buildings. Planning permission was granted in the 1980's for the use of the site for light industrial use and a temporary office use. The application site has subsequently been occupied by Maidstone Mosque for approximately 20 years with the premises previously used by a local charity organisation.
- 1.04 The buildings on the site have recently been demolished under the Demolition Notice approved under 18/504816. The demolished buildings were mostly single storey with a pre-fabricated appearance, largely in poor condition due to both their age and poor quality construction. The single storey building had a low pitched and tiled roof and also a stepped and ramped entrance on its front elevation. This was adjacent to a flat roofed single storey element that linked to the two storey building on the far western end of the site, which provided the residential accommodation for the Imam. The remainder of the site comprised numerous timber and brick structures in varying states of repair, with a temporary marquee located at the far southern end of the site.
- 1.05 The low height of the previous buildings on the site meant that they were out of scale and character with the higher surrounding terraced housing to both the west and east. The majority of the adjacent terraced houses are three storey, brick built buildings, such as Nos 18 and 30, the properties immediately to the east and west of the application site. However, Nos 1a and 3 Melville Road to the southwest of the site are two storeys. All the buildings in the surrounding residential roads are also a mix of two and three storey terraced and semi detached houses, interspersed with small shops and businesses.
- 1.06 The primary use of the previous building on the site was as a place of worship, but it also provided a range of community facilities, including Islamic education, an advice centre, counselling and educational lectures. The lawful use falls within Class

D1 (non residential institutions) of the Town & Country Planning (Use Classes) Order, 1987, as amended.

- 1.07 The current application is submitted as the previous building provided a lack of internal space, inconvenient internal layout and was generally in a poor state of repair. The previous building made poor use of the space, with no logical flow that created many problems for its users. A temporary marquee at the rear of the premises provided additional space for special events, but was not practical for use throughout the year.
- 1.08 There is minimal landscaping on the site. The ground levels are much higher on the adjacent site at 18 Mote Road and on 3 Melville Road to the rear. The land levels increase on 18 Mote Road from the front to the rear of the site.

## **2. PROPOSAL**

- 2.01 The proposal relates to the redevelopment of Maidstone Mosque and would be designed and constructed in similar scale and proportion to the extant application (referenced 16/500411/FULL) which was approved by, the Planning Committee.
- 2.02 The proposed mosque is 2 storeys high plus roof space accommodation on the Mote Road frontage, reducing to a single storey at the rear. The building will provide the following accommodation:
- Ground floor: 2 retail units, male and female entrances, men's wudu (ritual washing performed by Muslims before prayer) area, reception office and office store. Prayer hall.
  - Upper ground floor: 3 classroom areas, office, boys' WC, women's wudu area, women's prayer hall and overflow prayer hall.
  - Second floor: Library and 3 bedroom flat for the Imam.
- 2.03 The proposed building scale on the site frontage closely reflects the scale, height and proportions of the adjoining properties in Mote Road, which is the main public view. The front part of the building will extend to the same depth as the neighbouring property at 30 Mote Road.
- 2.04 There would be an increase in height from the original single storey building on the site from 5.7m to a roof ridge height of 10.7m for the proposed building. This will give the proposed building the same ridge height as the adjacent residential buildings at 18 and 30 Mote Road. The ridge height of the building follows the same profile as no. 30 Mote Road with the use of rooflights rather than dormers.
- 2.05 External materials reflect the surrounding area with yellow brickwork to the front, red soldier courses, stone cills, white sash windows and slate roofs. The rear of the building would have red brickwork on the main element, and insulated render for the central portion of the building (between main hall and front terrace), PPC aluminium windows to main hall and glazed wall. UPVC windows for domestic scale windows to the apartment and side windows, Green (sedum) roof to the stepped down perimeter areas of roof, GRP to flat roofs at the rear of the terrace portion of the building and around the dome and a glazed dome.
- 2.06 The current two storey building that has been demolished adjoined No.18 Mote Road. A pedestrian access is to be provided along this boundary with gates on the frontage. This will also allow access to the rear bin storage area. It will also allow for secondary exit points from the prayer hall in case of emergencies and also on busy days in the Muslim calendar when there are a greater number of visitors.
- 2.07 The main building entrances are on the site frontage in Mote Road through two sets of double doors at either end of the building. These main entrances will normally be used as they allow access to the lobby and then to the ritual washing area that is visited before going into worship.

- 2.08 To the rear of the site the proposed building will be two storeys in height, with this part of the building containing a multi purpose hall. This will have a flat roof, which is proposed to be a green roof with flat glass roof lights.
- 2.09 The lower rear part of the proposed building will extend across the width of the rear of the frontage building, but as it extends to the rear of the site narrows in depth allowing the building to make the best use of the site. Unlike the front of the building, the rear part of the building does not extend across the whole width of the site but is set in at the sides with a roof that steps down progressively from the front to the rear.
- 2.10 The higher ground level at 18 Mote Road results in only the second storey of the rear extension being visible over the boundary fence. The proposed windows facing the rear elevations of Nos. 18 (to the east) would comprise fenestration to the men's entrance hall area which is shown as being obscure glazed using angled bricks, a boys WC at upper ground floor area and an en-suite and bathroom on the top floor. There are also two fire escape doors shown at ground/first floor level and three windows to the prayer hall which are shown to be obscure glazed using angled bricks set in the two storey element of the building.
- 2.11 The proposed windows facing No 30 (to the west) would comprise a bathroom window at ground floor level and a fire door and window at upper ground floor on the stairwell. There are also two windows to the prayer hall which are shown to be obscure glazed using angled bricks at ground/first floor level set in the two storey element of the building. The windows on the east (side) elevation can be obscure glazed by condition as they service a toilet area and circulation space. No 1a Melville Road has one window at ground floor level and one at first floor on the flank wall of the property.
- 2.12 The southern (rear) windows facing the side elevation of 1a and 3 Melville Road and their garden areas would be approximately 21 metres and 24 metres respectively to the closest boundaries of the properties. This would be equal to the distances of the adjacent properties to the application site and, as such, would be considered a sufficient distance for any impact in terms of overlooking to be minimised.
- 2.13 A single storey element of the proposal is sited at the southernmost part of the site but set in from the side boundaries (including 1a Melville Road) by approximately 2.5 metres to the west, 3.0 metres to the east (adjoining the boundary of No 30) and between 1.2 metres and 2.5 metres from the garden boundary with No 1 Melville Road. It would have a width of 12.5 metres with a maximum depth of 7.0 metres and would be lower than the previously approved application in some places. It would have a flat roof that is proposed to be a grass roof. Due to the difference in levels between the application site and the adjacent properties, only the top of the green flat roof would be visible above the existing fence line from 3 Melville Road.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017 SP1, SP4, EMP1, DM1, DM2, DM5, DM9, DM17, DM23, DM29.

Supplementary Planning Documents Maidstone Landscape Character Assessment 2012.

### **4. LOCAL REPRESENTATIONS**

**Local Residents:**

- 4.01 162 responses have been received objecting to the proposal. There were 17 letters of objection that are not available to view on the council's website due to inappropriate comments made. I have included these letters in the total as some of the content related to planning matters. The objections raised have been set out below:
- Parking is a major problem
  - Traffic issues are cause for concern
  - Negative visual impact
  - Poor external appearance
  - Close proximity to neighbouring properties
  - Scale, siting and appearance out of keeping with locality
  - Inappropriate location for development
  - Loss of amenity for neighbouring properties
  - Overbearance
  - Inconvenience of construction traffic
  - Neighbouring properties would be devalued
  - Use not suited to a residential area.
  - Users congregate/overspill onto pavement outside Mosque.
  - Will result in more litter.
  - Out of town venue would be better.
- 4.02 Two representations were received from local residents raising no objections to the development.

**5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

MBC - Landscape:

No objections subject to conditions relating to landscaping on the site.

KCC - Biodiversity:

No objections subject to conditions covering biodiversity enhancement and informative should bats be discovered on site.

Southern Water

No objections subject to informatives relating to the need for a formal application for connection to the public sewerage system, and suitable provision for the disposal of surface water.

Kent Police:

No objections subject to a condition specifying the need for the applicant to meet with crime prevention officers to ensure the proposed development complies with Secured by Design specifications before the submission of a Building Regulations application for the site.

KCC Highways

No objection subject to a condition relating to a construction method statement, and an informative that all necessary highway approvals and consents where required are obtained.

MBC - Environmental Health

No objection subject to conditions relating to the following:

- Restrictions on times of use of associated shops;
- Hours of working (demolition/construction);
- Internal/external sound levels – residential;
- Plant and ducting systems;

- Rating level – day (plant and equipment noise);
- Rating level – night (plant and equipment noise);
- Air quality assessment;
- External lighting;
- Code of construction practice (major sites).

They also requested that the following informatives be imposed:

- Noise and Vibration transmission between properties;
- Construction;
- Asbestos;
- Health and Safety.

## 6. APPRAISAL

### Main Issues

6.01 The key issues for consideration relate to:

- Principle of development
- Visual impact
- Design
- Residential amenity
- Highways
- Landscaping

### Principle of development

- 6.02 Policy SP1 (Maidstone urban area) states that the main focus for new development should be Maidstone's urban area as it is the largest and most sustainable location. Policy SP4 (Maidstone town centre) describes the vision for the town centre including the provision of attractions for all ages including new shopping, service-sector based businesses, leisure, tourism, and cultural facilities.
- 6.03 SP23 (Sustainable transport) encourages development which would have a positive impact in terms of sustainable travel, and DM1 (Principles of good design) encourages development providing it responds positively to the local character of the area, particularly in terms of bulk, massing, height and site coverage. Development is also required to respect the amenities of neighbouring properties, and sensitively incorporate landscaping features on the site.
- 6.04 DM2 (Sustainable design) encourages development in sustainable locations using appropriate materials and reduced energy resulting in high quality development. DM5 (Development on brownfield land) encourages development proposals which make efficient and effective use of the land.
- 6.05 DM29 (Leisure and community uses in the town centre) encourage these uses within the town centre providing they do not have a significant impact on local amenity, including noise and hours of operation. In addition, the development should establish an active street frontage.
- 6.06 In this instance, the application site already has a lawful Class D1 community use as a place of worship. The proposal seeks to replace the outdated buildings with purpose built facilities that make more efficient use of the available space and would be an improvement to the existing facilities. The proposal would improve the character and appearance of the application site and the local built environment generally with the creation of a much improved street frontage to match the adjacent buildings.
- 6.07 Although the proposal includes an increase in floorspace, there is no increase in numbers of worshippers/visitors to the site with an overall occupancy limit

proposed. This would equate to a limit of 550 people, based on the floorspace provision of the existing site.

- 6.08 The additional lobbies, changing areas, classrooms etc. will provide additional space to prevent overspill from the building on important days of the Muslim calendar when visitor numbers are greater than normal general use. Normally, there are approximately 200 visitors at the majority of prayer times, with Fridays being the busiest day. The provision of classrooms etc. will enable much greater use of this town centre community facility to be made during the week and outside of prayer times. This accords with the local, national and government policies and guidance, which encourages community facilities/uses in the town centre.
- 6.09 Policy DM17 of the Local Plan seeks to provide town centre uses, such as retail, within existing centres or on the edge of existing centres. The proposal includes the creation of 2 shop units on the ground floor frontage. These shops are ancillary to the Mosque use. They will be closely linked to the main use of the site by selling clothing, books and other items related to the Islam religion. As the site is on the edge of the town centre in a mixed use area, there are already numerous shops and businesses located nearby and this retail proposal would be acceptable. The site is sustainably located with a number of public car parks within easy walking distance and the provision of 2 retail units is considered to accord with policy DM17.
- 6.10 Policy DM9 of the Local Plan encourages the provision of residential premises above shops and businesses to provide a sense of place and vitality and mix of uses advocated by the NPPF. It also provides security. The existing building includes a two storey dwelling and this will be provided again as a two bedroom flat above the Mosque. As a result, it does not involve intensification of the residential use or a loss of housing. As existing, the dwelling will be occupied by the Imam, with integral access to the rest of the building, significantly improving both security and the functioning of the building.
- 6.11 The demolition of the existing buildings and the redevelopment of the Mosque with a new building comprising the Mosque, classrooms, library, ancillary offices, 2 shops and 1 residential flat is considered to be acceptable in principle. The site is sustainably located on the edge of the town centre, has an existing D1 use and is supported by policies DM9, DM17 and DM33 of the Maidstone Local Plan.

### **Visual Impact**

- 6.12 The buildings on the site were out of scale and character with the surrounding buildings which are higher with the buildings making inefficient use of the land in this sustainable location. The buildings were poorly constructed, of an unattractive design and appearance and in a poor state of repair. The materials of the now demolished buildings and the ramped entrance were all out of keeping with the surrounding area.
- 6.13 In addition, there is an extant planning permission (referenced 16/500411/FULL) for the construction of a Mosque and ancillary facilities of similar proportions on this application site and this carries great weight in the determination of this application.
- 6.14 The proposal was the subject of pre-application discussions and the proposed building has been carefully designed to reflect the scale, height and proportions of the adjoining residential properties in Mote Road. Although the proposal would involve an increase in height, this would ensure the building is comparable in height to the buildings on either side and would enhance the street scene. The development also restores the site frontage to its pre-war appearance, prior to the loss of the original terraced buildings through bomb damage. The building would be made of more traditional materials found on many of the adjacent buildings, including brick and slate.

- 6.15 The previous building had a poor relationship to the street, being more set back with hidden entrances with an inactive façade providing poor natural surveillance. However, the proposed continuous built frontage would introduce a more cohesive Mote Road frontage. The development would provide a stronger sense of enclosure to the street and, would be an appropriate scale, introducing a more active ground floor frontage at street level with prominent entrances and shopfronts providing natural surveillance.
- 6.16 Mote Road has a number of mixed uses, including office sites on the opposite side of the road that include multi storey buildings. There is also a residential-led mixed use development to include a minimum of 2,000 square metres of office floorspace under policy RMX1(6) of the Local Plan, immediately opposite the Mosque, on the corner of Mote Road/Wat Tyler Way and Romney Place. Development of sites to a greater height than currently exists on each side of Mote Road will assist in providing a sense of enclosure to the street scene and also provide the much needed active frontages to this part of Mote Road.
- 6.17 The design of the proposed development is considered to work in conjunction with the surrounding land levels as the height of the buildings reduce as they project further into the site. The properties in Melville Road are at a higher level and, combined with the lowering height of the proposal as it projects to the rear (south) of the site, it will have a reduced visual impact from the south than when viewed from the north on Mote Road. Indeed, from 3 Melville Road, only the top of the flat roof of the rear single storey building will be visible and this is would largely comprise a green roof. This assists greatly with the proposal blending in with the residential properties to the rear of the site, whilst not appearing out of place with the taller buildings on Mote Road.
- 6.18 The use of green roofs to the rear of the development will assist in reducing visual impact (especially when compared to the existing roofscape on the site) and will increase the sustainability of the scheme by reducing water run-off from the roofs and enhancing biodiversity in this built up area.
- 6.19 The boundaries of the site will contain a mixture of hard and soft landscaping that will provide a visual buffer to the adjacent gardens. These elements, combined with the raised land levels of the properties to the south, will ensure that the proposal will provide an improvement to the visual appearance of the site.

### **Design**

- 6.20 As stated earlier, the proposed development is intended to provide an improved layout and facilities for the users of this place of worship and community facility. After a committee resolution planning permission was approved in December 2016 for the redevelopment of the Mosque (16/500411/full) of similar proportions. Since the earlier approval the design changes set out below have been made by the applicant
- 6.21 Relocation of the wudu and washroom facilities from the basement (basement incorporated into the previous scheme but now removed from the current proposal), this would remove the need for problematic drainage pumping. This would also change the circulation space to reduce overlapping of areas of pre-wudu cleansing and post-wudu cleansing.
- 6.22 Remove the zig-zag facades from the building footprint as it was considered prohibitively expensive. This was helped by the mosque committee proposing to re-align the Mosque and make more efficient use of the site. The plan form has now been simplified providing improvements to the circulation space and facilities, and resulting in a more cost effective project.

- 6.23 Provide retail units that can operate independently of the mosque. This necessitated enlarging the retail units and reducing their number down from three to two.
- 6.24 In terms of the elevation alterations, the development proposal would result in a building which would have a reduced height when compared with both the recently determined planning applications, referenced 16/500411/FULL (Granted) and 18/502567/FULL (Refused).
- 6.25 As mentioned above, the bulk and massing of the building has been reduced, with the size of the proposal smaller than both the approved proposal and the refused scheme in some areas. Balcony areas and open fire escapes have been removed to reduce the potential for harm to residential amenity. As such, it is considered that the proposed development would now accord with policy DM1.

### **Sustainability**

- 6.26 This new development would be a substantial improvement on the efficiency of the existing buildings, which are currently out-dated and in poor repair.

### **Neighbour amenity**

- 6.27 The potential impact on neighbour amenity needs to be considered in terms of noise and disturbance and loss of privacy, overlooking and outlook.

- Noise and disturbance

- 6.28 The impact of the Mosque on the amenities of local residents needs to be considered in terms of level of activity, number of people, time of day, noise and general disturbance resulting from arrivals and departures.
- 6.29 The mosque holds 5 prayer meetings per day at varying times dependent on the timing of sunrise and sunset.
- 6.30 In making an assessment in terms of noise and disturbance the starting point is that there has historically been a mosque on this site and there is an extant permission on this site referenced 16/500411/FULL which allows for the redevelopment of Maidstone Mosque. This extant permission includes associated classrooms, library, offices, kitchen along with the addition of 3 shops and 1 residential flat. The current proposal does not involve an intensification of use in terms of the numbers of worshipers (approx. 200 for Friday midday prayers), and as a result the noise and disturbance is unlikely to be increased.
- 6.31 Whilst the first prayer meeting of the day is at sunrise, the application site is located in a town centre location on a busy road, opposite Maidstone bus station and a large supermarket that opens at 7am. In this location a significant amount of early morning activity would be expected including deliveries to commercial premises.
- 6.32 Whilst the amount of prayer space available would remain around the same in the new building, extra space available elsewhere in the building would improve the operation of the building. The multi-purpose hall, classrooms, library and lobby areas would provide additional space to prevent worshippers over-spilling outside the building on days where there are a larger number of visitors, which would be an improvement in terms of potential noise and disturbance. The improved internal layout would also result in the internal building circulation flowing in a logical order with emergency exit points which would result in a more coherent layout.
- 6.33 Much of the improvements to the facilities are to the ancillary activities, including education classes, lectures and counselling. These activities will take place later in the day, outside of worship times and are less likely to have an impact on amenity.

- 6.34 The mosque was located in a converted and outdated building, in addition to the issues outlined earlier about internal layout and circulation, the building was not fit for purpose in relation to sound insulation. The proposal provides an opportunity to provide a modern, fit for purpose building built to current standards that will reduce the possibility of airborne and impact noise causing disturbance to neighbours.
- 6.35 The proposal has been considered by the council's Environmental Services team. Environmental Services have raised no objection to the proposal subject to a condition restricting the hours of use of the proposed shop to preserve residential amenity.
- Privacy, overlooking and outlook
- 6.36 The submitted drawings demonstrate that the current scheme has been reduced in size from both the original approved scheme and the subsequently refused scheme. These changes are demonstrated on plan and on the elevations by red and green dotted lines.
- 6.37 In terms of privacy, overlooking and outlook, the windows on the rear of the three storey section are approximately 22 metres away from 1a Melville Road that is located at the rear of the site. The windows at second floor level to the Iman's flat, are approximately 21 metres from 1a Melville Road. These separation distances are considered sufficient to maintain adequate privacy, and in terms of overlooking and outlook, would be acceptable.
- 6.38 The windows in the east (side) elevation are to the prayer hall and would be obscured by decorative brickwork. A planning condition is recommended to ensure that the window to the women's wudu area on the first floor and the toilet window on the ground floor are fitted with obscured glazing.
- 6.39 The fire escape stairs are now partially internal and the fire door on the east elevation would be fixed shut and used in emergencies only. The flat roof which could previously be accessed via the living room door of the Iman's flat would now be inaccessible as the patio doors would be replaced with windows. The fire exit from the library would be via the main staircase and the fire exit from the residential unit would be accessed internally via the living room rather than the patio doors. These amendments would help to ensure that the flat roof would not be used for recreation purposes. A condition is recommended to prohibit the use of the roof for recreational purposes.
- 6.40 In terms of neighbour outlook, the plant room on the second floor has been re-located and the bulk of the building has been set back from the boundary with No 30. The bulk and massing of the scheme has been reduced from the earlier refused permission and would now be considered an acceptable form of development. A condition is recommended to seek further landscaping to increase privacy levels.
- 6.41 Policy DM9 of the local plan encourages living above shops and businesses in all suitable premises in the town centre. This arrangement provides a sense of life and occupation, it creates a sense of place and vitality, a mix of uses advocated by NPPF and provides security. The proposed residential flat for the Imam is replacing the on-site accommodation that was contained in a two storey property that has now been demolished.
- Highways**
- 6.42 The proposal needs to be considered in relation to parking and the potential impact on the highway network.

- 6.43 The Mosque originally had space on the frontage to provide two off street car parking spaces; with no proper turning area accessing the space required reversing onto or from the main road.
- 6.44 The extant permission (16/500411/FULL) granted the redevelopment of the Mosque and associated facilities with no off street parking as the site was in a sustainable location, and was intending to utilise the site by updating and modernising the space without increasing its congregation.
- 6.45 Government advice encourages minimal car parking provision in order to encourage more sustainable means of transport. Policy DM21 encourages mitigation methods to avoid a negative impact on the locality due to excessive use of the car for travel.
- 6.46 The proposal has no on site parking. With the location in the town centre and opposite Maidstone Bus Station and with various public car parks nearby the lack of onsite parking is considered acceptable. The Integrated Transport Strategy 2011-2031 formed the basis for our Local Plan. The main objectives of it related to the reduction in demand for travel, to change travel behaviour, promote modal shift and improve network efficiency.
- 6.47 The overall number of visitors to the site is not expected to increase from the previous use of the site and as a result the overall impact on the local highway network will not change. In line with policy DM29 the proposal includes the incorporation of classrooms for use for education, community use, counselling and a library. These uses would enable the building to be used at other times in the week as a community facility, making the best and most efficient use of a town centre site.
- 6.48 These ancillary uses are likely to reduce the impact on the local highway network as it would be more likely that the arrival and departure times from the building are staggered with linked trips to use these facilities or others accessible on foot in the town centre. Many worshippers also live locally and so can walk to the site.
- 6.49 The 2 shop units proposed would not result in an adverse impact in terms of highway safety. The town centre location and nearby car parks and alternative travel modes would ensure that no parking provision would be required for these units. There is a loading bay immediately to the west of the site that would allow small scale deliveries to the shops.
- 6.50 There is a small supermarket a few doors along from the Mosque that similarly has no parking of its own, but relies either on people walking or using nearby public car parks.
- 6.51 The Highways Officer has assessed the development including the site location and the existing use. The Highways officer has advised that they have no objection to the proposal subject to conditions restricting occupancy, submission of a construction management plan and for the provision and retention of cycle parking.

#### **Landscaping and biodiversity**

- 6.52 The majority of the site was occupied by buildings and the marquee with no existing landscaping.
- 6.53 The proposed scheme provides an opportunity where possible to 'green' the site in this urban location. The current proposal includes a green roof and some shrubbery along the southern boundary of the site.

- 6.54 The introduction of a green roof and additional landscaping would improve the biodiversity of the site. Landscaping conditions are recommended to seek further details of landscaping and to ensure that it is maintained.

**Other Matters**

- 6.55 The CIL Charging schedule sets out that charitable uses are exempt from being charged the CIL. The development proposal would fall into this category.

**7. CONCLUSION**

- 7.01 There is already an extant permission for a similar proposal (referenced 18/504734/FULL), and this carries significant weight in the assessment and determination of the current application.
- 7.02 The application site is in a sustainable and accessible town centre location that is opposite Maidstone Bus Station and accessible on foot to several train stations.
- 7.03 The proposal will replace the original converted building that did not make efficient use of this site and was not fit for purpose in many ways including internal layout and circulation and noise insulation as part of the building structure. The proposal will provide a purpose built facility that makes best use of the site with community facilities attached to the place of worship.
- 7.04 The proposal has been designed to fit in with the adjacent buildings in terms of scale and visual appearance with retail uses at ground floor level. The building has been designed to minimise potential impact on neighbouring residents including in terms of privacy and outlook. The proposal provides an opportunity to introduce landscaping and a green roof onto the site improving its visual appearance.
- 7.05 The proposal will not increase the number of people using the site and the development will not have an adverse impact on the operation of the local highway network.
- 7.06 The officer recommendation is to grant planning permission subject to planning conditions.

**8. RECOMMENDATION**

- 8.01 GRANT planning permission subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;  
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

07 Sep 2018	Design & Access Statement
07 Sep 2018	D & A Statement Appendix 1 - Planning Condition Matrix
07 Sep 2018	D & A Statement Appendix 2 - Transport Statement
07 Sep 2018	Application Form
07 Sep 2018	1787-01 Site Location Plan
07 Sep 2018	EX10 Rev A Longitudinal Site Section
07 Sep 2018	PL25 Longitudinal Site Elevations
30 Oct 2018	(PL) 01 Rev B Proposed Site Plans
30 Oct 2018	(PL) 13 Rev D Second Floor Plan
30 Oct 2018	(PL) 14 Rev D Roof Plan
30 Oct 2018	(PL) 21 Rev C Front Elevations
30 Oct 2018	(PL) 21 Rev C Front Elevations
30 Oct 2018	(PL) 22 Rev D West Elevations

30 Oct 2018	(PL) 23 Rev D	East Elevations
30 Oct 2018	(PL) 31 Rev B	Sections A-A
30 Oct 2018	(PL) 32 Rev B	Sections B-B
30 Oct 2018	(PL) 34 Rev B	Sections D-D
14 Nov 2018	Noise report	
14 Nov 2018	PL24 Rev D	South elevation
14 Nov 2018	PL11 Rev F	Lower Ground Floor Plan
14 Nov 2018	PL12 Rev F	First (Upper Ground) Floor Plan

Reason: To ensure the quality of development is maintained and to prevent harm to amenity.

- 3) The development hereby approved shall not commence above slab level until samples of the materials to be used in the construction of the external surfaces of the building and hard surfaces and hereby permitted shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.  
Reason: To ensure a satisfactory appearance to the development.
- 4) Prior to the first occupation of either the a) residential unit, b) the retail unit and c) use of the mosque on site, cycle parking shall be in place associated with the relevant use that is in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority with the details including the design and appearance and materials of the structure. The approved facilities shall be retained and maintained thereafter for the storage of bicycles.  
Reason: To ensure that facilities are available for the parking of bicycles in the interests of highway safety and to encourage the use of sustainable modes of transport and access to the site by means other than private motor car in accordance with Government Guidance in the National Planning Policy Framework.
- 5) The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed and include a planting specification, a programme of implementation and a [5] year management plan. [The landscape scheme shall specifically address the need to landscape the boundaries of the site  
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.
- 6) 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 setting and external appearance to the development.
- 7) The development hereby approved shall not commence above slab level until details of the proposed planting for the green roofs have been submitted to and approved by the local planning authority. The submitted details shall set out an appropriate planting mix and a management Report programme for its future maintenance. The approved details shall be in place prior to first occupation and the development shall thereafter be undertaken in accordance with the subsequently approved details.  
Reason: To ensure a satisfactory appearance to the site and in the interests of biodiversity.

- 8) The two retail shop units hereby approved shall only be used for retail purposes (Planning Use Class A1) ancillary to the Mosque and for no other purpose;  
Reason: To safeguard the character, appearance and functioning of the surrounding area.
- 9) The two retail shop units hereby approved shall only be open for customer use between 0700 hours to 2200 hours Monday to Friday, 1000 hours to 16:00 hours on Saturdays and Sundays with no use on Bank Holiday Mondays.  
Reason: To safeguard the amenities of the occupiers of the neighbouring residential properties.
- 10) The building hereby permitted shall only be used as a place of worship and shall not be used for any other purpose including any other use within Use Class D1 of the Use Classes Order 1987 (England) (as amended) and any other use permitted within the Town and Country Planning (General Permitted Development) Order (as amended).  
Reason: To safeguard the amenities of the occupiers of the neighbouring residential properties.
- 11) No construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday. [In addition to these hours of working the Local Planning Authority may approve in writing a schedule of activities where it is necessary for safety reasons to conduct works during a road closure, outside the hours specified in this condition].  
Reason: To safeguard the amenities of the occupiers of the neighbouring residential properties.
- 12) The development hereby approved shall not commence above slab level until a scheme to demonstrate that the internal noise levels within the residential unit will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings – Code of Practice, has been submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to the first occupation of the use and be retained thereafter.  
Reason: In the interests of the amenities and living environment of the prospective occupiers of the residential flat.
- 13) Any plant (including ventilation, refrigeration and air conditioning) or ducting system that has been installed shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained as such thereafter.  
Reason: In the interests of the amenities and living environment of the prospective occupiers of the residential flat.
- 14) Prior to first use of any plant (including ventilation, refrigeration and air conditioning) or ducting system noise insulation shall be in place to ensure that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 (in areas of low background sound levels a target of NR30 shall be achieved) as defined by BS8233:2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does exceed NR35 as described above, whenever it's operating. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of the neighbouring residential properties.

- 15) The rating level of noise emitted (day time) from the proposed plant and equipment to be installed on the site (determined using the guidance of BS 4142: 2014 Rating for industrial noise affecting mixed residential and Industrial areas) shall be at least 5dB below the existing measured ambient noise level LA90,T during the day time period. For the purpose of the assessment the Authority will accept 07:00 – 23:00 hours as covering the day time period.

Reason: To safeguard the amenities of the occupiers of the neighbouring residential properties.

- 16) The rating level of noise emitted (night time) from the proposed plant and equipment to be installed on the site (determined using the guidance of BS 4142: 2014 Rating for industrial noise affecting mixed residential and Industrial areas) shall be at least 5dB below the existing measured ambient noise level LA90,T during the night time period. For the purpose of the assessment the Authority will accept 23:00 – 07:00 hours as covering the night time period.

Reason: To safeguard the amenities of the occupiers of the neighbouring residential properties.

- 17) The development hereby approved shall not commence above slab level until a report, undertaken by a competent person in accordance with current guidelines and best practice, has been submitted to the local planning authority for approval. The report shall contain and address the following:

1) An assessment of air quality on the application site and of any scheme necessary for the mitigation of poor air quality affecting the residential amenity of occupiers of this development.

2) An assessment of the effect that the development will have on the air quality of the surrounding area and any scheme necessary for the reduction of emissions giving rise to that poor air quality. The assessment should, where possible, quantify what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. Any scheme of mitigation set out in the subsequently approved report shall be implemented prior to the first occupation of the building and maintained thereafter.

Reason: In the interests of the amenities and living environment of the prospective occupiers of the residential flat and preventing poor air quality on the development and the surrounding area.

- 18) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: In the interest of amenity.

- 19) Prior to the commencement of the development a Code of Construction Practice shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003), unless previously agreed in writing by the Local Planning Authority. The code shall include:

- An indicative programme for carrying out the works;
- Measures to minimise the production of dust on the site;

- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s);
- Maximum noise levels expected 1 metre from the affecting façade of any residential unit adjacent to the site(s);
- Design and provision of site hoardings;
- Management of traffic visiting the site(s) including temporary parking or holding areas;
- Provision of off road parking for all site operatives;
- Measures to prevent the transfer of mud and extraneous material onto the public highway;
- Measures to manage the production of waste and to maximise the re-use of materials;
- Measures to minimise the potential for pollution of groundwater and surface water;
- The location and design of site office(s) and storage compounds;
- The location of temporary vehicle access points to the site(s) during the construction works;
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of the amenities and living environment of the neighbouring properties and to safeguard the character of the surrounding area.

20. Prior to first occupation of the building hereby approved the following windows shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such thereafter:  
The proposed first floor 'kitchen' window that faces north west.  
The proposed first floor 'multi-purpose hall' window that faces north west.  
The proposed first floor 'stairwell' window that faces north west.  
The proposed four first floor 'multi-purpose hall' windows that face south east.  
Reason: To safeguard the privacy of existing occupiers.
21. Prior to the commencement of the development, details of satisfactory facilities for the storage of refuse on the site shall be submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the building and maintained thereafter.  
Reason: To safeguard the amenities of the occupiers of the neighbouring residential properties.
22. No development shall take place until full details of the original site levels and the finished floor levels of the buildings hereby permitted and details of the existing site levels have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
Reason: To safeguard the residential amenity of existing and prospective occupiers and to safeguard the character, appearance and functioning of the surrounding area.
23. The building hereby permitted including the place of worship and ancillary uses shall not exceed a maximum occupancy of 550 people at any one time.  
Reason: To safeguard the users of the mosque and the residential amenity of existing and prospective occupiers and to safeguard the functioning of the surrounding area.
24. The development hereby approved shall not commence above slab level until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure suitable provision is made for the disposal of foul and surface water.

25. The development hereby approved shall not commence above slab level until details of appropriate measures to enhance biodiversity, including the planting and management of a green roof, and enhancing the nature conservation value of the site have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to occupation of the development and maintained as such thereafter.

Reason: In the interests of nature conservation and biodiversity

26. The flat roof areas of the development hereby permitted shall not be used as balcony, roof garden or similar amenity areas at any time.

Reason: To prevent overlooking of adjoining properties and to protect the privacy of the occupiers.

27. The development hereby permitted shall incorporate measures to minimise the risk of crime in accordance with the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED). No development above DPC level shall take place until such details shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and retained thereafter.

Reason: To secure crime prevention and safety of the area

#### **INFORMATIVES**

- 1) The applicant is reminded that broad compliance with the Mid Kent Environmental Code of Development Practice is expected.
- 2) The applicants attention is drawn to the Approved Document E Building Regulations 2010 "Resistance to the Passage of Sound" – as amended in 2004 and 2010.
- 3) The applicant is reminded that Bats and their roosts are protected at all times by the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (As amended). Planning permission for development does not provide a defense against prosecution under this legislation or substitute for the need to obtain a bat license if an offence is likely. If bats or evidence of bats is found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or to contact Natural England.
- 4) The applicant is advised that provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.
- 5) The applicant is advised to contact Southern Water to discuss their requirements in relation to the public sewerage system:  
Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire  
SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

Case Officer: Jocelyn Miller

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 29<sup>th</sup> November 2018**

### **APPEAL DECISIONS:**

- 1. 17/500984/FULL** Erection of detached, two-storey house with parking

**APPEAL:** DISMISSED

Land between Ringleside & Ringles Gate  
Grigg Lane  
Headcorn  
Kent  
TN27 9LY

(COMMITTEE)

---

- 2. 18/501213/OUT** Outline Application for the erection of a two bedroom bungalow (all matters reserved).

**APPEAL:** DISMISSED

Salvete 44 Mill Bank  
Headcorn  
Kent  
TN27 9RD

(DELEGATED)

---

- 3. 17/501093** Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale being Sought) pursuant of 15/507424/OUT - Outline application for residential development of up to 62 dwellings (including a minimum of 40% affordable housing), planting and landscaping, informal open space, surface water attenuation, vehicular access point from Mill Bank and associated ancillary works. (Access being sought).

**APPEAL:** ALLOWED

Land West Of Mill Bank  
Maidstone Road  
Headcorn  
Kent  
TN27 9RJ

# Agenda Item 22

By virtue of paragraph(s) 2, 6a, 6b, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

Document is Restricted