

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 27 July 2017

Time: 6.00 p.m.

Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Boughton, Clark, Cox, English (Chairman), Harwood, Hemsley, Munford, Powell, Prendergast, Round, Spooner, Mrs Stockell and Vizzard

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 Items withdrawn from the Agenda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 - 3 August 2017
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

Continued Over/:

Issued on Wednesday 19 July 2017

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone ME15 6JQ**

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 6 July 2017 adjourned to 13 July 2017	1 - 11
11.	Presentation of Petitions (if any)	
12.	Report of the Head of Planning and Development - Deferred Items	12
13.	15/501537 - Maplehurst Lane, Frittenden Road, Staplehurst, Kent	13 - 68
14.	16/506067 - Great Tong Farm, Great Tong, Headcorn, Kent	69 - 75
15.	16/506648 - Land South Of Heath Road, Coxheath, Kent	76 - 92
16.	17/500888 - Gunwalloe, 59 Tonbridge Road, Teston, Kent	93 - 99
17.	17/501196 - Riverhill Apartments, 10 - 12 London Road, Maidstone, Kent	100 - 107
18.	17/502118 - Mount Lodge, Church Lane, Bearsted, Maidstone, Kent	108 - 114
19.	Appeal Decisions	115 - 116

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.

ALTERNATIVE FORMATS

The reports included in Part I of this agenda can be available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact Democratic Services on democraticservices@maidstone.gov.uk or 01622 602030**. To find out more about the work of the Committee, please visit www.maidstone.gov.uk

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 6 JULY 2017 **ADJOURNED TO 13 JULY 2017**

Present: Councillor English (Chairman) and
6 July Councillors M Burton, Butler, Clark, Cox, Harwood,
2017: Munford, Powell, Prendergast, Round, Spooner,
Mrs Stockell and Vizzard

Also Councillors Adkinson, Brice, Daley, Ells, Fermor,
Present: Harper, Perry and Webb

66. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Boughton and Hemsley.

67. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor M Burton for Councillor Hemsley
Councillor Butler for Councillor Boughton

68. NOTIFICATION OF VISITING MEMBERS

Councillors Adkinson, Daley and Harper indicated their wish to speak on the reports of the Head of Planning and Development relating to applications 16/506320 and 16/506322 (Jubilee Free School, Gatland House, Gatland Lane, Maidstone, Kent).

Councillors Fermor and Webb indicated their wish to speak on the report of the Head of Planning and Development relating to application 16/508659 (Land South of Redwall Lane, Linton, Kent).

Councillor Perry indicated his wish to speak on the report of the Head of Planning and Development relating to application 16/505598 (Cricket and Tennis Club, Frittenden Road, Staplehurst, Kent).

It was noted that Councillor Brice had indicated her wish to speak on the report of the Head of Planning and Development relating to application 16/505598 (Cricket and Tennis Club, Frittenden Road, Staplehurst, Kent), but would be late in arriving at the meeting.

Councillor Ells attended the meeting as an observer.

69. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

70. 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.

71. DISCLOSURES BY MEMBERS AND OFFICERS

With regard to the reports of the Head of Planning and Development relating to applications 16/506320 and 16/506322 (Jubilee Free School, Gatland House, Gatland Lane, Maidstone, Kent), Councillor Prendergast said that in her role as Deputy Cabinet Member for Education at Kent County Council, she had not taken part in any discussions regarding the School. She was approaching determination of the applications with an open mind, and would make up her mind on the basis of all of the evidence put before the Committee.

72. EXEMPT ITEMS

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

73. MINUTES OF THE MEETING HELD ON 15 JUNE 2017

RESOLVED: That the Minutes of the meeting held on 15 June 2017 be approved as a correct record and signed.

74. PRESENTATION OF PETITIONS

There were no petitions.

75. 16/506320 - ERECTION OF AN EXTENSION TO THE EXISTING SCHOOL BUILDING FOR EDUCATIONAL USE - JUBILEE FREE SCHOOL, GATLAND HOUSE, GATLAND 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. During his presentation, the Principal Planning Officer referred to correspondence which had been circulated earlier that day from the Head Teacher of Bower Grove School stating that the School would not enter into a formal agreement to share outdoor space, but there was potential for occasional use of its playing field.

Mr Skinner, for objectors, Mr Owen of the Save Fant Farm Group (against), Mr Fitzgerald, for the applicant, and Councillors Adkinson, Harper and Daley (Visiting Members) addressed the meeting.

Councillor Round read a statement on behalf of Councillor Boughton, Member of the Planning Committee and Ward Member, who was unable to be present at the 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 the proposed development, by virtue of the under-provision of hard outdoor PE and soft informal and social area play space as set out in BB103 (Area Guidelines for Mainstream Schools) would be harmful to the educational standards of future pupils in excess of a single form entry primary school. As such the proposals would be contrary to paragraph 73 of the NPPF which seeks to secure access to high quality open space, and sport and recreation space. The need for school places does not outweigh this harm.

Before the vote was taken, the Development Manager advised the Committee that the Guidelines referred to should be interpreted flexibly and he did not consider this reason to be defensible at appeal. The Development Manager then gave a costs warning on this basis.

RESOLVED: That permission be refused for the following reason:

The proposed development, by virtue of the under-provision of hard outdoor PE and soft informal and social area play space as set out in BB103 (Area Guidelines for Mainstream Schools) would be harmful to the educational standards of future pupils in excess of a single form entry primary school. As such the proposals would be contrary to paragraph 73 of the NPPF which seeks to secure access to high quality open space, and sport and recreation space. The need for school places does not outweigh this harm.

Voting: 9 – For 3 – Against 1 – Abstention

76. ITEMS ROLLED OVER TO THE ADJOURNED MEETING TO BE HELD ON 13 JULY 2017

After consideration of the report of the Head of Planning and Development relating to application 16/506320 (Jubilee Free School, Gatland House, Gatland Lane, Maidstone, Kent), the Chairman announced that, due to the number of items still to be discussed and the time available, the reports of the Head of Planning and Development relating to the following applications would be rolled over to the adjourned meeting of the Committee scheduled to be held on 13 July 2017:

17/501093 – Land West of Mill Bank, Maidstone Road, Headcorn, Kent
17/501593 – Great Oak Farm, Friday Street, East Sutton, Maidstone, Kent

77. 16/506322 - REMOVAL OF CONDITION 2 OF 14/503957 (APPLICATION FOR PERMANENT CHANGE OF USE TO A FREE SCHOOL (CLASS D1)) - THE CONDITION RESTRICTS THE NUMBER OF PUPILS TO 240 UNTIL JULY 2022 AND THEN 210 FROM SEPTEMBER 2022 ONWARDS. THE CONDITION IS THEREFORE REQUIRED TO BE REMOVED TO ACCOMMODATE AN

INCREASE IN CAPACITY IN THE EVENT THE EXTENSION OF FLOORSPACE APPLICATION IS APPROVED AT THE SUBJECT SITE - JUBILEE FREE SCHOOL, GATLAND HOUSE, GATLAND LANE, MAIDSTONE, KENT

All Members stated that they had been lobbied.

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

Mr Owen of the Save Fant Farm Group, Mr Fitzgerald, for the applicant, and Councillors Adkinson and Harper (Visiting Members) addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, but mindful of the earlier decision to refuse application 16/506320, the Committee agreed to refuse permission. In making this decision, Members felt that by virtue of the lack of classroom floorspace to accommodate the additional pupil numbers over that of a single form entry school, Condition 2 would remain necessary to retain a good standard of accommodation. On that basis it was not considered appropriate or justified to remove Condition 2.

RESOLVED: That permission be refused for the following reason:

By virtue of the lack of classroom floorspace to accommodate the additional pupil numbers over that of a single form entry school, Condition 2 would remain necessary to retain a good standard of accommodation. On that basis it is not considered appropriate or justified to remove Condition 2.

Voting: 12 – For 0 – Against 1 - Abstention

78. 16/508659 - DEMOLITION OF EXISTING DWELLING AND ERECTION OF B8 WAREHOUSE BUILDING WITH ANCILLARY OFFICES, DOCK LEVELLERS, ACCESS, PARKING AND LANDSCAPING INCLUDING THE CREATION OF NEW WOODLAND AND ATTENUATION POND - LAND SOUTH OF REDWALL LANE, LINTON, 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.

The Principal Planning Officer advised the Committee that he wished to further amend his recommendation by the deletion of conditions 14 and 22 and sought delegated powers to add reasons to conditions 4, 5, 7, 11 and 17.

Mr Leagas, an objector, Councillor Whitmarsh of Linton Parish Council, Councillor Thomas of Hunton Parish Council, Mr Marston, for the applicant, and Councillors Fermor and Webb (Visiting Members) addressed the meeting.

RESOLVED:

1. That subject to the prior completion of a S106 legal agreement, in such terms as the Interim Head of Legal Partnership may advise, to provide the following:
 - Measures to accelerate the implementation of a scheme to improve the capacity of Linton Crossroads including the transfer of land in the south western 'quadrant' of Linton Crossroads to the County Council as Local Highways Authority in order to secure land for a left turn lane and, secondly, a financial contribution to secure relocation and construction of a bus stop on the western arm of the Heath Road (the Head of Planning and Development be given delegated powers to secure the detail and level of the contributions);
 - A Landscape and Ecology Management Plan (LEMP) and long term management of the ecology/landscape areas including details of mitigation and enhancements;
 - Monitoring and management of traffic within the vicinity of the site including that to the west of the site access on Redwall Lane;
 - A financial contribution towards suitable mitigation measures to combat any significant adverse traffic flow conditions as may be established by the monitoring exercise to be conducted (the Head of Planning and Development be given delegated powers to agree the financial contribution);
 - A requirement to enter into a HGV routing agreement to include identification of roads which are unsuitable for use by HGVs (these roads to be determined by the Head of Planning and Development acting under delegated powers in consultation with KCC Highways);
 - A Travel Plan and monitoring fee; the Travel Plan to encourage, where possible, the use of Euro standards low emissions vehicles to service the site (encompassing greener transport);
 - A Delivery and Monitoring Committee comprising Ward Members; representatives of Linton and Hunton Parish Councils, the developer and the Local Planning Authority; and the Chairman, Vice-Chairman and Political Group Spokespersons of the Planning Committee, to oversee quality of delivery and on-going management of the ecological enhancement areas; and
 - A financial contribution of £10,000 towards the setting up and running costs of the Delivery and Monitoring Committee;

the Head of Planning and Development be given delegated powers to grant permission subject to the conditions set out in the report, as amended by the urgent update report and by the Principal Planning

Officer at the meeting (the Head of Planning and Development be given delegated powers to finalise the reasons for conditions 4, 5, 7, 11 and 17).

2. That the roads identified as unsuitable pursuant to the HGV routing agreement are to be appropriately signposted as such and a mechanism, to be determined by the Head of Planning and Development acting under delegated powers in consultation with KCC Highways, should be put in place to secure delivery of the signposts within land controlled by the Highway Authority.

Voting: 9 – For 4 – Against 0 – Abstentions

Note: Councillor Munford left the meeting after consideration of this application (9.55 p.m.).

79. 17/500883 - APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE APPLICATION 15/508756/REM (APPROVAL OF RESERVED MATTERS FOR THE ERECTION OF 85 RESIDENTIAL UNITS, OPEN SPACE AND ALLOTMENTS AND ACCESS FROM PLAIN ROAD AND NAPOLEON DRIVE (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE BEING SOUGHT) PURSUANT TO OUTLINE PERMISSION MA/13/1585) (LANDSCAPING BEING SOUGHT) - LAND AT STANLEY FARM, PLAIN ROAD, MARDEN, KENT

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 set out in the report as amended by the urgent update report.

Voting: 12 – For 0 – Against 0 – Abstentions

80. 16/507848 - DETACHED TWO-STOREY DWELLING AND PARKING AREA - GREENFIELDS, STANLEY ROAD, MARDEN, KENT

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 set out in the report and the additional condition set out in the urgent update report.

Voting: 12 – For 0 – Against 0 – Abstentions

81. 16/506505 - CREATION OF AN ADVENTURE ZONE TO INCLUDE HIGH ROPE/WIRE CLIMBING EQUIPMENT, CLIMBING WALL, AND ADVENTURE GOLF ENCLOSED BY 2.44M HIGH FENCING WITH ASSOCIATED ANCILLARIES INCLUDING A KIOSK, FOOTPATHS, PLANTING AND OVERFLOW CAR PARKING - MOTE PARK RECREATION GROUND, MOTE PARK, MAIDSTONE, KENT

The Chairman and Councillors M Burton, Clark, Harwood, Powell and Round stated that they had been lobbied.

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

RESOLVED: That permission be granted subject to the conditions and informatives set out in the report, as amended by the urgent update reports, and the additional condition set out in the first urgent update report.

Voting: 12 – For 0 – Against 0 – Abstentions

82. 16/505598 - ERECTION OF A PAIR OF THREE BEDROOM SEMI-DETACHED DWELLINGS - CRICKET AND TENNIS CLUB, FRITTENDEN ROAD, STAPLEHURST, KENT

All Members stated that they had been lobbied.

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

Mr Sonnex, for the applicant, and Councillors Perry and Brice (Visiting Members) addressed the meeting.

RESOLVED: That consideration of this application be deferred until the next meeting to enable the Officers to obtain the viability information which the agent for the applicant maintained had been submitted, but was not included in the report.

Voting: 10 – For 2 – Against 0 – Abstentions

83. LONG MEETING

Prior to 10.30 p.m., during consideration of the report of the Head of Planning and Development relating to application 16/505598, the Committee:

RESOLVED: That the meeting should continue until 11.00 p.m. if necessary.

84. ADJOURNMENT OF MEETING

Following consideration of the report of the Head of Planning and Development relating to application 16/505598, the Committee:

RESOLVED: That the meeting be adjourned until 6.00 p.m. on 13 July 2017 when the remaining items on the agenda will be discussed.

85. DURATION OF MEETING

6.00 p.m. to 10.45 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 6 JULY 2017 **ADJOURNED TO 13 JULY 2017**

Present: Councillor English (Chairman) and
13 July Councillors Butler, Boughton, Clark, Cox, Harwood,
2017: Hemsley, Munford, Powell, Prendergast, Round and
Spooner

86. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillors Mrs Stockell and Vizzard.

87. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor Butler was substituting for Councillor Mrs Stockell.

88. **NOTIFICATION OF VISITING MEMBERS**

There were no Visiting Members.

89. **ITEMS WITHDRAWN FROM THE AGENDA**

There were none.

90. **URGENT ITEMS**

There were no urgent items.

91. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

92. **EXEMPT ITEMS**

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

93. **17/501093 - APPROVAL OF RESERVED MATTERS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE BEING SOUGHT) PURSUANT TO 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**

APPROVED) - LAND WEST OF MILL BANK, MAIDSTONE ROAD, HEADCORN, KENT

The Chairman and Councillors Harwood, Munford, Prendergast and Round stated that they had been lobbied.

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

Councillor Dungey of Headcorn Parish Council addressed the meeting.

RESOLVED: That, in the event of permission being granted, a condition should be attached specifying the external materials to be used in the proposed development, including the use of white timber weatherboarding instead of composite boarding.

Voting: 11 – For 0 – Against 0 - Abstentions

FURTHER RESOLVED: That consideration of this application be deferred to enable the Officers to investigate the relocation of the 2.5 storey building within the site.

Voting: 10 – For 0 – Against 1 - Abstention

Note:

1. Councillor Harwood entered the meeting at 6.05 p.m., prior to the Principal Planning Officer's presentation on this application, and participated in the discussion and the voting.
2. Councillor Powell entered the meeting at 6.11 p.m., during consideration of this application, and did not participate in the discussion or the voting.

94. 17/501593 - ERECTION OF SWIMMING POOL STRUCTURE - GREAT OAK FARM, FRIDAY STREET, EAST SUTTON, MAIDSTONE, KENT

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

Councillor Turnill of East Sutton Parish Council addressed the meeting.

RESOLVED: That permission be granted subject to the conditions set out in the report with the amendment of condition 3 (External Materials) to secure the addition of Bat Tubes and condition 4 (Landscaping) to secure additional landscaping requirements in the form of a group of trees in fairly close proximity to the outbuilding hereby approved to break up the outline of the building (the precise wording of the amended conditions to be finalised by the Head of Planning and Development acting under delegated powers).

Voting: 12 – For 0 – Against 0 – Abstentions

95. S106 CONTRIBUTIONS FOR TOWN CENTRE

The Committee considered the report of the Head of Planning and Development seeking clarification on the use of the £100,000 balance of the S106 contribution for projects to mitigate the impact of application MA/12/2314 (Next Store, Eclipse Park) on the Town Centre.

It was noted that:

- At the meeting of the Committee held on 29 August 2013, it was agreed that subject to the prior completion of a S106 legal agreement in such terms as the Head of Legal Services may advise to secure the following:

A contribution of £140,000 to offset the impact of the development on the Town Centre with £100,000 being used towards public realm improvement projects in the Town Centre and £40,000 to fund the programme of the Maidstone Town Team,

the Head of Planning and Development be given delegated powers to approve application MA/12/2314 subject to conditions.

- In accordance with the terms of the S106 agreement, the sum of £40,000 had been given to The Town Team and its successor organisation, One Maidstone, and this had been spent on events, floral displays, marketing and a feature lighting installation on the Town Hall.
- It was proposed that the balance of £100,000 be put towards the Public Realm Improvements Project Phase 3 to include the whole of Week Street and Gabriels Hill.

RESOLVED: That the balance (£100,000) of the S106 contribution for projects to mitigate the impact of application MA/12/2314 (Next Store, Eclipse Park) on the Town Centre be put towards the Public Realm Improvements Project Phase 3 to include the whole of Week Street and Gabriels Hill.

Voting: 11 – For 1 – Against 0 – Abstentions

96. APPEAL DECISIONS

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

RESOLVED: That the report be noted.

97. CHAIRMAN'S ANNOUNCEMENTS

The Chairman said that arrangements would be made for a meeting of the Chairman, Vice-Chairman and Political Group Spokespersons to take place in the near future.

98. DURATION OF MEETING

6.00 p.m. to 7.40 p.m.

Agenda Item 12

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

27 JULY 2017

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

DEFERRED ITEMS

The following applications stand deferred from previous meetings of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

<u>APPLICATION</u>	<u>DATE DEFERRED</u>
<u>16/505598 - ERECTION OF A PAIR OF THREE BEDROOM SEMI-DETACHED DWELLINGS - CRICKET AND TENNIS CLUB, FRITTENDEN ROAD, STAPLEHURST, KENT</u> Deferred until the next meeting to enable the Officers to obtain the viability information which the agent for the applicant maintained had been submitted, but was not included in the report.	6 July adjourned to 13 July 2017
<u>17/501093 - APPROVAL OF RESERVED MATTERS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE BEING SOUGHT) PURSUANT TO 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 APPROVED) - LAND WEST OF MILL BANK, MAIDSTONE ROAD, HEADCORN, KENT</u> Deferred to enable the Officers to investigate the relocation of the 2.5 storey building within the site.	6 July adjourned to 13 July 2017



REPORT SUMMARY

REFERENCE NO - 15/501537/FULL		
APPLICATION PROPOSAL Change of use of land for the permanent stationing of a mobile home, utility room, stable block and touring caravan for gypsy family. (Part retrospective)		
ADDRESS Maplehurst Lane Frittenden Road Staplehurst Kent		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE RECOMMENDATION CONTRARY TO THE VIEWS OF STAPLEHURST PARISH COUNCIL		
WARD Staplehurst Ward	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Lena Collins AGENT
DECISION DUE DATE 18/05/15	PUBLICITY EXPIRY DATE 18/05/15	OFFICER SITE VISIT DATE 27/04/2017

1.0 MAIN REPORT

- 1.1 This application has already been considered by the Planning Committee (report attached as **APPENDIX 1**) and at its meeting on the 25th May 2017 it resolved to grant planning permission subject to a number of conditions including condition (1) worded as below

“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 and shall only be occupied Lena and Tom Collins and their dependents.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites”.

- 1.2 The condition makes it personal to the applicant and inconsistent with the planning permission granted on the adjoining site to the west under ref: 15/501528 which was considered at the same Planning Committee. (attached as **APPENDIX 2**).
- 1.3 The application is therefore referred back to the Planning Committee for its further consideration taking into account it resolved to grant planning permission for a personal/ permanent planning permission.

2.0 APPRAISAL

- 2.1 Members originally determined this application on the basis of granting a permanent/personal G&T consent. Given the circumstances set out in the Committee report attached as **APPENDIX 1**, that the planning permission granted on the adjoining site was not made personal and similarity of circumstances between sites, it is considered there is no planning justification for making occupation of this site personal either.

3.0 CONCLUSION

- 3.1 There is no planning justification for making any consent personal and that condition 1 be amended accordingly.

4.0 RECOMMENDATION

4.1 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 201.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

- (2) No more than one caravan and one 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) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (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) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (6) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (7) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted.

Case Officer: Graham Parkinson

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

REPORT SUMMARY

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ADDRESS Maplehurst Lane Frittenden Road Staplehurst Kent		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE RECOMMENDATION CONTRARY TO THE VIEWS OF STAPLEHURST PARISH COUNCIL		
WARD Staplehurst Ward	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Lena Collins AGENT
DECISION DUE DATE 18/05/15	PUBLICITY EXPIRY DATE 18/05/15	OFFICER SITE VISIT DATE 27/04/2017

MAIN REPORT**1.0 SITE DESCRIPTION**

- 1.1 The application site is broadly rectangular in shape with a west to east orientation. Existing gypsy and traveller development abuts the site to the east and west and the planning status of these (and other sites) are shown on the plan attached as **APPENDIX 1** to this report. The site is set back over 100 metres from Maplehurst Lane. There is an existing mobile home in the south west corner of the plot. The wider plot is mainly made up of an area of open paddock with hardstandings.
- 1.2 Site access is gained via a narrow trackway onto Maplehurst Lane
- 1.3 In a wider context the site is located in open countryside identified as a Special Landscape Area (SLA) in the adopted local plan.

2.0 PROPOSAL

- 2.1 This is partly retrospective application with planning permission sought to retain an existing mobile home to be used for gypsy and traveller accommodation by the applicant and her family. Planning permission is also sought to erect a utility room

having a footprint 4.5x7.5 metres, an eaves height of 2.6 metres and a ridge height of 3.3 metres and a stable block having a footprint of 10.9x3.6 metres, an eaves height of 2.2 metres and a ridge height of 2.7 metres.

- 2.2 Surface water will drain into adjoining watercourses while waste water will be dealt with by septic tank.

Response to request for clarification of gypsy status:

- 2.3 Revised Government guidance coming into force in August 2015 makes clear that persons claiming gypsy and traveller status must provide evidence to show they intend to carry on a nomadic /traveller lifestyle. The definition of a nomadic lifestyle requires adult occupants to move from place to place in the pursuit of work. The following has been submitted to in connection with the applicant's gypsy status:
- Would like to settle permanently at Staplehurst to continue family as it is too hard to keep travelling around with young children being Maisie Collins (10 years) and Selena Collins (6 months)
 - Wants running water and central heating.
 - Will continue going to gypsy gatherings such as Appleby, Stow, Epsom and Kenilworth to maintain the gypsy lifestyle, traditions and social connections while undertaking business activities where opportunities present themselves.
 - Travel to fairs and horse fairs throughout the year to do business and socialise.
 - Trade in horses and try to find work in the surrounding areas including garden and tree work.
 - At fairs carry out flower arranging while selling articles for babies.
 - Absences can be up to 3 months or more.
 - Daughter now settled in local school, have permanent doctors while have another baby daughter.
 - Want a stable base for the family but once children are older will continue to travel.
- 2.4 In January 2017 further information was sought on the applicants circumstances seeking detailed information on how they (a) comply with the revised G&T definition in pursuing a nomadic lifestyle, (b) details of any health conditions which may preclude a nomadic lifestyle and (c) details of any children and education history.
- 2.5 No response appears to have been received to the above request and the application will therefore be determined on the basis of the information already submitted.

3.0 RELEVANT PLANNING HISTORY

- 3.1 There are existing gypsy and traveller sites abutting and close to the application site. These are shown on the location plan attached as **APPENDIX 1** along with their current planning status.
- 3.2 The two unauthorised sites fronting the eastern side of Maplehurst Lane to the north of the access serving this application site and subject to the planning applications refs: MA/13/1713 and 13/1732 have now both been refused. The grounds for refusal were (a) being visually intrusive development on their own and in combination with existing lawful G&T development fronting Maplehurst Lane harmful to the rural and landscape quality of the area and (b) the personal circumstances of the applicants insufficient to weigh against the harm identified. Enforcement notices requiring the use of the land to cease will be served shortly.

- 3.3 The application site lies within an existing and larger gypsy and traveller (G&T) site known as Perfect Place. Under ref: MA/13/0466 Perfect Place was granted planning permission on the 1st July 2014 for the permanent retention of a mobile home, touring caravan and pole barn, utility room, 2 stable blocks and a sand school. This planning permission was subject, amongst other things, to condition 1 worded as follows:

No more than one static residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and one touring caravan, which shall not be used for permanent habitation purposes, shall be stationed on the land at anyone time.

Reason: To accord with the terms of the application and in the interests of the visual amenity.

- 3.4 Located within the Perfect Place site and immediately abutting the current application site to the west is another G&T site for which retrospective planning permission is being sought under ref:MA/15/501528 for the change of use of the land to enable the stationing of a mobile home, utility room, stable block and touring caravan. This application is also on the agenda for determination by the Planning Committee.
- 3.5 The above site abuts the eastern boundary of Blossom fronting Maplehurst Lane (also falling within the Perfect Place site) and for which permanent planning permission was granted under ref:MA/14/503810 for the change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed for a gypsy and traveller family. This decision has since been the subject of a judicial review (JR) and a copy of the judgement is attached as **APPENDIX 2**.
- 3.6 In summary the claimant challenged the lawfulness of the decision relying upon five grounds, four of which the Council successfully defended. Nevertheless the Court decided to quash the planning permission on the basis that the report to the Planning Committee had not described the planning status of nearby traveller sites, which the Court considered may have made a difference to the Planning Committee's decision. In particular, the Court considered the Committee may have granted temporary rather than full planning permission. The Court's decision is based on case-specific considerations and otherwise vindicates the Council's general approach to applications of this nature. The planning application in this case will now be re-determined by Planning Committee.
- 3.7 However the original applicant no longer occupies the site which was vacated for a period. It has now been reoccupied and when the site was reinspected on the 27th April 2017 this confirmed its continued occupation with a mobile home and one touring caravan present. The whole site remains covered with ballast hardstanding while a propane gas tank standing on a concrete base has been installed. Closeboarded fencing with immature landscaping abutting fronts the site.
- 3.8 As the original applicant no longer occupies the site and no longer wants the application determined the Council is not in a position to redetermine the application. Regarding the current occupation of the Blossom site as no planning permission exists this is currently unauthorised. However no planning permission has been submitted seeking to regularise the position.

4.0 POLICIES AND OTHER CONSIDERATIONS

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- Staplehurst Local Plan

- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP17, DM16, DM34
- Planning Policy for Traveller Sites (PPTS)

5.0 LOCAL REPRESENTATIONS

5.1 This application has been the subject of 3 separate consultations in connection with the application as (a) originally submitted (b) on receipt of details of the applicant's gypsy and traveller status and (c) revised siting of the mobile home.

5.2 9 objectors have made representations and these are summarised as follows:

- Granting planning permission would lead to further plots being sold off on a piecemeal basis and given the number of existing G&T sites in the locality the settled community is becoming completely dominated therefore increasing local tensions contrary to Government policy.
- Result in harm to the rural character of the area and Low Weald Special Landscape Area while illumination results in harm to the night time rural environment.
- Contrary to the heritage provisions of the Staplehurst Neighbourhood plan.
- Intentional unauthorised development is a material consideration that should be given great weight in determining this application.
- To grant planning permission would breach the terms of the original permission setting limits on the number of pitches.
- Not convinced the applicant is a G&T as she wants to settle down and is no longer pursuing a nomadic lifestyle as she has a permanent address and takes holidays.
- The area has been subject to adhoc and unregulated G&T development.
- Not convinced the Council has any idea regarding the numbers or the real impact of the G&T development that has taken place.
- On its own or in conjunction with existing G&T development the net result is a cumulative impact that has eroded the rural character of the area.
- The application cannot be considered in isolation.
- The site is not allocated for G&T development while being sited in open countryside . The Council must justify any decision to approve contrary to Government Guidance.
- There are Listed Buildings in the locality who are adversely affected by retention of the of this G&T site. In addition the site lies in historic landscape and impact of the development on this must be taken into account.
- The site has been subject to flooding exacerbated by the hard surfacing that has taken place.
- Site lies next to a watercourse resulting in contamination and is not a matter that has been enforced by planning condition.
- Site is accessed by narrow countryside roads and granting planning permission will cause ongoing harm to the free flow of traffic and highway safety in the locality.
- Unauthorised G&T development in the locality has had an adverse impact on local wildlife.
- The 2014 Sustainability appraisal did not select Perfect Place as a sustainable G&T allocation and this should apply to this application.
- Conditions imposed on Perfect Place required site to be vacated once original applicants leave the site.

5.3 In addition an objector took independent legal advice that concludes the following:

- The Council cannot determine the application without first identifying the relevant policy framework.
- The applicant is not a gypsy.
- The site lies in open countryside away from existing settlements where permission should be very strictly limited and that permission should only be granted in exceptional circumstances.
- The Council's current GTAA allocation based on an outdated definition of gypsies and is therefore no longer a reliable guide on which to base need. In any event if planning permission is to be granted this should be on a temporary basis only.
- As unauthorised occupation of the site took place this is now a material consideration that should be taken into account.

5.4 Weald of Kent Protection Society: Object on the following grounds:

- Applicant assumes her gypsy status qualifies her for occupancy of this site but consider full justification is required along the lines of Government guidance on traveller sites, whereby applicants need to offer substantial evidence of a nomadic lifestyle.
- Furthermore, her application is sent from an existing address in a residential area, and the Planning Authority needs to question her inability to remain at that address or in a similar dwelling.
- The site in question is in a comparatively remote area of woodland and green fields, some distance from public transport and the Staplehurst health centre and schools.
- Refer to paragraph 25 of the DCLG's Planning Policy for Traveller Sites, whereby locations in the open countryside need to be strictly limited.
- There are already several unauthorised traveller settlements on this Maplehurst Lane site, so the field presents a cumulatively unacceptable aspect.
- Concerned about the health and safety aspects as the area is prone to flooding, and close supervision of sewage, horse waste, and waste water disposal needs to be carried out to ensure that local waterways and water supplies are not contaminated.
- Continuing unauthorised development of traveller pitches at Maplehurst Lane requires a solution as it is unsatisfactory that a lack of a 5-year supply of suitable pitches for travellers should allow settlements like these to become established by default.

5.5 Heritage Protection: Objects on the following grounds:

- Has an unacceptable impact on nearby Listed Buildings
- Should be considered against the Staplehurst Neighbourhood Plan
- Harmful to the landscape character of the locality and appearance of the Low Weald.
- Unacceptable impact on historic landscape and has completely eroded the trackside scene of Maplehurst Lane.

6.0 CONSULTATION RESPONSES

6.1 Staplehurst Parish Council: Wish to see the application refused for the following reasons:

- Will compound local drainage and flooding problems.
- Result in overintensive development that will dominate the nearest settled community.
- The cumulative impact of the development was unsustainable and would intensify existing piecemeal and irregular development in the countryside contrary to policy.
- Site not allocated for development in the draft local plan or the Staplehurst neighbourhood plan.

6.2 **Kent Highways:** Were consulted on the individual and cumulative impacts of G&T development in this locality and its key points are as follows;

- Understand the majority of traffic movements access the public highway via private roads onto Frittenden Road. Data sources confirm that there have been no injury crashes at either access point for at least the last 10 years. As such in the context of the NPPF it is not considered a total of 28 static and touring caravans represent a severe impact on the surrounding road network justifying an objection.

6.3 **Environment Agency:** The surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such recommend the development is the subject of a Flood Risk Assessment (FRA)

6.4 **KCC Sustainable Drainage:** Consulted in relation to concerns raised in connection with surface flooding the area and its comments are summarised below:

- Have reviewed the location given the Environment Agency's comments and the larger fluvial concerns but have no record of any surface water issues at these locations.

7.0 BACKGROUND PAPERS AND PLANS

7.1 The development is shown on drawings received on the 23rd March 2015 with the siting of the mobile home amended on the 16th March 2016. Letters relating to the applicants gypsy status were received on the 13th November 2015 and 24th June 2016.

8.0 APPRAISAL:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000. However given the advanced progress of the Draft Local Plan (DLP) to formal adoption this can now also be given significant weight in the determination of this application. As the site lies within open countryside forming of a Special Landscape Area (SLA) the application is specifically subject to policies ENV28 and ENV34 of the adopted local plan. Policy states ENV 28 states that:

"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan."*

8.2 Policy SP17 of the submission version of the DLP (which is also a countryside protection policy) following the Interim findings of the local plan Inspector now states

that proposals which accord with other policies in the plan and do not harm the countryside will be permitted.

- 8.3 Policy DM16 of the DLP specifically relates to G&T development. This policy has also been amended by the local plan inspector and renumbered DM15. Criterion 2 has been amended to state that planning permission for G&T 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 the 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 wildlife considerations are taken into account.
- 8.4 In the adopted plan none of the exceptions to the general policy of development restraint applied to this application which therefore represented a departure from the Development Plan. In such circumstances it falls to consider whether there are any overriding material considerations justifying a decision not in accordance with the Development Plan and whether granting planning permission would result in unacceptable demonstrable harm which is incapable of being acceptably mitigated. However given the increasing weight to be given to the DLP means policy DM16 (now DM15) is now a material consideration.
- 8.5 As a point of clarification it is considered the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended). In the event of Members seeing fit to grant retrospective consent for this development an appropriate condition will be imposed to secure this.
- 8.6 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) landscape and heritage (e) sustainability (f) impact on general and residential amenity (g) highway safety (h) wildlife considerations and (i) flooding.

PRINCIPLE OF DEVELOPMENT

- 8.7 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.
- 8.8 Policy ENV28 relating to development in the countryside states, amongst other things, that;

“Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers.”
- 8.9 Policy ENV28 sets out the type of development that can be permitted in the countryside but excludes G&T development.
- 8.10 Policy DM16 (now DM15) of the DLP specifically relating to G&T development now also represents a material consideration as does the Staplehurst Neighbourhood Plan. Policy PW2 of the plan states, amongst other things, that new development will not be permitted in open countryside except in exceptional circumstances.
- 8.11 A key consideration in the determination of this application is Government Guidance set out in ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging sites are likely to be found in rural areas.

- 8.12 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit G&T sites to be located in the countryside as an exception to the general development restraint policies.

Need for Gypsy Sites

- 8.13 Although the DLP is well advanced and therefore carries significant weight, there are not yet any adopted development plan policies relating to the provision of G&T sites. Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out 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

- 8.14 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 as it does part of the evidence base to the DLP. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that 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.

The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

Supply of Gypsy sites

- 8.15 Accommodation for G&T's is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).

- 8.16 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):

86 Permanent non-personal mobiles
 20 Permanent personal mobiles
 3 Temporary non-personal mobiles
 33 Temporary personal mobiles

- 8.17 Therefore a net total of 106 permanent pitches have been granted since 1st October 2011. A further 81 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

- 8.18 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 DLP 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.

- 8.19 The Council prepared a Gypsy & Traveller and Travelling Showpeople Topic Paper as background to DLP Examination. This asserts the Council can demonstrate a 5.6 years supply of G&T sites by counting the LP allocations and making an allowance for the pitch turnover on the public sites (pages 11, 15) and the DLP Inspector did not comment on this. As such the Council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016.
- 8.20 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. 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 if the development is found to be unacceptable for other reasons.

Gypsy status

- 8.21 Since this application was submitted, the Government has revised the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, with the planning definition of 'gypsies & travellers' being amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

"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 showpeople or circus people travelling together as such."

- 8.22 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, the PTS 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.
- 8.23 In response to the above the applicant has advised the following:
- Would like to settle permanently at Staplehurst to continue family as it is too hard to keep travelling around with young children.
 - Wants running water and central heating.
 - Will continue going to gypsy gatherings like Appleby, Stow, Epsom and Kenilworth to maintain the gypsy lifestyle, traditions and social connections while undertaking business activities where opportunities present themselves.
 - Travel to fairs and horse fairs throughout the year to do business and socialise.
 - Trade in horses and try to find work in the surrounding areas like garden work and tree work.
 - At fairs also carry out flower arranging while selling articles for babies.
 - Absences can be up to 3 months or more.

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- Daughter now settled in local school, have permanent doctors while have another baby daughter.
 - Want a stable base for the family but once children are older will continue to travel for work and other reasons.
- 8.24 The request for further information made in January 2017 did not appear to elicit any response and as such any judgement on the applicants as G&T status must be based on the information already submitted.
- 8.25 Regarding whether the occupants of the mobile home have lived a nomadic lifestyle and intend to continue living in such a manner it is evident the submitted information lacks detail. However it must be taken into account that gypsy and travellers by their very nature, live a more footloose and less regulated lifestyle compared to many in the settled community. Given the family circumstances of the applicant it is considered highly likely that to provide a stable base for the children to enable them to attend school occupation of the mobile home would be for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties to provide a stable base for the children. As such is considered this meets the latest planning definition of gypsies and travellers.
- 8.26 In assessing this application it would have been useful to have times, dates and locations of all events and places of work the occupants of the mobile home attend. However it must be reiterated that by their very nature G&T lifestyles make monitoring such activities problematic in planning terms. As such, unless the Council is in possession of clear substantiated evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this lifestyle, such claims must be taken at face value. To go beyond this could be considered an overly forensic approach failing to reflect the realities of G&T lifestyles thereby making the Council vulnerable to claims of discrimination in its dealings with the G&T community.
- 8.27 In addition even if the applicants have permanent housing accommodation elsewhere this does not preclude them from resuming a G&T lifestyle nor does this affect their ongoing G&T status.
- 8.28 As such it is considered that based on the submitted details the applicant and other occupants of the site, on the balance of probability, are gypsies and travellers that have led and will continue to lead a nomadic lifestyle and therefore fall within the latest planning definition of gypsies and travellers.

VISUAL IMPACT

- 8.29 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 not should dominate the nearest settled community and or place undue pressure on local infrastructure. No specific reference is made to landscape impact though this is addressed in the NPPF, policy ENV28 of the adopted local plan and policy SP17 of the DLP (which specifically states that provided proposals do not harm the character and appearance of an area they will be permitted). In addition policy DM16 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 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 wildlife considerations are taken into account. Policy PW2 of the Staplehurst

Neighbourhood Plan seeks to limit new development in the countryside only to that required in exceptional circumstances.

- 8.30 It is generally accepted that mobile homes comprise visually intrusive development of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 8.31 In this case, the application site lies within an existing lawful G&T site i.e. Perfect Place. It is acknowledged the permanent planning permission granted for Perfect Place was subject to a condition restricting the number of mobile and touring caravans which is exceeded by the current application. However the JR decision did not place weight on this condition in setting a limit on the number of pitches the site could accommodate. As such the existence of this condition does not constrain Members from dealing with this application on its merits as a new planning chapter in the sites history.
- 8.32 Regarding that part of the JR which was upheld, the judgement made clear that where G&T development is unauthorised (and notwithstanding the existence of applications seeking to regularise the development), the existence of such pitches is not material in assessing the character of an area. Assessment should therefore proceed on the basis that these sites are unoccupied and the land is in its former condition i.e. open countryside.
- 8.33 Members attention is drawn to the plan attached as **Appendix 1** showing G&T development in the locality. This shows 3 sites benefitting either from unconstrained permanent permissions or personal consents. However when these are excluded this still shows a number of sites in the locality (still including Blossom) which do not have the benefit of planning permission.
- 8.34 Members are reminded that two of these sites have since had planning permission refused with enforcement action pending. The current situation of Blossom is as explained earlier.
- 8.35 As such the Blossom site and other unauthorised development in the locality cannot be seen as having an impact on the character of the area. Consequently determining the visual impact of the development must be assessed on its own merits though the cumulative impacts of existing lawful development in the locality can also be taken into account.
- 8.36 Dealing first with the visual impact of the development as a discrete matter in its own right, the site is set back from Maplehurst Lane by a distance in excess of 120 metres with access onto an existing track. The mobile home stationed is tucked away in the south west corner of the site in an angled relationship with the site boundary. Nevertheless notwithstanding its low profile, set back from Maplehurst Lane and that there are no public footpaths close to or abutting the site from which other public views of the site can be obtained views are available to through the access. As such the mobile home is visible and therefore has an impact on the character of the countryside and landscape quality of the SLA although this is relatively well contained in the wider landscape.
- 8.37 In making this point it should be noted the southern site boundary comprises deciduous tree cover. Though providing a dense screen in summer there is a gap

through which long range views of a mobile home can be obtained from Maplehurst Barn to the south. In winter this screening effect would be lessened by leaf fall. However this needs to be placed in context. Firstly there is no right to a view as such while there is a separation distance in excess of 350 metres to the boundary with Maplehurst Barn. In these circumstances it is considered it would be difficult to make a substantive case of overriding visual harm based solely on loss of outlook to Maplehurst Barn.

- 8.38 Turning to the remaining elements of the proposal being the utility room and stable blocks, these are both small low profile buildings sited deep within the application site and to the east of the mobile home. Given their small size and unobtrusive siting it is considered they have little impact on the rural character or landscape quality of the area.

Cumulative Impacts:

- 8.39 The JR judgement makes plain it is only the impact of lawful G&T sites that can be taken into account in assessing the cumulative impact of this development. The 3 lawful sites are shown on the plan attached as **Appendix 1**. Perfect Place is set well back from Maplehurst Lane and is considered to be relatively unobtrusive in its landscape impact. Another lawful site is hidden within woodland on the opposite side of Maplehurst Lane and is also unobtrusive in its impact as a consequence. The remaining lawful site is that fronting the eastern side of Maplehurst Lane to the north. Being a lawful site its visual impact now forms an acknowledged part of the local area.
- 8.40 Having regard to the impact of the development under consideration, though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage and notwithstanding its proximity to the lawful Perfect Place site, its visual impact is considered to be more localised and contained. As such it is considered it would be difficult in this case to sustain an objection based on cumulative visual impact.

LANDSCAPE AND HERITAGE CONSIDERATIONS:

- 8.41 It is contended the site lies within an historic landscape while there are nearby Listed Buildings whose character and setting will be adversely affected by retention of this G&T site which is also contrary to the provisions of the Staplehurst Neighbourhood Plan. Though the Staplehurst Neighbourhood Plan is now part of the development plan in the determination of this application it is silent on specific G&T and landscape issues though policy PW2 does seek to prevent new development in the countryside except in exceptional circumstances.
- 8.42 The site is identified as falling within open countryside and within the Low Weald SLA in the adopted local plan. The DLP no longer makes specific reference to SLA's but policy SP17 of the DLP, as amended by the Local Plan Inspector, states amongst other things that the distinctive landscape character of the Low Weald as defined on the policies map will be conserved and enhanced as landscapes of local value.
- 8.43 The Maidstone Landscape Character Assessment 2012 identifies the site as falling within the Sherenden Wooded Hills. The key characteristics of this area are identified as being a low lying and gently undulating clay Low Weald Landscape with many ponds, ditches and watercourses. This includes large irregular blocks of ecologically important ancient woodland interspersed with pasture, orchards and arable fields along with species rich native hedgerow field boundaries with mature oaks trees as

imposing hedgerow trees and sometimes within fields where boundaries have been removed. Historic buildings are scattered throughout the landscape.

- 8.44 The Maidstone Landscape Capacity Study: Sensitivity Assessment – Jan 2015 assessed the Sherenden Wooded Hills as having high overall landscape sensitivity and therefore sensitive to change. It also concluded that development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with the existing. Other development supporting rural enterprises could be considered though extensive, large scale or visually intrusive development will be inappropriate.
- 8.45 It can only be reiterated that though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage its visual impact is considered to be relatively localised and contained. As such it is considered it would be difficult in this case to argue landscape harm similar to the refused applications fronting Maplehurst Lane.
- 8.46 Turning to the impact of the development on heritage assets with the area, the site does not lie within or close to any Conservation Area. The nearest listed building is Maplehurst sited some distance to the south of the site with views to the development screened by intervening trees and hedgerows.
- 8.47 As such it is not considered the development has any material impact on the character and setting of any existing acknowledged heritage assets within the locality.

SUSTAINABILITY

- 8.48 Gypsy and traveller sites are mainly located in the countryside and the development follows this pattern. Concerns have been raised that this site is unsustainable and is unacceptable on this ground. However the development lies within the site area of a lawful G&T site for which planning permission has already been granted. As such it would appear inconsistent to adopt a different approach to this development.
- 8.49 In addition, compared to many G&T sites the site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. As such no objection is identified to the development on sustainability grounds.

GENERAL AND RESIDENTIAL AMENITY

- 8.50 Given (a) the sites set back from Maplehurst Lane and (b) unobtrusive siting of the mobile home, utility room and stable block and (c) the nearest houses are sited over 170 metres to the west and more than 300 metres to the south it is considered it would be difficult to argue any ongoing significant detrimental impact to the residential amenity of any neighbouring houses in terms of loss of light, outlook, privacy, general noise and disturbance.
- 8.51 Of wider concern is the view that the local community is being overly dominated by G&T development and the adverse impact this is having on local services. However given the small number of persons being accommodated in this development it is considered it would be problematic to seek to pursue such an argument in the circumstances of this application.

HIGHWAY SAFETY CONSIDERATIONS:

- 8.52 Objections to the development also include concerns relating to highway safety and the free flow of traffic on the local road network arising not only from this development but also in connection with other G&T development that has taken place. The views of Kent Highways were therefore sought. It concluded that notwithstanding the traffic generated by lawful and unlawful G&T development in the locality it could not support an objection based on harm to the free flow of traffic and highway safety in the locality.
- 8.53 Consequently as it is only possible to take into account traffic generated by the lawful G&T sites in the locality and that traffic generated by these would be materially less than the quantum of lawful and unlawful G&T development, it not considered there are sustainable objections to retention of this site form G&T use based on harm to the free flow of traffic and highway safety in the locality.

WILDLIFE CONSIDERATIONS:

- 8.54 As this is a retrospective application and as the site is covered by the mobile home with the remainder laid out as hardstanding or grassed, it clearly has little wildlife and habitat potential in its current form.

FLOODING:

- 8.55 The site lies in zone 1 and is therefore not subject to fluvial flooding. However concerns were raised that the site lies in an area at risk of surface water flooding and the EA was consulted as a consequence.
- 8.56 Its response was that the surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such it recommended the development be the subject of a Flood Risk Assessment (FRA).
- 8.57 It should be noted that as the site is not at risk from fluvial flooding there was no requirement to submit an FRA with the application. In addition the area of hardstanding has a ballast surface while the remainder of the site is grassed. Given these are both permeable the likelihood of water runoff is unlikely to be materially different from previous site conditions in the absence of changes to site levels.
- 8.58 As such it not considered the EA's request for an FRA is justified nor has evidence been submitted that retention of the development would make surface water runoff and flooding any worse or that the occupants of the development are placed at risk as a result of surface water flooding. KCC sustainable drainage has also been consulted. However in the absence of a negative response from this body it is not considered there is sufficient evidence to support objections to the development based on surface water flood risk.

OTHER MATTERS:

- 8.59 Concerns have been raised that retention of the development will result in continued pollution and harm to the local water environment. The applicants state that surface water drains into adjoining watercourses while waste water is dealt with by a septic tank. Both measures appear as appropriate responses having regard to the nature of the development. However should pollution be identified from this site the EA using

its pollution prevention powers will be far better placed to take immediate action in such an eventuality.

8.60 Government Guidance makes clear that G&T planning applications submitted on a retrospective basis represents 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 while 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.

8.61 The report states the development represents a departure from the development plan normally requiring Press and Site notices. However given the small scale and enclosed nature and minimal wider impact of the development it is seen to comply with the relevant policies. As such it is not considered necessary to advertise it as a Departure.

9.0 CONCLUSIONS:

9.1 Though the Council is able to demonstrate a 5 year supply of G&T sites this does not mean, in the absence of demonstrable harm on other grounds, that the development is unacceptable in principle particularly as the emerging plan policy DM16(now DM15) states that planning permission will be granted if the development does not result in significant harm to the landscape and rural character of the area.

9.2 The key conclusions are considered to be as follows:

- The occupants of the site fall within the revised definition of gypsies and travellers.
- The development is acceptable in its individual and cumulative visual impacts with other lawful G&T development in the locality while not materially contributing to dominating the local settled community.
- Has not resulted in any material loss of amenity to dwellings in the locality.
- Is acceptable in sustainability and wildlife terms.
- Is acceptable in its highway impacts.

9.3 As such in the absence of demonstrable harm to the character of the countryside and wider landscape it is considered the development is acceptable in its own right. In the circumstances it is recommended that permanent and unfettered consent to use the site for G&T accommodation is granted. Members are also advised that granting permanent planning permission here counts towards the overall supply of G&T sites in meeting the need identified in the GTAA.

10.0 RECOMMENDATION – GRANT 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 and shall only be occupied Lena and Tom Collins and their dependents.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

Planning Committee Report

- (2) No more than one caravan and one 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) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (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) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (6) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (7) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

The Council's approach to this application:

Planning Committee Report

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted.

Case Officer: Graham Parkinson

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

REPORT SUMMARY

REFERENCE NO - 15/501528/FULL		
APPLICATION PROPOSAL Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective).		
ADDRESS Maplehurst Lane Frittenden Road Staplehurst Kent		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE RECOMMENDATION CONTRARY TO THE VIEWS OF STAPLEHURST PARISH COUNCIL		
WARD Staplehurst Ward	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr P Roots AGENT
DECISION DUE DATE 18/05/15	PUBLICITY EXPIRY DATE 18/05/15	OFFICER SITE VISIT DATE 16/03/16

MAIN REPORT**1.0 SITE DESCRIPTION**

- 1.1 The application site is broadly rectangular in shape with an west to east orientation. Existing gypsy and traveller (G&T) development abuts the site to the east and west. This is shown on the plan attached as **APPENDIX 1** identifying lawful and unauthorised sites in the locality. The site is set just under 20 metres back from Maplehurst Lane. There is an existing mobile home stable block and utility room abutting the southern site boundary with the remaining area mainly made up of an open paddock and hardstanding.
- 1.2 Site access is gained via a narrow trackway onto Maplehurst Lane
- 1.3 In a wider context the site is located in open countryside identified as a Special Landscape Area (SLA) in the adopted local plan.

2.0 PROPOSAL

- 2.1 Retrospective planning permission is sought to retain an existing mobile home to be used for G&T accommodation by the applicant and his family along with a utility room having a footprint 4.5x7.5 metres, an eaves height of 2.6 metres and a ridge height of 3.3 metres and a stable block having a footprint of 10.9x3.6 metres, an eaves height of 2.2 metres and a ridge height of 2.7 metres.

- 2.2 Surface water will drain into adjoining watercourses while waste water will be dealt with by septic tank.

Response to request for clarification of gypsy status:

- 2.3 Revised Government guidance which came into force in August 2015 requires persons claiming gypsy and traveller status to provide evidence to show they intend to carry on a nomadic /traveller lifestyle. To fall within the definition of a nomadic lifestyle requires the adult occupants of the site move from place to place in the pursuit of work. The following has been submitted to in connection with the applicant's gypsy status:
- Take wife and sons to Appleby and Stowe for 2-3 weeks at a time where they meet up with family and friends along with carrying out tree and roofing work.
 - The site is occupied by Paul Roots (the applicant) and Tammy Phillips, Jesse Phillips (8), Vinnie Phillips (6), Isaiah Phillips (4) Elijah Phillips (1) and Delilah Phillips (4 months)
 - Need to have a permanent base to give children an education to improve their long term prospects as it is becoming more difficult to pursue a traveller lifestyle.
 - Eldest son wants to be a farrier and two other sons attend Marden Primary school.
 - Still intend to travel but to ensure the children maintain their education means that this will be more restricted.
 - The applicant will continue travelling up and down the country dealing in horses, motor vehicles along with tree work.
- 2.4 In January 2017 further information was sought on the applicants circumstances seeking detailed information on how they (a) comply with the revised G&T definition in pursuing a nomadic lifestyle, (b) details of any health conditions which may preclude a nomadic lifestyle and (c) details of any children and education history.
- 2.5 No response appears to have been received to the above request and the application will therefore be determined on the basis of the information already submitted.

3.0 RELEVANT PLANNING HISTORY

- 3.1 There are existing gypsy and traveller sites abutting and close to the application site. These are shown on the location plan attached as **APPENDIX 1** along with their current planning status.
- 3.2 The two unauthorised sites fronting the eastern side of Maplehurst Lane to the north of the access serving this application site and subject to the planning applications refs: MA/13/1713 and 13/1732 have now both been refused. The grounds for refusal were (a) being visually intrusive development on their own and in combination with existing lawful G&T development fronting Maplehurst Lane harmful to the rural and landscape quality of the area and (b) the personal circumstances of the applicants insufficient to weigh against the harm identified. Enforcement notices requiring the use of the land to cease will be served shortly.
- 3.3 Turning to the application site, subject of this application, the site lies within an existing and larger gypsy and traveller (G&T) site known as Perfect Place. Under ref: MA/13/0466 Perfect Place was granted planning permission on the 1st July 2014 for the permanent retention of a mobile home, touring caravan and pole barn, utility room, 2 stable blocks and a sand school. This planning permission was subject, amongst other things, to condition 1 worded as follows:

No more than one static residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and one touring caravan, which shall not be used for permanent habitation purposes, shall be stationed on the land at anyone time.

Reason: To accord with the terms of the application and in the interests of the visual amenity.

- 3.4 Located within the Perfect Place site and immediately abutting the current application site to the east is another G&T site for which part retrospective planning permission is being sought under ref:MA/15/501537 for the change of use of the land to enable the stationing of a mobile home, utility room, stable block and touring caravan. This application is also on the agenda for determination by the Planning Committee.
- 3.5 The current application site abuts the eastern boundary of the Blossom site fronting Maplehurst Lane (also falling within the Perfect Place site). Planning permission was granted on the Blossom site under ref:MA/14/503810 for the change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed for a gypsy and traveller family. This decision has since been the subject of a judicial review (JR) attached as **APPENDIX 2**.
- 3.6 In summary the lawfulness of the Blossom decision was challenged on five grounds, four of which the Council successfully defended. Nevertheless the Court decided to quash the planning permission on the basis that the report to the Planning Committee had not described the planning status of nearby traveller sites, which the Court considered may have made a difference to the Planning Committee's decision. In particular, the Court considered the Committee may have granted temporary rather than full planning permission. The Court's decision is based on case-specific considerations and otherwise vindicates the Council's general approach to applications of this nature. It would normally be the case that the application would be re-determined by Planning Committee.
- 3.7 However the original applicant no longer occupies the site which was vacated for a period. It has now been reoccupied and when the site was reinspected on the 27th April 2017 this confirmed its continued occupation with a mobile home and one touring caravan present. The whole site remains covered with ballast hardstanding while a propane gas tank standing on a concrete base has been installed. Closeboarded fencing with immature landscaping abutting fronts the site.
- 3.8 As the original applicant no longer occupies the site and no longer wants the application determined the Council is not in a position to redetermine the application. Regarding the current occupation of the Blossom site as no planning permission exists this is currently unauthorised. However no planning permission has been submitted seeking to regularise the position.

4.0 POLICIES AND OTHER CONSIDERATIONS

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- Staplehurst Neighbourhood Plan
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies:SP17, DM16, DM34
- Planning Policy for Traveller Sites (PPTS)

5.0 LOCAL REPRESENTATIONS

5.1 8 properties were notified of this application 9 objectors have made representations which are summarised as follows:

- Granting planning permission would lead to further plots being sold off on a piecemeal basis and given the number of existing G&T sites in the locality the settled community is becoming completely dominated therefore increasing local tensions contrary to Government policy.
- Result in harm to the rural character of the area and Low Weald Special Landscape Area while illumination results in harm to the night time rural environment.
- Contrary to the heritage provisions of the Staplehurst Neighbourhood plan.
- Intentional unauthorised development is a material consideration that should be given great weight in determining this application.
- To grant planning permission would breach the terms of the original permission setting limits on the number of pitches.
- Not convinced the applicant is a G&T.
- The area has been subject to adhoc and unregulated G&T development.
- Not convinced the Council has any idea regarding the numbers or the real impact of the G&T development that has taken place.
- On its own or in conjunction with existing G&T development the net result is a cumulative impact that has eroded the rural character of the area.
- The application cannot be considered in isolation.
- The site is not allocated for G&T development while being sited in open countryside . The Council must justify any decision to approve contrary to Government Guidance.
- There are Listed Buildings in the locality who are adversely affected by retention of the of this G&T site. In addition the site lies in historic landscape and impact of the development on this must be taken into account.
- The site has been subject to flooding exacerbated by the hard surfacing that has taken place.
- Site lies next to a watercourse resulting in contamination and is not a matter that has been enforced by planning condition.
- Site is accessed by narrow countryside roads and granting planning permission will cause ongoing harm to the free flow of traffic and highway safety in the locality.
- Unauthorised G&T development in the locality has had an adverse impact on local wildlife.
- The 2014 Sustainability appraisal did not select Perfect Place as a sustainable G&T allocation and this should apply to this application.
- Conditions imposed on Perfect Place required site to be vacated once original applicants leave the site.

5.2 In addition an objector took independent legal advice that concludes the following:

- The Council cannot determine the application without first identifying the relevant policy framework.
- The applicant is not a gypsy.
- The site lies in open countryside away from existing settlements where permission should be very strictly limited and that permission should only be granted in exceptional circumstances.
- The Councils current GTAA allocation based on an outdated definition of gypsies and is therefore no longer reliable guide on which to base need. In any event if planning permission is to be granted this should be on a temporary basis only.
- As unauthorised occupation of the site took place this is now a material consideration that should be taken into account.

5.3 **Weald of Kent Protection Society:** Object on the following grounds:

- Applicant assumes gypsy status qualifies for occupancy of this site but consider full justification is required along the lines of Government guidance on traveller sites, whereby applicants need to offer substantial evidence of a nomadic lifestyle.
- Furthermore application is sent from an existing address in a residential area, and the Planning Authority needs to question inability to remain at that address or in a similar dwelling.
- The site in question is in a comparatively remote area of woodland and green fields, some distance from public transport and the Staplehurst health centre and schools.
- Refer to paragraph 25 of the DCLG's Planning Policy for Traveller Sites, whereby locations in the open countryside need to be strictly limited.
- There are already several unauthorised traveller settlements on this Maplehurst Lane site, so the field presents a cumulatively unacceptable aspect.
- Concerned about the health and safety aspects as the area is prone to flooding, and close supervision of sewage, horse waste, and waste water disposal needs to be carried out to ensure that local waterways and water supplies are not contaminated.
- Continuing unauthorised development of traveller pitches at Maplehurst Lane requires a solution as it is unsatisfactory that a lack of a 5-year supply of suitable pitches for travellers should allow settlements like these to become established by default.

5.4 **Heritage Protection:** Objects on the following grounds:

- Has an unacceptable impact on nearby Listed Buildings
- Should be considered against the Staplehurst Neighbourhood Plan
- Harmful to the landscape character of the locality and appearance of the Low Weald.
- Unacceptable impact on historic landscape and has completely eroded the trackside scene of Maplehurst Lane.

6.0 **CONSULTATION RESPONSES**

6.1 **Staplehurst Parish Council:** Wish to see the application refused for the following reasons:

- Compound existing drainage and flooding problems and the overwhelming impact of over intensification on existing residents.
- Felt the cumulative impact of the application was unsustainable and would intensify previous piecemeal and irregular development in the countryside in contravention of Maidstone Borough-Wide Local Plan Policy ENV28 and of DCLG Planning Policy covering sites in rural or semi-rural settings and the need to ensure that the scale of such sites do not dominate the nearest settled community

6.2 **Kent Highways:** Were consulted on the individual and cumulative impacts of G&T development in this locality and its key points are as follows;

- Understand that the majority of traffic movements access the public highway via private roads onto Frittenden Road. Data sources confirm that there have been no injury crashes at either access point for at least the last 10 years. As such in the context of the NPPF it is not considered a total of 28 static and touring caravans represent a severe impact on the surrounding road network justifying an objection.

6.3 **EA:** The surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such recommend that the development is the subject of a Flood Risk Assessment (FRA).

6.4 **KCC Sustainable Drainage:** Consulted in relation to concerns raised in connection with surface flooding the area and its comments are summarised below:

- Have reviewed the location given the Environment Agency's comments and the larger fluvial concerns but have no record of any surface water issues at these locations.

7.0 BACKGROUND PAPERS AND PLANS

7.1 The development is shown on drawings received on the 23rd March 2015 and site location plan drawn at a scale of 1:500 showing the application site area outlined in red. Letter relating to the applicants gypsy status received on the 16th March 2016.

8.0 APPRAISAL:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000. However given the advanced progress of the Draft Local Plan (DLP) to formal adoption this can now also be given significant weight in the determination of this application. As the site lies within open countryside forming of a Special Landscape Area (SLA) the application is specifically subject to policies ENV28 and ENV34 of the adopted local plan and policy PW2 of the Staplehurst Neighbourhood Plan. Policy states ENV 28 states that:

"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan."*

8.2 Policy SP17 of the submission version of the DLP (which is also a countryside protection policy) following the Interim findings of the local plan Inspector now states that proposals which accord with other policies in the plan and do not harm the countryside will be permitted. Policy PW2 of Staplehurst Neighbourhood Plan states that development outside development boundaries will be assessed according to its impacts on landscape features and other matters and where these impacts cannot be addressed, development will not be supported.

8.3 Policy DM16 of the DLP specifically relates to G&T development. This policy has also been amended by the local plan inspector and renumbered DM15. Criterion 2 has been amended to state that planning permission for G&T development will be granted if it would not result in significant harm to the to the landscape and rural

character of the area. The requirement remains that the 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 wildlife considerations are taken into account.

- 8.4 In the adopted plan none of the exceptions to the general policy of development restraint applied to this application which therefore represented a departure from the Development Plan. In such circumstances it falls to consider whether there are any overriding material considerations justifying a decision not in accordance with the Development Plan and whether granting planning permission would result in unacceptable demonstrable harm which is incapable of being acceptably mitigated. However given the increasing weight to be given to the DLP means policy DM16 (now DM15) is now a material consideration.
- 8.5 As a point of clarification it is considered the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended). In the event of Members seeing fit to grant retrospective consent for this development an appropriate condition will be imposed to secure this.
- 8.6 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) landscape and heritage (e) sustainability (f) impact on general and residential amenity (g) highway safety (h) wildlife considerations and (i) flooding.

PRINCIPLE OF DEVELOPMENT

- 8.7 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.
- 8.8 Policy ENV28 relating to development in the countryside states, amongst other things, that;
- “Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers.”*
- 8.9 Policy ENV28 sets out the type of development that can be permitted in the countryside but excludes G&T development and PW2 requires development to be able to acceptable in relation to its impact on a range of matters including landscape impact
- 8.10 Policy DM16 (now DM15) of the DLP specifically relating to G&T development now also represents a material consideration.
- 8.11 A key consideration in the determination of this application is Government Guidance set out in ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging sites are likely to be found in rural areas.
- 8.12 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit G&T sites to be located in the countryside as an exception to the general development restraint policies.

Need for Gypsy Sites

- 8.13 Although the DLP is well advanced and therefore carries significant weight, there are not yet any adopted development plan policies relating to the provision of G&T sites. Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out 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

- 8.14 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 as it does part of the evidence base to the DLP. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that 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.

The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

Supply of Gypsy sites

- 8.15 Accommodation for G&T's is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).
- 8.16 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):
- 86 Permanent non-personal mobiles
 - 20 Permanent personal mobiles
 - 3 Temporary non-personal mobiles
 - 33 Temporary personal mobiles
- 8.17 Therefore a net total of 106 permanent pitches have been granted since 1st October 2011. A further 81 permanent pitches are needed by 2031 to meet the need identified in the GTAA.
- 8.18 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 DLP 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.

- 8.19 The Council prepared a Gypsy & Traveller and Travelling Showpeople Topic Paper as background to DLP Examination. This asserts the Council can demonstrate a 5.6 years supply of G&T sites by counting the LP allocations and making an allowance for the pitch turnover on the public sites (pages 11, 15) and the DLP Inspector did not comment on this. As such the Council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016.
- 8.20 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. 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 if the development is found to be unacceptable for other reasons.

Gypsy status

- 8.21 Since this application was submitted, the Government has revised the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, with the planning definition of 'gypsies & travellers' being amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

"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 showpeople or circus people travelling together as such."

- 8.22 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, the PTS 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.
- 8.23 In response to the above the applicant advised the following:
- Take wife and children to Appleby and Stowe for 2-3 weeks at a time where meet up with family and friends along with carrying out tree and roofing work.
 - Need to have a permanent base to give children an education to improve their long term prospects as it is becoming more difficult to pursue a traveller lifestyle.
 - Eldest son wants to be a farrier and two other sons attend Marden Primary school.
 - Still intend to travel but to ensure the children maintain their education means that this will have to be more restricted.
 - The applicant will continue travelling up and down the country dealing in horses, motor vehicles along with tree work.
- 8.24 The request for further information made in January 2017 did not appear to elicit any response and as such any judgement on the applicants as G&T status must be based on the information already submitted.
- 8.25 Regarding whether the occupants of the mobile home have lived a nomadic lifestyle and intend to continue living in such a manner it is evident the submitted information lacks detail. However it must be taken into account that gypsy and travellers by their very nature, live a more footloose and less regulated lifestyle compared to many in

the settled community. Given the family circumstances of the applicant it is considered highly likely that to provide a stable base for the children to enable them to attend school occupation of the mobile home would be for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties to provide a stable base for the children. As such is considered this meets the latest planning definition of gypsies and travellers.

- 8.26 In assessing this application it would have been useful to have times, dates and locations of all events and places of work the occupants of the mobile home attend. However it must be reiterated that by their very nature G&T lifestyles make monitoring such activities problematic in planning terms. As such, unless the Council is in possession of clear substantiated evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this lifestyle, such claims must be taken at face value. To go beyond this could be considered an overly forensic approach failing to reflect the realities of G&T lifestyles thereby making the Council vulnerable to claims of discrimination in its dealings with the G&T community.
- 8.27 In addition even if the applicants have permanent housing accommodation elsewhere this does not preclude them from resuming a G&T lifestyle nor does this affect their ongoing G&T status.
- 8.29 As such it is considered that based on the submitted details the applicant and other occupants of the site, on the balance of probability, are gypsies and travellers that have led and will continue to lead a nomadic lifestyle and therefore fall within the latest planning definition of gypsies and travellers.

VISUAL IMPACT

- 8.30 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. No specific reference is made to landscape impact though this is addressed in the NPPF, policy ENV28 of the adopted local plan and policy SP17 of the DLP (which specifically states that provided proposals do not harm the character and appearance of an area they will be permitted). In addition policy DM16 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 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 wildlife considerations are taken into account. Policy PW2 of the SNP states the development should be able to address its impact on a range of matters including landscape features and visual setting.
- 8.31 It is generally accepted that mobile homes comprise visually intrusive development of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 8.32 In this case, the application site lies within an existing lawful G&T site i.e. Perfect Place. It is acknowledged the permanent planning permission granted for Perfect Place was subject to a condition restricting the number of mobile and touring caravans which is exceeded by the current application. However the JR decision did

not place weight on this condition in setting a limit on the number of pitches the site could accommodate. As such the existence of this condition does not constrain Members from dealing with this application on its merits as a new planning chapter in the sites history.

- 8.33 Regarding that part of the JR which was upheld, the judgement made clear that where G&T development is unauthorised (and notwithstanding the existence of applications seeking to regularise the development), the existence of such pitches is not material in assessing the character of an area. Assessment should therefore proceed on the basis that these sites are unoccupied and the land is in its former condition i.e. open countryside.
- 8.34 Members attention is drawn to the plan attached as **Appendix 1** showing G&T development in the locality. This shows 3 sites benefitting either from unconstrained permanent permissions or personal consents. However when these are excluded this still shows a number of sites in the locality (still including Blossom) which do not have the benefit of planning permission.
- 8.35 Members are reminded that two of these sites have since had planning permission refused with enforcement action pending. The current situation of Blossom is as explained earlier.
- 8.36 As such the Blossom site and other unauthorised development in the locality cannot be seen as having an impact on the character of the area. Consequently determining the visual impact of the development must be assessed on its own merits though the cumulative impacts of existing lawful development in the locality can also be taken into account.
- 8.37 Dealing first with the visual impact of the development as a discrete matter in its own right, the site is set back from Maplehurst Lane by a distance by just over 20 metres with access onto an existing track. The mobile home is tucked up against the southern site boundary. Notwithstanding its low profile, set back from Maplehurst Lane and that there are no public footpaths close to or abutting the site from which other public views of the site can be obtained, views are available through the access. As such the mobile home is partly visible and by implication, has some but limited impact on the character of the countryside and landscape quality of the SLA.
- 8.38 In making this point it should be noted the southern site boundary comprises deciduous tree cover. Though providing a dense screen in summer there is a gap through which long range views of a mobile home can be obtained from Maplehurst Barn to the south. In winter this screening effect would be lessened by leaf fall. However this needs to be placed in context. Firstly there is no right to a view as such while there is a separation distance in excess of 350 metres to the boundary with Maplehurst Barn. In these circumstances it is considered it would be difficult to make a substantive case of overriding visual harm based solely on loss of outlook to Maplehurst Barn.
- 8.39 Turning to the remaining elements of the proposal being the utility room and stable blocks, these are both small low profile buildings and given their small size and unobtrusive siting it is considered they will have little impact on the rural character or landscape quality of the area.

CUMULATIVE VISUAL IMPACTS

- 8.40 The JR judgement makes plain it is only the impact of lawful G&T sites that can be taken into account in assessing the cumulative impact of this development. The 3 lawful sites are shown on the plan attached as **Appendix 1**. Perfect Place is set well back from Maplehurst Lane and is considered to be relatively unobtrusive in its landscape impact. Another lawful site is hidden within woodland on the opposite side of Maplehurst Lane and is also unobtrusive in its impact as a consequence. The remaining lawful site is that fronting the eastern side of Maplehurst Lane to the north. Being a lawful site its visual impact now forms an acknowledged part of the local area..
- 8.41 Having regard to the impact of the development under consideration, though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage and notwithstanding its proximity to the lawful Perfect Place site, its visual impact is considered to be more localised and contained. As such it is considered it would be difficult in this case to sustain an objection based on cumulative visual impact.

LANDSCAPE AND HERITAGE CONSIDERATIONS:

- 8.42 It is contended the site lies within an historic landscape while there are nearby Listed Buildings whose character and setting will be adversely affected by retention of this G&T site which is also contrary to the provisions of the Staplehurst Neighbourhood Plan. Though the Staplehurst Neighbourhood Plan can now be given weight in the determination of this application it is silent on specific G&T and landscape issues.
- 8.43 The site is identified as falling within open countryside and within the Low Weald SLA in the adopted local plan. The DLP no longer makes specific reference to SLA's but policy SP17 of the DLP, as amended by the Local Plan Inspector, states amongst other things that the distinctive landscape character of the Low Weald as defined on the policies map will be conserved and enhanced as landscapes of local value and PW2 of the Neighbourhood plan seeks to conserve landscape features of the countryside.
- 8.44 The Maidstone Landscape Character Assessment 2012 identifies the site as falling within the Sherenden Wooded Hills. The key characteristics of this area are identified as being a low lying and gently undulating clay Low Weald Landscape with many ponds, ditches and watercourses. This includes large irregular blocks of ecologically important ancient woodland interspersed with pasture, orchards and arable fields along with species rich native hedgerow field boundaries with mature oaks trees as imposing hedgerow trees and sometimes within fields where boundaries have been removed. Historic buildings are scattered throughout the landscape.
- 8.45 The Maidstone Landscape Capacity Study: Sensitivity Assessment – Jan 2015 assessed the Sherenden Wooded Hills as having high overall landscape sensitivity and therefore sensitive to change. It also concluded that development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with the existing. Other development supporting rural enterprises could be considered though extensive, large scale or visually intrusive development will be inappropriate.
- 8.46 It can only be reiterated that though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage its visual impact is considered to be relatively localised and contained. As such it is considered it would be difficult in this case to argue landscape harm similar to the refused applications fronting Maplehurst Lane.

- 8.47 Turning to the impact of the development on heritage assets with the area, the site does not lie within or close to any Conservation Area. The nearest listed building is Maplehurst sited some distance to the south of the site with views to the development screened by intervening trees and hedgerows.
- 8.48 As such it is not considered the development has any material impact on the character and setting of any existing acknowledged heritage assets within the locality.

SUSTAINABILITY

- 8.49 Gypsy and traveller sites are mainly located in the countryside and the development follows this pattern. Concerns have been raised that this site is unsustainable and is unacceptable on this ground. However the development lies within the site area of a lawful G&T site for which planning permission has already been granted. As such it appear perverse to adopt a different approach to this development.
- 8.50 In addition, compared to many G&T sites the site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. As such no objection is identified to the development on sustainability grounds.

GENERAL AND RESIDENTIAL AMENITY

- 8.51 Given the distant siting of the nearest houses it is considered it would be difficult to argue any ongoing significant detrimental impact to the residential amenity of any neighbouring houses in terms of loss of light, outlook, privacy, general noise and disturbance.
- 8.52 Of wider concern is the view that the local community is being overly dominated by G&T development and the adverse impact this is having on local services. However given the small number of persons being accommodated in this development it is considered it would be problematic to seek to pursue such an argument in the circumstances of this application.

HIGHWAY SAFETY CONSIDERATIONS:

- 8.53 Objections to the development include concerns relating to highway safety and the free flow of traffic on the local road network arising not only from this development but also in connection with other G&T development that has taken place. The views of Kent Highways were therefore sought. It concluded that notwithstanding the traffic generated by lawful and unlawful G&T development in the locality it could not support an objection based on harm to the free flow of traffic and highway safety in the locality.
- 8.54 Consequently as it is only possible to take into account traffic generated by the lawful G&T sites in the locality and that traffic generated by these would be materially less than the quantum of lawful and unlawful G&T development, it not considered there are sustainable objections to retention of this site form G&T use based on harm to the free flow of traffic and highway safety in the locality.

WILDLIFE CONSIDERATIONS:

- 8.55 This is a retrospective application with the site occupied by the mobile home and existing buildings with the remainder laid out as hardstanding or grassed. It therefore clearly has little wildlife and habitat potential in its current form.

FLOODING:

- 8.56 The site lies in zone 1 and is therefore not subject to fluvial flooding. However concerns were raised that the site lies in an area at risk of surface water flooding and the EA was consulted as a consequence.
- 8.57 Its response was that the surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such it recommended the development be the subject of a Flood Risk Assessment (FRA).
- 8.58 It should be noted that as the site is not at risk from fluvial flooding there was no requirement to submit an FRA with the application. In addition the area of hardstanding has a ballast surface while the remainder of the site is grassed. Given these are both permeable the likelihood of water runoff is unlikely to be materially different from previous site conditions in the absence of changes to site levels.
- 8.59 As such it not considered the EA's request for an FRA is justified nor has evidence been submitted that retention of the development would make surface water runoff and flooding any worse or that the occupants of the development are placed at risk as a result of surface water flooding. KCC sustainable drainage have also been consulted. However in the absence of a negative response from this body it is not considered there is sufficient evidence to support objections to the development based on surface water flood risk.

OTHER MATTERS:

- 8.60 Concerns have been raised that retention of the development will result in continued pollution and harm to the local water environment. The applicants state that surface water drains into adjoining watercourses while waste water is dealt with by a septic tank. Both measures appear as appropriate responses having regard to the nature of the development. However should pollution be identified from this site the EA using its pollution prevention powers will be far better placed to take immediate action in such an eventuality.
- 8.61 Government Guidance makes clear that G&T planning applications submitted on a retrospective basis represents 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 while 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.
- 8.62 The report states the development represents a departure from the development plan normally requiring Press and Site notices. However given the small scale and enclosed nature and minimal wider impact of the development it is seen to comply with the relevant polices. As such it is not considered necessary to advertise it as a Departure.

9.0 CONCLUSIONS:

- 9.1 Though the Council is able to demonstrate a 5 year supply of G&T sites this does not mean, in the absence of demonstrable harm on other grounds, that the development is unacceptable in principle particularly as the emerging plan policy DM16(now DM15) states that planning permission will be granted if the development does not result in significant harm to the landscape and rural character of the area
- 9.2 The key conclusions are considered to be as follows:
- The occupants of the site fall within the revised definition of gypsies and travellers.
 - The development is acceptable in its individual and cumulative visual impacts with other lawful G&T development in the locality while not materially contributing to dominating the local settled community.
 - Has not resulted in any material loss of amenity to dwellings in the locality.
 - Is acceptable in sustainability and wildlife terms.
 - Is acceptable in its highway impacts.
- 9.3 As such in the absence of demonstrable harm to the character of the countryside and wider landscape it is considered the development is acceptable in its own right. In the circumstances it is recommended that permanent and unfettered consent to use the site for G&T accommodation is granted. Members are also advised that granting permanent planning permission here counts towards the overall supply of G&T sites in meeting the need identified in the GTAA.

10.0 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.

- (3) No more than one caravan and one 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.

- (4) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (5) 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.

- (6) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (7) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (8) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

Caravan site licence:

It will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Enforcement Team on 01622 602202 in respect of a licence.

General waste provisions:

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager. Clearance and burning of existing wood or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from Environmental Enforcement/Protection.

The Council's approach to this application:

Planning Committee Report

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application, following the receipt of additional information, was acceptable as submitted.

Case Officer: Graham Parkinson

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



Appendix 2

Neutral Citation Number: [2016] EWHC 1436 (Admin)

Case No: CO/4214/2015

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17/06/2016

Before :

RHODRI PRICE LEWIS QC

(Sitting as a Deputy High Court Judge)

Between :

THE QUEEN
(on the application of XY)

Claimant

- and -

MAIDSTONE BOROUGH COUNCIL

Defendant

and

THOMAS SMITH

Interested
Party

Mr Andrew Parkinson (instructed by **Richard Buxton Environmental and Public Law**
Solicitors) for the **Claimant**

Mr Mark Beard (instructed by **Sharpe Pritchard LLP**) for the **Defendant**

The Interested Party did not appear

Hearing date: 17 May 2016

The Deputy Judge (Rhodri Price Lewis QC):

Introduction

1. Permission to bring this judicial review was given by Collins J on the 15th October 2015 when he also made an anonymity order in respect of the Claimant. The Claimant seeks judicial review of the decision by Maidstone Borough Council, the local planning authority for their area, to grant planning permission for the “change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed” on land named on the decision notice as Blossom, Maplehurst Lane, Frittenden Road, Staplehurst, Kent. That planning permission was granted on the 13th July 2015. The applicant for planning permission was Mr Thomas Smith, the Interested Party. Mr Smith has taken no part in these proceedings. The land in respect of which the planning permission was granted has been referred to as “the Blossom site” throughout these proceedings.
2. That site forms part of a wider area known as Perfect Place on which planning permission was granted in July 2014 for the retention of a mobile home, a touring caravan and a barn subject to a condition (“Condition 1”) that no more than one static residential caravan and one touring caravan should be stationed on the Perfect Place site at any one time.
3. The Blossom site lies at the southern end of Staplehurst village within a designated Special Landscape Area where it is the policy of the Local Plan that landscape considerations will normally take precedence over other matters. It is accessed off Maplehurst Lane.
4. It forms the western end of the land known as Perfect Place which itself extends from Maplehurst Lane towards the east over an area of 2.2 hectares. Planning permission had been granted on appeal in 2006 for the use of Perfect Place for the keeping of horses and the stationing of caravans and homes for residential purposes subject to a condition that the use was to be personal to Mr Perfect, his wife and children and that the use was to be for a limited period of three years. There was a further condition that no more than two caravans should be stationed on the site at any one time of which only one was to be a static caravan or mobile home. In 2009 the Council granted a further temporary planning permission. On the 1st July 2014 the Council granted the permanent planning permission referred to above.
5. To the east of the Blossom site and also within the Perfect Place site are two areas used for stationing mobile homes. Applications for planning permission for the retention of those mobile homes were made in respect of both those sites in February 2015. Those applications have not been determined.
6. To the east of the Perfect Place site and fronting onto Park Wood Lane is an area known as Parkwood Stables. Planning permission was granted on appeal in June 2013 for the use of that land for residential purposes involving the stationing of two mobile homes, three touring caravans and two utility blocks for two gypsy families. A condition requiring the submission and approval of schemes for the layout of the site has not been complied with and an application was made in 2015 to regularise the use despite the breach of that condition.

7. To the north of the Blossom site and also fronting Maplehurst Lane are four sites also used for stationing mobile homes. Applications for planning permission were made in respect of three of those sites in 2013 but those applications have also not been determined. No enforcement action has been taken in respect of any of those sites where mobile homes have been stationed. Personal planning permission was granted for stationing one caravan in respect of the most northerly of those sites in October 2012 but an application to increase the number of caravans to four was refused in July 2015 on the basis that there was no additional household being created and so there was no over-riding new need. The Claimant has identified seven breaches of planning control on land near the Blossom site at the time of the decision under challenge and indeed at the time of the hearing and the Defendant does not disagree with that analysis.
8. The Blossom application was reported to the Council's Planning Committee on 18th June 2015, with a recommendation for approval. The planning officer's report to the committee runs to 10 pages. It deals with the site description, the proposal before the committee and the relevant planning history. It identifies relevant government and local policies. It explains that no representations had been received from neighbours but that the Staplehurst Parish Council objected to the application. The officer then set out his appraisal which he began by reminding the members of the committee that section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. He then identified the key issues in relation to the proposal before them as "(a) principle (b) personal circumstances (c) impact on rural character and SLA (c) [sic] impact on the outlook and amenity of properties overlooking and abutting the site (d) highway and parking considerations and (e) sustainability." The Claimant accepts that those were the key issues before the committee. The officer then went on in section 7 of his report to deal with each of those key issues in turn and finally in section 8 expressed his conclusions as follows:
- The applicant's personal circumstances justify both the development that has taken place and the need to be at this location.
 - Given the acknowledged shortfall in meeting the demand for new gypsy and traveller sites granting planning permission here will make a material contribution in satisfying the identified need for such sites while helping to minimise the pressure for similar development in more sensitive locations.
 - No demonstrable harm to the rural character of the area and that of the SLA.
 - Will not result in harm to the outlook or amenity of any nearby dwellings.
 - Is acceptable in highway and parking terms
 - No objection on sustainability grounds."
9. The Planning Committee resolved to grant planning permission and on the 13th July 2015, the Council granted planning permission for the development.

10. The Claimant contends, in brief, that in granting planning permission the following errors of law occurred. Firstly, the members of the planning committee failed to have regard to the status in planning terms of the nearby gypsy sites which were either in unlawful use or in one case subject to a personal planning permission. Secondly, the committee failed to take into account that in granting planning permission in 2014 for the Perfect Place site the Council had concluded that more than one static caravan or touring caravan on that overall site would have an unacceptable visual impact. Thirdly, it is contended that the committee failed to take reasonable steps to obtain relevant information before concluding that Mr Smith was a gypsy. Fourthly, it is submitted that the committee failed to have regard to the evidence base for the emerging local plan as to the sustainability of the site. Fifthly, it is contended that the Council erred in failing to treat the current application and the applications then pending before it on the neighbouring sites as one project and therefore the application was a "Schedule 2 application" for the purposes of Regulation 7 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Council should have adopted a screening opinion under Regulation 5.
11. This is the order in which the grounds of challenge were dealt with in submissions even though that was not the order in which they were pleaded and I shall consider them in the order in which they were argued in this judgment.

Legal principles for reviewing decisions taken by local planning authorities

12. The general approach to challenges to decisions of local planning authorities to grant planning permission were recently summarised by Holgate J in *R (oao Nicholson) v Allerdale Borough Council* [2015] EWHC 2510 (Admin) and I gratefully adopt his summary, as follows:

- "10. The grounds of challenge in this case primarily involve criticisms of the officer's report. The relevant principles upon which the High Court will approach a challenge of this nature have been set out in a number of cases and were summarised in *R (Luton Borough Council) v Central Bedfordshire Council* [2014] EWHC 4325 (Admin) at paragraphs 90 to 98.
11. For the purposes of the present application I would emphasise the following principles drawn from that summary:-
 - (i) In the absence of contrary evidence, it is a reasonable inference that members of the planning committee follow the reasoning of the officer's report, particularly where a recommendation is accepted;
 - (ii) The officer's report must be read as a whole and fairly, without being subjected to the kind of examination which may be applied to the interpretation of a statute or a contract;
 - (iii) Whereas the issue of whether a consideration is relevant is a matter of law, the weight to be given to a material consideration is a matter of planning

judgment, which is a matter for the planning committee, not the court;

- (iv) "An application for judicial review based on criticisms of the planning officer's report will not normally begin to merit consideration unless the overall effect of the report significantly misleads the committee about material matters which thereafter are left uncorrected at the meeting of the planning committee before the relevant decision is taken" per Lord Justice Judge (as he then was) in *Samuel Smith Old Brewery (Tadcaster) v Selby District Council* (18 April 1997)."
- (v) "In construing reports, it has to be borne in mind that they are addressed to a "knowledgeable readership", including council members "who, by virtue of that membership, may be expected to have a substantial local and background knowledge."

(*R v Mendip District Council ex parte Fabre* (2000) 80 P CR 500 per Sullivan J, as he then was).

- (vi) "*The purpose of an officer's report is not to decide the issue, but to inform the members of the relevant considerations relating to the application.* It is not addressed to the world at large, but to council members who, by virtue of that membership, may be expected to have substantial local and background knowledge. There would be no point in a planning officer's report setting out in great detail background material, for example, in respect of local topography, development plan policies or matters of planning history if the members were only too familiar with that material. *Part of a planning officer's expert function in reporting to the committee must be to make an assessment of how much information needs to be included in his or her report in order to avoid burdening a busy committee with excessive and unnecessary detail.*" (emphasis added)

(Sullivan J in the *Ex parte Fabre* case at page 509)

- (vii) Likewise in *Morge v Hampshire County Council* [2011] UKSC 2 at paragraph 36, Baroness Hale of Richmond said:

"Democratically elected bodies go about their decision-making in a different way from courts. They have professional advisers who investigate and report to them. Those reports obviously have to be clear and full enough to enable them to understand the issues and make up their minds within the limits that the law allows them. But the courts should not impose

too demanding a standard upon such reports, for otherwise their whole purpose would be defeated..."

12. ...the observations of Sullivan J (as he then was) in *R (Newsmith Stainless Ltd) v Secretary of State* [2001] EWHC Admin 74 (at paragraphs 6 to 8) on perversity challenges to the decisions of planning Inspectors are also applicable where challenges of that nature are made to the decisions of a local authority.
13. Thus, an application for judicial review is not an opportunity for a review of the planning merits of the Council's decision. Although an allegation that such a decision was perverse, or irrational, lies within the scope of proceedings under CPR Part 54, "the Court must be astute to ensure that such challenges are not used as a cloak for a rerun of the arguments on the planning merits" (*Newsmith* at paragraph 6). In any case where an expert tribunal is the fact finding body, as in the case of a planning committee (see Cranston J in *R (Bishops Stortford Federation) v East Herts D.C.* [2014] PTSR 1035 at paragraph 40), the threshold for *Wednesbury* unreasonableness is a difficult obstacle for a Claimant to surmount, which is greatly increased in most planning cases by the need for the decision-maker to determine not simply questions of fact, but a series of planning judgments. Since a significant element of judgment is involved, there will usually be scope for a fairly broad range of possible views, none of which could be categorised as unreasonable (*Newsmith* at paragraph 7). Moreover, the decision may also be based upon a site inspection, which may be of critical importance. Against this background, a Claimant alleging that a decision-maker has reached a *Wednesbury* unreasonable conclusion on matters of planning judgment "faces a particularly daunting task" (*Newsmith* at paragraph 8).
14. On the other hand, as Mr. Dan Kolinsky QC (who appeared on behalf of the Claimant) pointed out, irrationality challenges are not confined to the relatively rare example of a "decision which simply defies comprehension", but also include a decision which proceeds from flawed logic (relying upon *R v North and East Devon Health Authority ex parte Coughlan* [2001] QB 213, 244 at paragraph 65)."
13. Further, section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with an application for planning permission the local planning authority "shall have regard to (a) the provisions of the development plan, so far as material to the application ... and (c) any other material consideration." In *Tesco Stores v Secretary of State for the Environment* [1995] 1 WLR 759 it was held that "material" means "relevant". A number of the grounds of challenge here claim that the planning committee failed to have regard to various material considerations. The relevant test is set out by Glidewell LJ in *Bolton Metropolitan Borough Council v Secretary of State for the Environment* (1990) 61 P&CR 343 at 352-353, as applied by the Court of

Appeal in the context of judicial review against the grant of planning permission by local planning authorities in *R(on the application of Watson) v London Borough of Richmond upon Thames* [2013] EWCA Civ 513 at [26]:

- “1. The expressions used in the authorities that the decision maker has failed to take into account a matter which is relevant ... or that he has failed to take into consideration matters which he ought to take into account ... have the same meaning.
2. The decision-maker ought to take into account a matter which might cause him to reach a different conclusion to that which he would reach if he did not take it into account. Such a matter is relevant to his decision making process. By the verb ‘might’, I mean where there is a real possibility that he would reach a different conclusion if he did take that consideration into account.
...
3. ...
4. ...[T]here is clearly a distinction between matters which a decision maker is obliged by statute to take into account and those where the obligation to take into account is to be implied from the nature of the decision and of the matter in question
5. If the validity of the decision is challenged on the ground that the decision maker failed to take into account a matter in the second category, it is for the judge to decide whether it was a matter which the decision maker should have taken into account.
6. If the judge concludes that the matter was ‘fundamental to the decision’, or that it is clear that there is a real possibility that the consideration of the matter would have made a difference to the decision, he is thus enabled to hold that the decision was not validly made. But if the judge is uncertain whether the matter would have had this effect or was of such importance in the decision-making process, then he does not have before him the material necessary for him to conclude that the decision was invalid.
7. ...Even if the judge has concluded that he could hold that the decision is invalid, in exceptional circumstances he is entitled nevertheless, in the exercise of his discretion, not to grant any relief.”
14. Therefore, a decision may be quashed for failure to have regard to a material consideration where it is clear that there is a real possibility that consideration of the matter would have made a difference to the decision.

Ground 1:

15. **The Claimant's Submissions:** The Claimant submits that the Council through its committee erred in failing to have regard to the planning status of the surrounding gypsy sites when considering the prevailing character of the area and so failed to have regard to a material consideration. The Claimant points out that of the gypsy sites to the north only one had the benefit of planning permission and that was a personal permission. When an application was made for further development on that site it was refused by the Council. The Claimant submits that if the existing character of the area is to be used to justify a finding that the application would not have a detrimental impact it was material to consider that the existing development is either unlawful or granted subject to a personal condition and therefore inherently temporary. It is submitted that with the unlawful sites it has never been concluded that their development is acceptable and with the temporary site there is a real possibility that it would revert to agriculture. So a permanent planning permission is being granted and justified here on the basis of circumstances that were inherently temporary. It is submitted that if the members had been told of the status of these other sites they might very well have granted a temporary planning permission in order to see what happens on those other sites.
16. The officer dealt with the impact on the rural character of the area and the SLA at paragraphs 7.21 to 7.27 of the analysis section of his report in the following terms:

“7.21 Where a gypsy and traveller site is located in a rural area this should normally fall outside an AONB, Green Belt or area liable to flooding. The application site does not fall in an area the subject of these specific restrictions but it is located in countryside falling within an SLA.

7.22 It is therefore subject to provisions of policies ENV28 and ENV34 of the adopted Local Plan. Policy ENV28 states that development will not be permitted in the countryside where it would harm the character and appearance of an area or amenities of surrounding occupiers. Policy ENV28 nevertheless makes clear that exceptions will be permitted if justified by other policies contained in the plan. In SLA's landscape considerations will normally take precedence over other matters.

7.23 It is generally accepted that mobile homes comprise visually intrusive development out of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.

7.24 A key consideration here is that the application site is located on land already having planning permission for a gypsy and traveller site. Furthermore, the character of the area in the vicinity of the site is already made up of a number of gypsy and traveller sites fronting the track to the

north. Although these are mainly hidden from direct view from the track, glimpse views are nevertheless available to them through gates and breaks in boundary screening.

7.25 *Development that has already taken place on the application site continues this pattern with 5 bar galvanised steel gates providing views into the site with the site perimeter being defined by close boarded fencing set close to the back edge of the track. As such the site in its current condition cannot be considered as being screened by existing permanent features though the intention is to plant a native species hedgerow in front of the fence to screen both it and the caravan site behind from view.*

7.26 *Given (a) the prevailing character of the area, already significantly defined by the prevalence of gypsy and traveller development in the immediate locality and (b) this site falls within in [sic] area already benefitting from planning permission for such purposes, it is considered it would be difficult to make a sustainable case of further material harm to the character of the area. Regarding revisions to the amenity block, what has already been erected on the site is both smaller and more unobtrusively sited than that originally proposed and is considered proportionate in providing essential ancillary facilities for the site occupants.*

7.27 *As such, subject to a condition securing the proposed landscaping, it is considered that the visual impact on the rural character of the area and wider SLA is acceptable."*

17. It is clear and indeed it is not disputed by the Defendant that the officer's report did not expressly address the planning status of the land to the north. The Defendant does not suggest that the matter was addressed in the discussion at the meeting and it is not said that members of the committee otherwise knew of those matters. There is no witness statement from any member of the committee.
18. **The Defendant's Submissions:** The Defendant submits that it is a matter of the officer's judgment as to what goes in to his report and that he was under no obligation to refer to the fact that the sites to the north do not have the benefit of planning permission. It is submitted that it could not be said that members were significantly misled by the absence of such information. The Defendant draws attention to three sites which do have the benefit of planning permission as traveller sites, namely the site to the north with temporary planning permission, the Perfect Place site and a site known as Little Oak which has a temporary planning permission. It was submitted that even the sites with temporary permission could continue in that use for a very long time and in particular it was pointed out that the temporary planning permission to the north enures for the benefit of the family's children who could remain for a substantial period. It was further submitted that unauthorised development can affect the character of an area and as any enforcement action would be likely to be resisted there was no real prospect of the character of the area changing in the foreseeable future. It was submitted that the fact that there were applications for planning permission to regularise the unlawful uses and that the Council has no present

intention to take enforcement action meant that the character of the area had been established for the foreseeable future by these developments. Overall it was submitted that the Claimant's approach to the officer's report was unduly legalistic.

Discussion:

19. I do not agree that the Claimant adopted the wrong approach to the officer's report under this ground. The complaint is that the report failed to mention factual matters which were material to the members' decision and that if they had been mentioned there is a real possibility that their decision might have been different. It is clear that the officer did rely on the "gypsy and traveller sites fronting the track to the north" as "mak[ing] up the character of the area": see paragraph 7.24 of the report. The "prevailing character of the area" was said to be defined by these developments: see paragraph 7.26. This was one of the two matters relied upon as resulting in it being "difficult to make a sustainable case of further material harm to the character of the area" from the development for which planning permission was being sought: see paragraph 7.26 again. In my judgment it was material to this assessment that the sites to the north were either in unlawful use and therefore susceptible to enforcement action or had the benefit of only temporary permission. The character of the area could therefore change if the Council took action or if the temporary permission expired. This is not to criticise the officer's report in an inappropriately legalistic way but simply to point out that relevant information was not put before the members at all and that information might have caused them to reach a different decision. The Defendant did not suggest that the members knew of the planning status of these other sites fronting Maplehurst Lane from their local knowledge or from having been members of the committee on previous occasions. There was certainly no evidence to that effect.
20. The Little Oak site referred to by the Defendant does not front onto Maplehurst Lane and so it is not one of the sites being referred to by the officer and relied upon as affecting the character of the area. The Perfect Place caravans are towards the centre of that site in accordance with the plans approved by the Council and again was not being relied upon by the officer as affecting the character of the area as seen from Maplehurst Lane. Further, whilst the site to the north with temporary planning permission could continue lawfully in use by the children of the family the members were not informed of the temporary nature of the permission at all so were not in a position to form their judgment as to how the planning status of the site affected its impact on the character of the area. In my judgment the possibility of enforcement action being taken was a matter that the members of the committee should have been able to consider for themselves if they had the information before them as to the unlawful nature of some of the existing developments. The applications for retrospective planning permission for the unlawful developments were submitted some years ago and there is no officer's report in relation to any of them and so not even a professional officer's view has been formed as to whether those applications should be approved. It is not possible to conclude in those circumstances that planning permission is likely to be granted. In any event, this is a matter that the members of the committee should have been able to consider: they were not able to because they did not have the relevant information before them in the officer's report.
21. In my judgment the members of the committee were significantly misled about material matters by this report in that they were invited to make a decision to grant

planning permission in reliance on matters that were potentially temporary in nature that went to a key issue in the decision, namely, the extent of harm to the character of the area by the development for which planning permission was being sought.

22. The claim therefore succeeds on this ground.

Ground 2:

23. **The Claimant's Submissions:** The Claimant submits that the Committee failed to have regard to the fact that the Perfect Place planning permission had a condition, Condition 1, attached to it which provided that no more than one static residential caravan and one touring caravan were to be stationed on the land at any one time. The reason for the condition was "to accord with the terms of the application and in the interest of visual amenity" and so in granting that planning permission the Council had reached a judgment that having more than one static or touring caravan on the Perfect Place site would have an unacceptable impact on visual amenity. The Blossom site is part of and within the Perfect Place site and so to grant planning permission for more caravans was inconsistent with that earlier determination. No reasons have been given for departing from that earlier judgment and no regard has been had to the importance of consistency in decision-making, as explained by Lindblom J, as he then was, in *Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government* [2014] EWHC 754 (Admin) at [19 (7)].
24. In his report the officer had advised the members that "a key consideration here is that the application site is located on land already having planning permission for a gypsy and traveller site" (see paragraph 7.24 quoted above) and that "given (a) the prevailing character of the area, already significantly defined by the prevalence of gypsy and traveller development in the immediate locality and (b) this site falls within an area already benefitting from planning permission for such purposes, it is considered that it would be difficult to make a sustainable case of further material harm to the character of the area" (see paragraph 7.26). It is submitted that in those circumstances the officer should have advised members of Condition 1 attached to the Perfect Place permission and the reason for it so that they could take it into account in deciding whether granting planning permission for more caravans would have an adverse effect on the character and appearance of the area.
25. **The Defendant's submissions:** Mr Beard on behalf of the Defendant Council submits that in attaching Condition 1 to the Perfect Place permission the Council did not decide that a greater quantum of development than the one static residential caravan home and the one touring caravan permitted would have an unacceptable impact on visual amenity. The condition was attached to ensure that the grant of planning permission accorded with the terms of the application and the merits of granting planning permission for a more intensive form of traveller site development was not before the committee who considered the application in 2014. So it is submitted that a reasonable reader would not assume that the Council imposed Condition 1 on the 2014 permission having assessed the planning merits of a different and more intensive form of traveller site development but rather to explain that the council wished to retain control over the future development of the site and identified the interest of acknowledged planning importance engaged, namely the protection of visual amenity. By contrast the members of the committee who granted the planning

permission under challenge knew full well that they were considering an application that if granted would represent an “intensification” of the existing lawful traveller site.

Discussion:

26. It is accepted by the Defendant that the officer’s report did not refer expressly to Condition 1 to the planning permission granted on the 1st July 2014 nor therefore to the reason for attaching the Condition. That grant of planning permission was made by an officer of the Council under delegated powers and so it is not likely that members knew of the Condition from having been members of earlier committees.
27. Nevertheless, in my judgment the members of the committee knew from the officer’s report that the impact on the rural character of the area and on the Special Landscape Area was a key issue before them: see paragraph 7.02. They had the benefit of a site visit. They knew that the application site before them “is located on land already having planning permission for a gypsy and traveller site”: paragraph 7.24. The issue is whether they were significantly misled about a material matter by the report failing to inform them that an earlier decision had been made that only one static residential caravan and one touring caravan should be stationed on the land which included the area of the application site and that that was done “in the interests of visual amenity”. In my judgment the failure to inform the committee of that Condition and of the reason for it does not cross over the line into significantly misleading the committee on a material matter. They knew the importance attached to the Special Landscape Area and that, in that area, landscape considerations will normally take precedence over other matters: see the officer’s report at paragraph 7.22. They could see from their site visit the effect on the landscape of the caravans on the Perfect Place site and on the application site. They did not need to know in order to arrive at a lawful judgment on these matters that the officer who had granted the Perfect Place permission had decided that a condition restricting the number of caravans was necessary in the interest of visual amenity. In my judgment they were not reaching an inconsistent view. They were simply forming their view that the caravans they saw on their site visit did not have such an effect on visual amenity so as to justify refusal of planning permission.
28. This ground of challenge therefore fails.

Ground 3:

29. **The Claimant’s Submissions:** The Claimant submits that the committee failed to take reasonable steps to obtain relevant information before concluding that the applicant was a gypsy. The applicant’s status was central to the issues before the committee. A “key issue” identified in the officer’s report was characterised as “personal circumstances” (see paragraph 7.02 (b)) and the need for more gypsy and traveller sites was seen as a “key consideration”: paragraph 7.04. The officer’s report advised the members: “The status of the applicant as a gypsy is accepted as both he and his family comply with the definition of gypsies set out in Government policy”: paragraph 7.15.
30. At the date of the decision the definition of gypsies and travellers was set out in Annex 1 of the Government’s “Planning policy for traveller sites (2012)”, namely:

“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 dependents’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

31. The test whether a person has a nomadic habit of life was set out by the Court of Appeal in *R v South Hams District Council ex parte Gibb* [1995] Q.B. 158. In summary, a person must be shown to be, or have been, travelling from place to place (even with a permanent residence) for an economic purpose (i.e. in order to find work). Therefore the relevant question for the court under this ground is whether a reasonable planning authority could conclude that it had sufficient information to show that the applicant had ever travelled from place to place for an economic purpose. The information set out in the officer’s report at paragraph 2.05 did not address whether Mr Smith had ever travelled from place to place for an economic purpose. Indeed it recorded that the Applicant and his wife have lived in the Maidstone area all their lives and wish to stay in the area. There was no evidence at all before the committee as to whether Mr Smith met a key part of the test.
32. **The Defendant’s Submissions:** The Defendant submits that again this ground relies on an unrealistic, legalistic and unduly prescriptive approach to an officer’s report. The level of detail in such reports is for officers to decide. The members and officers of this borough have extensive experience of cases involving traveller sites and of the shortfall in the provision of such sites. It is difficult for a council to challenge the status of a gypsy or traveller and if asked the applicant could easily assert that he had travelled from place to place for an economic purpose either as a child with his family or once he began working or that he intended to do so in the future. The Council took account of the circumstances of the development the subject of the application which are typical of traveller site developments in England, namely where the applicant and his family occupied a mobile home on an existing traveller site, which itself was occupied by Mr Perfect whose gypsy status was well established and that the application typically sought retrospective permission for the retention of a mobile home and its residential use with the stationing of a touring caravan and the use of an existing building as an amenity block.

Discussion:

33. The question to be asked by the court is whether the inquiry made by the planning authority was so inadequate that no reasonable planning authority could suppose that it had sufficient material available upon which to make its decision to grant planning permission and impose conditions: see *R (on the application of Hayes) v Wychavon District Council* [2014] EWHC 1987 (Admin). The amount of detail to be included in a report to a committee is a matter for the officer. The officer referred to the correct definition of gypsy status in his report at paragraph 7.14 and his judgment was that “the status of the applicant as a gypsy is accepted”. In a borough where there had already been a number of applications for planning permission for gypsy sites, not least in the immediate area of this application site, it is unreasonable to assume that the officer putting that view before the committee was unaware of the meaning of the phrase “a nomadic habit of life”. Furthermore, the surrounding circumstances all tended to support the view that the applicant is a gypsy. In my judgment the

committee were entitled in these circumstances to rely on the view expressed to them by their professional officer and that in those circumstances they had sufficient material before them to reach their judgment that the applicant was a gypsy.

Ground 4:

34. **The Claimant's Submissions:** The Claimant submits that the Council erred in law in failing to have regard to the evidence base for the emerging Local Plan, which had ruled out allocating the Perfect Place site (and therefore this application site) for development as a gypsy and traveller site. The Sustainability Appraisal for the emerging plan had assessed the Perfect Place site as "not in easy access to a cycle route, train station, bus stop, primary or secondary school, post office, GP service or the Maidstone Urban Area." The Appraisal concluded: "For the sites which were not selected for allocation the harm resulting from the development was not considered to be outweighed by the scale of the need for additional pitches."

35. By contrast the officer's report on the application for planning permission had said this under the heading "Sustainability":

"Regarding whether the site is sustainably located i.e. well placed in relation to public transport and local services, compared to many gypsy and traveller sites this site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. Given this and the presence of adjoining gypsy and traveller sites it is not considered the proposal fails on sustainability grounds."

36. It is accepted by the Defendant that the committee considering the application did not have this material from the Sustainability Appraisal drawn to their attention. There is a real possibility they would have reached a different decision if this material had been put before them because the need for gypsy sites was seen as justifying this site in the countryside and the committee might well have reached a different view on that issue if they were aware that more sustainable sites could meet the need.

37. The Claimant acknowledges that the Sustainability Appraisal was assessing the sustainability of reasonable alternatives in order to inform the plan making process and so to inform the allocations of land to meet local needs over the plan period whereas the committee considering the application had to determine primarily whether the proposal was in accordance with the development plan and in that exercise no comparative assessment was necessary. However, the officer's report did compare the application site with other gypsy and traveller sites in reaching its conclusions and the Sustainability Appraisal was not just a comparative exercise as it did provide assessments of individual sites.

38. Therefore the Claimant submits that this evidence base for the emerging Local Plan was material to the question of the sustainability of the application site and the Council erred in not taking it into account in deciding to grant planning permission.

39. **The Defendant's Submissions:** The Defendant submits that the Claimant is wrong to assert that the conclusion in the officer's report that the site occupies a relatively sustainable location compared to many gypsy and traveller sites is contrary to the findings of the Sustainability Appraisal because that appraisal itself concludes that "Most of the gypsy and Traveller site options (including allocated sites) perform very

poorly in terms of access to local services and public transport.” An appeal decision in relation to the adjoining Parkwood Stables site in 2013 had not seen sustainability as a reason for dismissing that appeal. Planning permission had already been granted in relation to the Perfect Place site so it would be perverse to refuse permission on the Blossom site on the basis of sustainability. The Committee were not significantly misled by the omission of express references to the evidence base of the emerging Local Plan. In any event, given the poor sustainability of most of the gypsy and traveller sites, sustainability whether comparative or individually was not going to be decisive in the planning balance so the committee would reach the same decision to grant planning permission even if the Sustainability Appraisal was expressly put before them.

Discussion:

40. In my judgment given that permanent planning permission had been granted in 2014 on the Perfect Place site which included the application site and given that the Sustainability Appraisal had itself recognised that most of the gypsy and traveller sites in the borough were poorly located in relation to transport and services, it cannot be said that the committee were significantly misled on the issue of sustainability by the absence of any reference to the evidence base for the emerging local plan. Furthermore these local members would have been well aware of local transport provision and where local facilities were to be found. They were well placed to decide whether the application site was in a sufficiently sustainable location to justify the grant of planning permission.

41. This ground therefore fails.

Ground 5:

42. **The Claimant’s Submissions:** Regulation 7 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (“the EIA Regulations”) provides as follows:

“7. Applications which appear to require screening opinion

Where it appears to the relevant planning authority that—

- (a) an application which is before them for determination is a Schedule 1 application or a Schedule 2 application; and*
- (b) the development in question has not been the subject of a screening opinion or screening direction; and*
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,*

paragraphs (4) and (5) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).”

43. Paragraph (5) of regulation 5 provides:

"An authority shall adopt a screening opinion within 3 weeks beginning with the date of receipt of a request made pursuant to paragraph (1) or such longer period as may be agreed in writing with the person making the request."

44. In deciding what is the "application" before the planning authority for the purposes of reg. 7(a) of the EIA Regulations, the starting point is to determine the relevant "project" as defined in the Environmental Impact Assessment Directive 2011/92/EU ("the EIA Directive"): see decision of the Court of Appeal in *Burridge v Breckland District Council* [2013] EWCA Civ 228 at para. 45.
45. At the screening stage, a project should not be considered in isolation if in reality it is properly to be regarded as an integral part of an inevitably more substantial development: *R v Swale BC ex parte RSPB* [1991] JBL 39. The underlying principles of European case law and the aims of the EIA Directive indicate that "project" in this context must be interpreted broadly.
46. The Council has before it a number of pending applications for gypsy developments relating to the land immediately surrounding the Site. The Claimant contends that for the purposes of the EIA Directive, these applications all form one project. In particular the following matters are relied upon: (i) the applications are all for the same development (ii) the applications are all made by members of the local gypsy community (iii) a number of the applications arise from the sub-division of the Perfect Place site (iv) the Council is relying on the cumulative effect of the developments (now before it as retrospective applications) to claim that the character of the area has changed (see Ground One above).
47. It is submitted that, considering this application together with the other pending applications for the same "project", the application before the Council was a "Schedule 2 application" and therefore the Council should have issued a screening opinion. This is because the cumulative area of all of the pending applications relating to this area is above 5 hectares: see Schedule 2, Column 1, para. 10(b) of the EIA Regulations read together with Column 2.
48. The Claimant therefore submits that the grant of planning permission is unlawful, as the Council has:
 - i) Failed to consider whether the development was EIA Development and therefore whether it was development to which regulation 3 of the EIA Regulations applied (as in *R. (on the application of Birch) v Barnsley MBC* [2010] EWHC 416 (Admin) where planning permission was quashed for failure to consider whether development was Schedule 2 development – see para. 53).
 - ii) Granted planning permission for Schedule 2 development without carrying out a screening opinion, and therefore in the absence of a written "determination" available to the public under Article 4(2) of Directive 2011/92/EU that EIA was not required (as in *R (Aldergate Projects Ltd) v Nottinghamshire County Council* [2008] EWHC 2881 (Admin), where planning permission was quashed for failure to carry out a written screening opinion – see paragraph 36). The planning permission should be quashed. The Claimant has not

received the “substance” of its rights under the EIA Directive: see the test put by Richards LJ in *Ashdown Forest Economic Development LLP v Wealden District Council* [2015] EWCA Civ 681 at §52. Alternatively, it is not highly likely that the outcome would not have been substantially different had the application been screened: section 31(2A) Senior Courts Act 1981.

49. **The Defendant’s Submissions:** It was for the local planning authority to determine whether this application was for planning permission for EIA development and it was not because it did not form part of any larger “project”. The development for which planning permission was sought was not an integral part of more substantial development. There was no one project under single control. The other applications all related to minor developments which neither individually nor cumulatively were likely to have a significant effect on the environment. So the Claimant has not established that the “substance” of the rights guaranteed by the EIA Directive has been denied.
50. **Discussion:** I consider that the Council acted reasonably in determining that this application was not a Schedule 2 application. If it is for the court to determine that matter, I too would decide that the application before the Council was not a Schedule 2 application. This application did not in any meaningful way form part of one project with the other pending applications on the nearby sites. It was not an integral part of the development on those other sites. Each of those sites was under the control of the individual occupier and applicant. It would be wholly unreasonable to treat them as one project because each of the applicants was a member of the gypsy community. The sites to the north were not part of the Perfect Place site. And to look at a number of individual sites cumulatively in order to determine the nature of the local rural character is not to treat all of those sites as one project. Looked at individually, as it should be, the application site did not exceed any relevant threshold for Schedule 2 development set out in the 2011 Regulations.
51. This ground also fails.

Discretion:

52. This claim therefore succeeds under Ground 1 alone. I do not exercise my discretion not to quash the planning permission because in my judgment there is a real possibility that if the members of the committee had been made aware of the unlawful nature of three of the sites fronting onto Maplehurst Lane and that the fourth site had a personal planning permission they would have reached a different decision. In particular they might have decided to grant a temporary planning permission in order to see what decisions were taken on the pending applications in respect of the sites in unlawful use. So in terms of section 31 (2A) of the Senior Courts Act 1981 I am not satisfied that it would be highly likely that the outcome would not have been substantially different if the committee members had been provided with the relevant information about the status of the nearby sites.

Conclusion:

53. The decision to grant planning permission must be quashed on that ground.
54. I invite the parties to agree the relevant order on that basis.



REPORT SUMMARY

REFERENCE NO: 16/506067/FULL			
APPLICATION PROPOSAL: Steel framed agricultural grain storage building			
ADDRESS: Great Tong Farm, Great Tong, Headcorn, Kent, TN27 9PP			
RECOMMENDATION: GRANT PLANNING PERMISSION subject to the conditions and informatives set out at the end of this report.			
SUMMARY OF REASONS FOR RECOMMENDATION: The proposal would not result in undue harm to the character and amenity of the open countryside and is an acceptable use in this rural location			
REASON FOR REFERRAL TO COMMITTEE: Ulcombe Parish Council has requested that the application is determined by the Planning Committee.			
WARD: Headcorn		PARISH COUNCIL: Headcorn	
		APPLICANT: Robinson Structures Ltd AGENT: N/A	
DECISION DUE DATE: 05/12/16		PUBLICITY EXPIRY DATE: 07/10/2016	
		OFFICER SITE VISIT DATE: Various	
RELEVANT PLANNING HISTORY (inc. appeals and relevant history on adjoining sites):			
App No:		Proposal:	
Decision:		Date:	
15/504378/FULL		Erection of an agricultural building	
Approved		28.07.15	
15/505974/FULL		Construction of a solar farm	
Refused		29.02.16	

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located in a rural location off the south side of the access track that serves Great Tong Farm.
- 1.02 The application site relates to a group of existing buildings and silos which will be demolished to make way for the grain store. The surrounding area is characterised by generally open views across gently rolling hills, broken up by mature hedges and trees. The site is not viewable from the A229, which runs to the south east of the site.

2.0 PROPOSAL

- 2.01 The proposal is for a replacement building which measures 32 metres long, 27metres wide and 7metres high, creating 872 square metres of floorspace. This has been reduced by some 164 square metres from what which was originally submitted.
- 2.02 Once the existing barn and silos have been demolished, the replacement building will be erected on the same footprint of the buildings which have been cleared.

3.0 **POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV43, ENV49, and T13
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Maidstone Borough Council Local Plan Publication (submission version) February 2016; SP17, DM1, DM2, DM3, DM7, DM34 and DM40
- Headcorn Neighbourhood Plan Regulation 16:

3.01 In the Regulation 19 version of the emerging Local Plan, policies which do not have proposed main modifications will not be subject to further public consultation. The implication is that the Local Plan Inspector does not consider that changes are required in order for these policies to be considered sound. Whilst the position will not be certain until the Inspector issues his final report, a reasonable expectation is that these policies will progress unaltered into an adopted Local Plan. In these circumstances, it is considered that approaching full weight can be afforded to these policies in the determination of planning applications. The final inspector's report is due at the end of July with adoption of the plan anticipated in mid September 2017.

3.02 In accordance with legislation the examiner of the Headcorn Neighbourhood Plan recommended that the draft Regulation 16 plan should not proceed to a local referendum. Whilst a final committee decision has not been made on the examiner's report, it is considered that due to its conclusions very limited weight should be attached to the draft Headcorn Neighbourhood Plan.

4.0 **LOCAL REPRESENTATIONS**

4.01 The planning application has been advertised with individual letters sent to adjoining properties, a site notice and a press notice.

4.02 **Local residents:** Six representations received from local residents objecting to the proposal on the following grounds (summarised):

- Impact on the character and amenity of the open countryside;
- Impact on heritage assets;
- Impact on protected species.

5.0 **CONSULTATIONS**

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

5.01 **KCC Highways:** No objection

5.02 **KCC Public Rights of Way:** No objections, but must make applicant aware of the PROW and no obstruction of it allowed during or after construction and the procedures for diverting before any work is started.

5.03 **KCC Ecology:** No objection subject to a Great Crested Newt survey via a condition.

5.04 **MBC Landscape and Trees:** No objections, subject to conditions.

5.05 **SGN** (Southern/Scotia Gas Networks): No objection.

5.06 **Weald of Kent Protection Society:** No objection WKPS is well aware that this large development happens to be in a sensitive area and adjacent to a Listed building, but in our view, the needs of agriculture and the sustaining of the businesses that make

up the Weald overrides purely aesthetic considerations in this instance. We agree with Headcorn PC that steps should be taken to mitigate its impact, but at the same time we are aware of the need for agricultural operations to modernise themselves to deal with the requirements and challenges of the current century. Our suggestions for the mitigation of the impact of the structure are that: the exterior be clad in brown sheeting rather than green as brown tends to blend in more easily, and suitable tree planting.

- 5.07 **Environmental Health:** No objections but recommend informative on following Mid Kent Environmental Code of Development Practice.
- 5.08 **Ulcombe Parish Council:** Objection to the application. Whilst supportive of the rural economy and farming objection is for the following reasons:
- Application is for a large agricultural building in open countryside;
 - No evidence provided to show that the proposed building is "reasonably necessary for the purposes of agriculture".
 - No assessment to show the impact of a building of this size and scale in open countryside.
 - No heritage assessment to address the impact on adjacent designated and non-designated assets and the archaeological impacts.
 - No ecological assessment has been provided.
- 5.09 **Southern Water:** No objection.
- 5.10 **Headcorn Parish Council:** No objection with support for the application subject to the use restricted to grain storage and when empty for storage of farming vehicles and an environment impact assessment undertaken, given the size and scale of the building and an assessment made to mitigate the visual impact of this structure. Referral to the planning committee is not required.
- 5.11 **Rural Planning:** No objections with support for the proposal;
- 5.12 **Natural England:** No objections.
- 5.13 **CPRE Kent:** Object to the proposal on the grounds that it would have a detrimental impact on the character of the open countryside, heritage assets and ecology.

6.0 **APPRAISAL**

Main Issues

- 6.01 The key issues for consideration relate to:
- Impact on the character of the countryside;
 - Impact on heritage assets; and
 - Ecology.

Impact on the character of the countryside and need

- 6.02 The site is located within the Headcorn Pasturelands landscape character area (area 43). In the Landscape Capacity Study: Sensitivity Assessment report, the area is assessed as being of high overall landscape sensitivity and sensitive to change. The report states that development should be limited to within and immediately adjacent to existing settlements and farmsteads in keeping with existing. Other development to support existing rural enterprises would be acceptable provided it is not extensive, large scale or visually intrusive. Where large agricultural barns are considered visually prominent it is recommended that this is reduced through native planting. It is

recommended that habitat opportunities around water bodies and ditches should be enhanced by promoting a framework of vegetation in these areas.

- 6.03 The complex of buildings within which the new agricultural barn is proposed is mainly screened from view by the existing topography and the existing high mature hedges and trees in the area. As a result of this the complex is only viewable once you reach the entrance to the site. In order to mitigate any views of the proposed building and in accordance with the recommendations of the landscape officer a landscaping planning condition is recommended. In this context and in conclusion the visual impact of the proposal will be minimal and a refusal based on the visual impact of the proposal could not be substantiated.
- 6.04 Great Tong Farm is part of a mixed farming business (arable, orchards, and sheep) which includes some 667 acres (270 ha) of arable production (wheat, barley, beans, oil seed rape, and linseed). The applicant has set out that existing storage for arable crops is in a number of outdated and inefficient silos, and in two other buildings. One of these buildings is due to be demolished, and the second of which is inadequate for modern farm assured grain storage purposes.
- 6.05 The proposed new building will provide a suitable, purpose-designed, replacement storage facility. In this context it is considered that this provision is reasonably necessary for the purposes of efficient modern agricultural production on this established farm and this is in accordance with saved policy ENV 43 of the Local Plan, and in accordance with the emerging policy DM40.

Impact on heritage assets

- 6.06 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special regard should be had to the desirability of preserving listed buildings or their setting. The NPPF, Local Plan and the emerging local plan all seek to protect and enhance the historic environment. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (NPPF para 134).
- 6.07 Whilst the application site is not in a conservation area and there are no listed buildings on the application site there are a number of Grade II listed buildings located on the existing Great Tong Farm farmstead. These listed building are located to the east of the proposed new grain store location. The buildings themselves display the essential Kentish vernacular, with the use of timber cladding for instance, whilst the barns have been converted in recent years.
- 6.08 Intervening buildings largely block views of the listed buildings from the site of the proposed agricultural building. The farmhouse building is also sited far enough away from the proposed grain store for it not to be detrimentally affected. In these circumstances the proposed building is acceptable in relation to potential impact on heritage assets.

Ecology

- 6.09 The National Planning Policy Framework states that *“the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible”*.
- 6.10 The majority of the application site is hard standing but there is a storage area which has become vegetated. Available information shows that great crested newts are likely to be present within 500 metres of the proposed new building. In this situation it is possible that great crested newts make use of the vegetation on the site for resting,

hibernating, foraging or commuting to access more suitable habitat. With this limited area of habitat KCC Ecology have recommended a planning condition to seek the submission of a precautionary mitigation strategy. This strategy would be based on existing survey data and would need to demonstrate how works would minimise risk to great crested newts.

Impact on the local highway network and public right of way.

- 6.11 It is not considered that the proposal will have any adverse impact on the highway network or highway safety, and there has been no objection from KCC Highways. It is considered that the existing footpath can be adequately diverted with this diversion considered outside the current planning application. There has been no objection from the Public Rights of Way officer.

Flooding and drainage

- 6.12 The proposal is considered acceptable in relation to flooding and drainage and there has been no objection to the application from Southern Water.

Environmental impact assessment

- 6.13 With the proposed development including fewer than 150 dwellings and the overall area of the development fewer than 5 hectares, the proposed development falls outside the scope of Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 as an urban development project. There is no requirement to seek an environmental impact assessment

7.0 CONCLUSION

- 7.01 The visual impact of the proposal will be minimal when taking into account the topography of the area and the screening of the site by the existing mature hedges and trees. With recommended planning conditions the proposal is acceptable in relation to ecology.
- 7.02 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 7.03 The proposal complies with policy ENV28 as it is reasonably necessary for the purposes of agriculture and policy ENV43 of the adopted plan. The proposal accords with other policies in the emerging plan and will not result in harm to the character and appearance of the area. The proposal will facilitate the efficient use of this agricultural land and is in accordance with policy SP17 of the emerging plan. On the basis that the proposal is in accordance with both adopted and emerging policies and in the absence of material considerations that indicate otherwise the approval of planning permission is recommended.

8.0 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: CH50256-001; CH50256-002 and CH50256-003. Reason: For clarity and to ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.
- (2) The external facing materials to be used in the development hereby approved shall be as indicated on the approved plans unless otherwise approved in writing by the

Local Planning Authority. Reason: To ensure a satisfactory appearance to the development.

- (3) Any external lighting installed on the new building shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. Reason: In the interests of visual amenity, biodiversity and landscape character.
- (4) 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. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development
- (5) Prior to any works commencing on site (including vegetation clearance) a precautionary great crested newt mitigation strategy, based on existing survey data, is submitted to and approved in writing by the Local Planning Authority. The report must include a review of existing survey data, the proposed methodology for clearing the site and measures to avoid great crested newts being injured or killed during construction. The development shall proceed in accordance with the agreed strategy. Reason: In the interest of biodiversity and habitat management.

Informatives

- (1) The applicant is advised to have regard to the Mid Kent Environmental Code of Development Practice.
- (2) The applicant is advised that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact KCC before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that: the applicant pays for the administration costs; the duration of the closure is kept to a minimum; alternative routes are provided for the duration of the closure and a minimum of six weeks notice is given to process an application for a temporary closure.
- (3) The applicant is advised that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent. The granting of planning permission confers no other permission or consent on the applicant and the successful making and confirmation of a diversion order should not be assumed.
- (4) The applicant is advised that if a European Protected Species Licence is required to carry out the works updated great crested newts surveys may be required to inform the licencing process.

Case Officer: Graham Moore

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

Agenda Item 15



REPORT SUMMARY

REFERENCE NO - 16/506648/HYBRID			
APPLICATION PROPOSAL			
Hybrid application for detailed planning permission for a residential development of 70 dwellings comprising of 2, 3 and 4 bedroom two storey terraced, semi-detached and detached houses and 4 No. 1 bedroom units together with outline planning permission for a two storey medical centre with all matters reserved for future consideration.			
ADDRESS Land South Of Heath Road, Coxheath, Kent, ME17 4PB			
RECOMMENDATION – DELEGATED POWERS TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND COMPLETION OF LEGAL AGREEMENT			
SUMMARY OF REASONS FOR RECOMMENDATION			
The proposed development does not conform with policy ENV28 of the Maidstone Borough-wide Local plan 2000 in that this policy does not allow for residential development outside of settlement boundaries, or existing and emerging affordable housing policies in that it does not provide 40% provision. However, the site falls within the new settlement boundary of Coxheath and is allocated in the draft Maidstone Local Plan, an allocation considered to hold substantial weight. The development is at a sustainable location and is not considered to result in any unacceptable harm in accordance with the emerging Local Plan and the National Planning Policy Framework. The benefits from securing the land to the CCG to provide much needed medical facilities are considered to outweigh the slightly lower affordable housing provision, lack of on-site open space, and lack of some other contributions. This is sufficient grounds to depart from the Local Plan (2000) and existing and emerging affordable housing policies.			
REASON FOR REFERRAL TO COMMITTEE			
<ul style="list-style-type: none"> Departure from the Development Plan 			
WARD Coxheath and Hunton	PARISH COUNCIL Coxheath	APPLICANT Persimmon Homes SE Ltd	
DECISION DUE DATE 12/12/16	PUBLICITY EXPIRY DATE 06/07/17	OFFICER SITE VISIT DATE 11/07/17	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
14/0566	Outline application for a mixed use development comprising up to 72 dwellings, up to 43 extra care apartments and provision of land for open space/community use with associated access and parking with access considered at this stage and all other matters reserved for future consideration.	APPROVED	26/08/15

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site comprises agricultural land associated with Clockhouse Farm, on the south side of Heath Road in Coxheath with an area of approximately 2 hectares. The site is outside but immediately adjoins the settlement boundary of Coxheath village in the

adopted Local Plan (2000), which runs along the west and north boundaries of the site. Within the new Local Plan, the settlement boundary is enlarged over the application site with an allocation for a mixed use development of 72 dwellings and 43 bed care home under policy H1(62). The application site covers the western majority of this allocation but an eastern and southwestern section is excluded.

- 1.02 The site is L-shaped and on the north boundary fronts onto Heath Road, opposite houses and the cul-de-sac Georgian Drive. There is an established deciduous hedge along this boundary. The east boundary is straight and follows an existing hedge line with an open field beyond. The south boundary is straight and partly follows the boundary with farm accesses, buildings and storage areas. The west boundary is largely straight and follows the line of rear gardens of houses on 'Duke of York Way' and 'Clock House Rise' and where there is an established hedge. In the northwest corner the boundary forms a right angle where it runs around the dwelling 'The Rectory' and the 'Orchard Medical Centre' and here there is also hedging.
- 1.03 The site is located within the countryside for Development Plan purposes and falls within the low weald Special Landscape Area a designation which will not be taken forward in the new Local Plan. The Grade II listed dwelling, 'Clock House' is located just over 90m to the southeast between a complex of farm buildings.

2.0 PROPOSAL

- 2.01 The application is a 'hybrid' application meaning a combination of a detailed and outline application. Detailed permission is sought for 72 houses on the majority of the site and outline planning permission is sought for a two storey medical centre (with all matters reserved for future consideration). This means the full details/plans of the housing development are being considered but only the principle of a medical centre, where the specific details would be considered at a later date.
- 2.02 Detailed Part - For the housing, access would be taken off Heath Road and the 2 storey houses would be arranged around a rectangular road with a central block. There would be a mixture of detached, semi-detached, and terraced houses. More detail on the design will be discussed below in the assessment.
- 2.03 Outline Part - For the outline element, this seeks permission for a 2 storey medical centre within an L-shaped parcel of land in the northwest corner of the site. As outlined above, specific details are not being considered at this stage. This land would be given to the West Kent Clinical Commissioning Group (CCG) (NHS body responsible for the planning and commissioning of health care services for their local area) at no cost so it can be developed for that purpose. The CCG has confirmed they are committed to providing a much needed medical facility on this part of the site, and this will be discussed below.

3.0 BACKGROUND

- 3.01 There is an extant outline permission which covers the larger allocation site for a mixed use development comprising up to 72 dwellings and up to 43 extra care apartments around which the draft Local Plan policy is based. This expires on 26th August this year.

4.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, T13, T21, T23, CF1

MBC Affordable Housing DPD (2006)

MBC Open Space DPD (2006)

Draft Maidstone Local Plan (2011-2031): SS1, SP11, SP13, H1, H1(62), DM1, DM2, DM3, DM5, DM7, DM11, DM12, DM13, DM22, DM24, DM25, DM27, ID1

Kent Minerals & Waste Local Plan: DM7

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Draft Coxheath Neighbourhood Plan

5.0 LOCAL REPRESENTATIONS

5.01 Local Residents: 17 representations received from local residents raising the following (summarised) issues:

- Pressure on infrastructure
- Air quality
- Increased traffic
- Highway safety
- Noise
- Wildlife
- Flooding
- Loss of views
- Loss of privacy
- Loss of light
- Dust & pollution
- Loss of village character
- Loss of farmland
- Traffic calming for Hunton Primary school should be provided

5.02 Greensand Health Centre: Support a medical facility being provided.

5.03 Orchard Medical Centre: Support a medical facility being provided.

6.0 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)

6.01 Coxheath Parish Council: Raise no objections and have the following (summarised points):

- Medical centre is urgent.
- Affordable housing should be designated as local needs affordable housing.
- Some concerns over safety of access.
- Increase landscaping and retain hedgerows or replace if changes have to be incorporated at the access point.
- Village should be given adequate warning of road closures and/or traffic disruptions.
- It would be useful to have potential timescales or phasing of housing construction.
- Construction traffic should access site from east and parking catered for on the site.
- Would wish to see the small area at the south east corner of the site designated as public green open space and possibly established as a children's play area.

- 6.02 **MBC Landscape Officer:** No objections subject to landscaping conditions and a requirement for compliance with the Arboricultural Method Statement and tree protection plan.
- 6.03 **MBC Environmental Health Officer:** No objections subject to conditions regarding contaminated land and air quality.
- 6.04 **MBC Parks & Leisure:** No objections subject to £1,575 per dwelling towards improving, maintaining repairing and renewing the open space and play facilities at the Stockett Lane Recreation Ground.
- 6.05 **MBC Conservation Officer:** No objections.
- 6.06 **KCC Development Contributions:** Request the following:
- Primary Education Provision: £219,384 towards modular 2 classroom building at Coxheath Primary School.
- Secondary Education Provision: £155,746.80 towards Phase 1 expansion of the Cornwallis School.
- Youth Services: £593.97 towards additional IT & Sports equipment for the additional attendees from this development at Infozone Youth Hub.
- Libraries Contribution: £1139.60 towards bookstock at Coxheath Library.
- 6.07 **KCC Highways:** No objections subject to a financial contribution to mitigate the impact upon Linton Crossroads, securing the site access with appropriate visibility splays, roadside footway and raised table pedestrian crossing, retention of the vehicle and cycle parking spaces and/or garages.
- 6.08 **KCC Heritage:** No objections subject to a condition requiring a programme of archaeological work.
- 6.09 **KCC SUDs:** No objections subject to conditions.
- 6.10 **UK Power Networks:** No objections.
- 6.11 **West Kent CCG:** Supports the inclusion of a new medical facility within the proposal, which would serve to overcome the pressures on the existing practices in Coxheath.
- 6.12 **Southern Water:** No objections subject to the developer providing additional capacity under the Water Industry Act.
- 6.13 **Kent Police:** No objections.

7.0 APPRAISAL

Main Issues

- 7.01 Whilst under the Local Plan 2000 the site is within the countryside, with there being an extant permission at the site and the site being allocated for development in the

emerging Local Plan (which is considered to hold substantial weight), the principle of development is accepted and the key issues for consideration relate to the following:

- Design and Layout
- Residential Amenity
- Highways & Parking
- Affordable Housing & Infrastructure
- Ecology

Design & Layout

- 7.02 The density of the housing development equates to approximately 41 dwellings per hectare (dph) (excluding the medical land), which is higher than the Local Plan allocation which seeks around 32 dph. This increased density has been proposed by the applicant due to the proposals to provide a medical facility, the justification for which will be explained in more detail under the infrastructure section below. In design terms this does result in a relatively dense scheme and the shape and size of the site means a somewhat regimented layout. However, there is a relatively high density housing development immediately to the west of the site (approximately 42 dph) and the retention of the established hedge on the east boundary would ensure a softened edge to the settlement here.
- 7.03 The layout is a simple rectangular road with a central block, which due to the size and shape of the site is considered acceptable, as opposed to a potentially looser more irregular layout. Houses at the entrance front Heath Road and turn the corner into the site. This is the case for the central block where houses turn the outside corners. Negotiations have taken place to improve the finish quality of buildings including the use of ragstone in both buildings and walling. This is present on the entrance to the site and the corners of the central block. Surface materials have also been improved with significant amounts of block paving for roads and paths, as opposed to tarmac. In order to reduce the mass of built development, hipped roofs have been negotiated in order to provide better breathing spaces between buildings. Tree planting has also been increased to improve the environment. The houses are traditional in form with materials including white weatherboarding and tile hanging.
- 7.04 Overall, the layout is considered to be of good quality making good use of the site, and the design of scheme is of a good standard using high quality materials which will be secured by condition, and good landscaping. No on-site open space is provided due to the provision of the medical centre and this will be discussed below in the 'infrastructure' section.
- 7.05 In terms of the Local Plan allocation (H1(62)), this seeks enhancement of the eastern and southern boundary hedgerows. As this application covers a smaller area than the allocation, the proposal doesn't reach the eastern boundary referred to. Instead it runs alongside an existing well established hedgeline and on this basis, I do not consider there is any conflict with the policy. The southern boundary would be enhanced with new tree planting which would comply.
- 7.06 Whilst no details are being considered at this stage, it is considered that there is sufficient space to allow for a suitably designed and laid out medical facility with appropriate landscaping, and the land has been confirmed as sufficient by the CCG to provide their facility.

Residential Amenity

- 7.07 There would be no unacceptable loss of privacy or harm to the outlook to houses to the west due to the separation distances and in addition the presence of a tall hedge. Houses opposite the site would not be harmfully affected in terms of privacy, light or outlook. The layout ensures that the new properties would benefit from acceptable levels of amenity. In addition, a 2 storey medical facility would not cause harm to residential amenity.

Highways & Parking

- 7.08 The new access to Heath Road would be a staggered to Georgian Drive opposite. New pavements would be provided either side of the access. To the west the pavement would meet the existing footway outside the Orchard Medical Centre and there would be a new raised table pedestrian crossing across Heath Road. To the east the new footway will extend along the site frontage to the junction with Clockhouse Farm in line with the allocation policy. Dropped kerbs and tactile paving will be provided across the proposed vehicular access, and the access at Clockhouse Farm.
- 7.09 KCC Highways have assessed the application and have raised no objections to the proposed access from a safety point of view. Nor have they raised any safety issues regarding the additional traffic from the development on local roads. As such, it is considered that there are no highway safety issues resulting from this development.
- 7.10 As per the previous application at the site and others within the village, the cumulative impact of new development traffic within the Local Plan would take the Linton Crossroads over capacity adding to queue lengths and delays. As such, a scheme of mitigation has been designed and monies towards its cost have been secured under consented planning permissions in Coxheath. This requires a contribution of £1,500 per dwelling and this would be secured under this development to mitigate the impact in line with the allocation policy. KCC Highways have raised no objections to this approach and this is in accordance with the draft policy.
- 7.11 Parking provision is in line with the parking standards apart from 13 houses which would have 2 tandem spaces as opposed to side by side, and visitor parking is 3 spaces below the standards. On balance, this is not considered grounds to object and provides an appropriate balance between parking and an attractive layout/appearance. There would also be sufficient space to provide parking for the medical facility.
- 7.12 The allocation policy requires the upgrading of village bus stops to provide step free access on/off buses. This can be secured by condition on the bus stops on Heath Road just to the east of the Clockhouse Farm access.

Affordable Housing & Infrastructure

- 7.13 As outlined above, the application seeks outline permission for a new medical centre on land in the northwest corner of the site. It is proposed that this land will be given to the CCG at nil cost. This affects the viability of the development to be able to meet affordable housing and financial contributions as the normal income from building houses on this land will not be achieved. This is also one of the reasons that the density of the scheme is higher than the allocation policy, and also why no on-site open space is provided.
- 7.14 The CCG have confirmed a need for a new medical facility in Coxheath and that such a facility would also provide an enhanced range of services. They would also envisage

Coxheath as an important hub for primary care service which could offer a range of diagnostics. They have confirmed that the proposals provide adequate space and flexibility for their required services and those envisaged, and fully support the proposals. The two existing practices in the village also support the proposals.

- 7.15 It is considered that this opportunity to provide land for a much needed medical facility in the village would represent a significant benefit to the local community and a significant materials consideration which weighs in favour of this proposal.
- 7.16 This affects viability, and a viability appraisal has been submitted and independently assessed. This demonstrates that if 40% affordable housing was secured then there would only be sufficient funding for either the highways or open space contribution, and this has been accepted by the independent assessor. With this in mind, the following has been negotiated by officers:
- 33% affordable housing (70% rent/30% shared ownership)
 - Financial contribution of £105,000 'towards the costs of highway improvements at the junction of the A229 and B2163 (Linton Crossroads)'
 - Financial contribution of £110,250 towards public open space (improving, maintaining repairing and renewing the open space and play facilities at the Stockett Lane Recreation Ground)
- 7.17 This has been negotiated on the basis of affordable housing, transport, and open space being the highest infrastructure priorities. It is considered important to provide this development's full funding towards the Linton Crossroads, and monies to local public open space, as no on-site provision would be provided. As such, a slightly lower affordable housing provision than policy requires (40%) meaning 5 less units has been negotiated in this case.
- 7.18 There would also be no monies towards education, youth services or libraries but these are lower priorities for MBC.
- 7.19 On balance, it is considered the benefits from securing the gifting of the land to the CCG to provide much needed medical facilities outweighs the lower affordable housing provision, the lack of on-site open space, and lack of some other contributions outlined above.
- 7.20 In order to secure this outcome, a legal agreement will allow for the land to be transferred to the CCG at no cost to provide a medical facility. In the unlikely event that the CCG do not pursue or provide the facility, the legal agreement will provide for a cascade mechanism whereby either:
- the land would be used as on-site open space with a LEAP, managed by the developer (where the off-site open space monies (minus the developer's costs of implementing the public open space) would instead go towards Coxheath Primary School); or
 - depending upon the circumstances at the time, the land would be returned to a Council nominee to be used as on-site open space funded by the off-site open space contribution, and any residual monies would go towards Coxheath Primary School.

Ecology

- 7.21 The applicant's report outlines that the site comprises predominantly improved grassland with disused poly-tunnels and the tree-lines/hedgerows on the boundaries are considered to be of greatest ecological value, which would be retained and enhanced. Tree-lines, scattered trees and hedgerows are considered to provide good opportunities for foraging bats and so any lighting will need to take this into account and can be dealt with by condition. There is a badger sett beneath a metal container, outside the site to the southeast. Although the sett is located outside the development boundary, it is recommended that any works within 20 – 30m of the sett should be undertaken in a sensitive manner and this can be dealt with by condition. The majority of the site was considered to have negligible potential for reptiles but there are a few small strips of rough improved grassland particularly adjacent to the southern end of the central hedgerow, which were considered to have some potential. It is recommended that any clearance of suitable areas of vegetation be undertaken sensitively, whilst reptiles are active and able to avoid disturbances. The site is not considered to be constrained by GCNs.
- 7.22 Enhancements proposed include landscaping designed to improve ecological value, bat and bird boxes and the creation of hibernacula for species such as common amphibian and reptile species, as well as refugia for small mammals and invertebrates, which can be secured by condition. Swift bricks can also be incorporated.
- 7.23 Overall, it is considered that the development would not have a harmful impact upon ecology and enhancements would be secured.

Other Matters

- 7.24 The site is allocated for 43 care home bed spaces which would not be provided under this application. The applicant has explained that under the extant permission they engaged with a number of providers but any interest was not taken forward and so they have looked at the proposals to provide a medical facility instead. The omission of a 43 bed care home is not considered to undermine the emerging Local Plan and policy DM15 allows for care homes within settlements. On this basis, this is not considered grounds for refusal.
- 7.25 As under the previous application (which extended closer to Clockhouse Farm) the proposal are not considered to harm the setting of this Grade II listed building due to the separation distance and buildings between.
- 7.26 In terms of surface water, KCC raise no objections subject to conditions securing the finer details, which include soakaways and permeable surfacing. In terms of foul drainage, Southern Water outline that there is currently inadequate capacity but raise no objections subject to improvements being secured under the Water Industry Act. I would therefore propose a condition that details of foul drainage are submitted for approval prior to commencement, and no dwellings are occupied until adequate arrangements are in place.
- 7.27 In terms of air quality, a mitigation report has been provided including such measures as electric car charging points, restrictions on gas boilers, travel plan, cycle storage etc. Environmental Health has reviewed the report and raise no objections subject to a condition securing such mitigation.
- 7.28 There is potential for archaeology to survive on this site and as such a condition is recommended requiring a programme of work. The land is categorised as Grade 2/3a agricultural land and thus within the "best and most versatile" category. However the

site is allocated in the emerging Local Plan and the Local Plan Inspector has not raised this as a main issue in his Interim Findings report. It is considered that the need for housing is sufficient to outweigh the loss of the agricultural land. The site does not fall within a minerals safeguarding area in the Kent Local Plan.

- 7.29 Other matters raised by the Parish Council and local residents not addressed above include local needs housing; construction traffic; noise; dust; traffic calming in Hunton; loss of view. In terms of local needs housing, the proposals are not for rural exception housing for local people, and the Council approaches affordable housing provision on a Borough-Wide basis rather than local needs. It is not enforceable to control construction traffic and therefore a condition is not appropriate. Noise from the normal use of housing is not considered to be an issue and any dust during construction is an Environmental Health matter. Traffic calming in Hunton is not reasonable as a result of this development and so cannot be required. The loss of a view is not material planning consideration.

8.0 CONCLUSION

- 8.01 The proposed development does not conform with policy ENV28 of the Maidstone Borough-wide Local plan 2000 in that this policy does not allow for residential development outside of settlement boundaries, or existing and emerging affordable housing policies in that it does not provide 40%. However, the site falls within the new settlement boundary of Coxheath and is allocated in the draft Maidstone Local Plan, an allocation considered to hold substantial weight. The proposals are in accordance with that policy and the development is considered to be of good quality and acceptable for the reasons outlined above, and in accordance with the NPPF. The benefits from securing the gifting of the land to the CCG to provide much needed medical facilities are considered to outweigh the slightly lower affordable housing provision, lack of on-site open space, and lack of some other contributions.
- 8.02 I have taken into account all representations received on the application and in conclusion, I recommend permission is approved subject to conditions and a Section 106 legal agreement.

9.0 RECOMMENDATION

- 9.01 Subject to the prior completion of a legal agreement, in such terms as the Head of Legal Services may advise, to provide the following:
- 33% of housing being affordable housing (of which 70% is affordable rent and 30% shared ownership).
 - Financial contribution of £105,000 'towards the costs of highway improvements at the junction of the A229 and B2163 (Linton Crossroads)'.
 - Financial contribution of £110,250 towards improving, maintaining, repairing and renewing the open space and play facilities at the Stockett Lane Recreation Ground.
 - The 'Medical Land' for which outline permission for a 2 storey medical centre is hereby approved be transferred to the CCG (or appropriate body) at nil cost for the delivery of medical facilities (timeframe for transfer delegated to officers and linked to notice being received from the CCG (or appropriate body) requesting such transfer).

- In the event that the notice is not received from the CCG (or appropriate body) within a set timeframe (to be delegated to officers), the 'Medical Land' will be used for on-site public open space. In this scenario, the off-site public open space contribution (minus the developer's costs of implementing the public open space) would instead go towards the costs of the construction of a new modular building containing two classrooms, toilets and associated storage space at Coxheath Primary School (final amount delegated to officers to agree).
- The agreement will set out certain circumstances in which, following transfer of the 'Medical Land' to the CCG (or appropriate body), the land can be returned for use as on-site public open space (for example, if delivery of the medical facilities is not commenced or completed within a set timeframe (to be delegated to officers)). Depending on the circumstances existing at the time, it may be appropriate for the Medical Land to be returned to a Council nominee. If the Medical Land is returned in such circumstances, the Council will divert a proportion of the off-site open space contribution referred to above to the delivery of the on-site public open space, with the residual monies going towards the costs of the construction of a new modular building containing two classrooms, toilets and associated storage space at Coxheath Primary School (final amount delegated to officers to agree).
- Any on-site public open space delivered in circumstances considered above is to include a Locally Equipped Area of Play (LEAP). Details of the laying out and equipping of the on-site public open space shall be submitted to and approved in writing by the LPA.

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the imposition of the conditions set out below

1. The outline element of the development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Access b. Layout c. Scale d. Appearance e. Landscaping

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

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

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The detailed element of 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.

3. No development shall take place until details of the proposed slab levels of the building(s) 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.

4. No development shall take place until the developer has developed a scheme detailing and where possible quantifying 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. The scheme shall follow the principles of the 'Lustre Consulting' Report (February 2017). [The developer should have regard to the DEFRA guidance from the document *Low Emissions Strategy -using the planning system to reduce transport emissions January 2010.*]

Reason: In the interests of protecting the health of existing and future occupants.

5. No development shall take place 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.

d) 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.

6. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable 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.

7. The detailed element of the development shall not commence until a landscape and ecological management plan (LEMP) for the site has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:
- i) Description and evaluation of features to be managed;
 - ii) Ecological trends and constraints on the site that might influence management;
 - iii) Aims and objectives of management;
 - iv) Appropriate management options for achieving aims and objectives;
 - v) Prescriptions for management actions;
 - vi) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - vii) Details of the body or organisation responsible for implementation of the plan;
 - viii) On-going monitoring and remedial measures.
 - ix) Specific details for protection of the nearby badger sett.
 - x) Specific details for the protection, maintenance and enhancement of reptile habitat.
 - xi) Specific details of any lighting which shall be designed to minimise the impact upon wildlife.
 - xii) Specific details and locations of the biodiversity enhancement measures outlined within the 'Ecology Partnership' report dated May 2016'.
 - xiii) Biodiversity enhancement measures within the structure of buildings.
 - xiv) Details of the location of any cord wood to be retained on site.
 - xv) Details of wildlife friendly drainage gullies.

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

Reason: To ensure a satisfactory appearance and setting to the development and in the interests of biodiversity protection and enhancement.

8. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (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.

9. No development above slab level shall take place until details of the method of disposal of sewage have been submitted to and approved in writing by the local planning authority and these works shall be completed in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure adequate sewage disposal arrangements.

10. 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 and the development shall be constructed using the approved materials. For the detailed element, materials shall include the use of ragstone on buildings and in walling as shown on the approved plans, stock bricks, and clay tiles.

Reason: To ensure a satisfactory appearance to the development.

11. For the detailed element of the development, no development above slab level shall take place until a sample panel of the ragstone wall has been submitted to and approved in writing by the Local Planning Authority. Such details as approved shall be fully implemented on site.

Reason: To ensure a high quality design.

12. No development above slab level shall take place until, written details and samples of the surface materials to be used in the construction of the development 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.

13. No development above slab level shall take place until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter. For the detailed element, details shall include ragstone walling as shown on the approved plans.

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

14. For the detailed element of the development, 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 and 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.

15. For the detailed element of the development, no development above slab level shall take place 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 provide:

- Retention and strengthening of the tree line along the southern boundary of the site.
- Retention and where possible strengthening of the hedge line along the eastern boundary of the site.
- Retention and where possible strengthening of the hedge lines along the western and northwestern boundaries of the site.

- Retention of the hedgerow along the northern boundary of the site with Heath Road excluding the requirements for access.

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

16. No development above slab level shall take place until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter alia, details of measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: In the interest of residential amenity

17. No development above slab level shall take place until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter;

Reason: To ensure an energy efficient form of development. Details are required prior to commencements as these methods may impact or influence the overall appearance of development.

18. For the detailed element of the development, the approved details of the access as shown on drawing no. 07-013-003 Rev G shall be completed before the commencement of the use of the land or buildings hereby permitted and the sight lines maintained free of all obstruction to visibility above 1.0 metres thereafter;

Reason: In the interests of road safety.

19. For the detailed element of the development, bus stop improvements comprising raised kerbing at the two nearest existing stops to the east of the site access each side of Heath Road shall be completed before the commencement of the use of the land.

Reason: In the interests of sustainable transport use and road safety.

20. For the detailed element of the development, before the development hereby permitted is first occupied, the following highways works as shown on drawing no. 07-013-003 Rev G shall be fully implemented:

- A raised table pedestrian crossing including footway widening to the west of the access.
- A new 1.8m wide footway from the access point eastwards for approximately 85 metres.
- A new 1.8m wide footway from the access point westwards to connect with the existing footway.
- Pedestrian crossing points on the south side of Heath Road across the Clockhouse Farm entrance.

Reason: In the interests of highway safety.

21. For the detailed element of the development, no building hereby permitted 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:

- a) a timetable for its implementation, and
- b) 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.
- c) clarification of the means and responsibilities for the management of any infiltration feature that accepts the water from more than one individual plot.

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).

22. 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 it has been demonstrated 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.

23. 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.

24. All planting, seeding and turfing specified in the approved landscape details shall be carried out either before or in the first season (October to February) following the occupation of the building(s) or the completion of the development, whichever is the sooner; and 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

25. All construction activities shall be carried out in accordance with the Arboricultural Method Statement and Tree Protection Plan (Dated 22nd August 2016) 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

26. 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.

27. 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 extension of any dwellings or enlargement of any roofs shall be carried out without the permission of the local planning authority;

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers.

28. For the detailed element of the development, the development hereby permitted shall be carried out in accordance with the following approved plans:

660-PL-100 RevE, 660-PL-101 RevF, 660-PL-102 RevE, RevE660-PL-103 RevF, 660-PL-104 RevE, 660-PL-105 RevE, 660-PL-106 RevE, 660-PL-107 RevE, 660-PL-109, 660-PL-111 RevE, 660-PL-121, 660-PL-122, 660-PL-150 RevD, 660-PL-151 RevD, 660-PL-200 RevE, 660-PL-210 RevD, 660-PL-220 RevD, 660-PL-230 RevD, 660-PL-240 RevC, 660-PL-250 RevC, 660-PL-260 RevC, 660-PL-270 RevD, 660-PL-275 RevC, 660-PL-300 RevD, 660-PL-330 RevE, 660-PL-340 RevD, 660-PL-350 RevD, 660-PL-360 RevC, 660-PL-400 RevC, and 6199/101 RevC.

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

Case Officer: Richard Timms



REPORT SUMMARY

REFERENCE NO - 17/500888/FULL			
APPLICATION PROPOSAL Retrospective application for construction of decking at rear and walkway leading to decking at side of property			
ADDRESS Gunwalloe 59 Tonbridge Road Teston Kent ME18 5BT			
RECOMMENDATION			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The application is considered to be acceptable provided the submitted privacy screen is erected on the common boundary as required by condition within one month of approval.			
REASON FOR REFERRAL TO COMMITTEE Application called in by Teston Parish Council for the reasons outline below.			
WARD Barming	PARISH/TOWN COUNCIL Teston		APPLICANT Mr & Mrs Gillem-Bussey AGENT
DECISION DUE DATE 24/04/17	PUBLICITY EXPIRY DATE 10/04/17	OFFICER SITE VISIT DATE 13/04/17	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
11/1342	Demolition of garage and rear extension and erection of two storey side extension, part two storey, part single storey rear extension with integral garage and single storey front extension	Refused	03.10.2011
11/1343	Siting of metal storage container in front garden for a period of six months during building works to property	Approved	03.10.2011
12/0186	Demolition of existing garage and rear extension, and erection of a two storey side/rear extension and garage (re-submission of 11/1342)	Approved	28.03.2012

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site is formed by a semi-detached house with front, side and rear garden areas, with off street parking within a gravel drive to the frontage. The site lies within an area of ribbon development on the south side of Tonbridge Road between Watlingbury and Teston.

- 1.2 There is a moderate change in level around the rear building line of the house resulting in a drop in level between the internal finished floor level at the rear of the house and the immediate garden beyond. The remainder of the garden slopes down, away from the house down to the Medway Valley.
- 1.3 There were originally external steps leading down to the garden which it is understood still remain beneath the existing decking.
- 1.4 The decking was originally constructed with an additional curved section which has since been removed and the current application seeks to regularise the reduced decking area. Since originally submitted the application has been amended to propose a self-supporting privacy screen close to the shared boundary with Strathmore. The privacy screen has since been amended to propose an open trellis rather than the louvred screen previously put forward. In addition, the steps have been proposed to be removed and subsequently reinstated being angled towards the common boundary. It is understood that these changes were made following discussions between the new owner and the neighbour at Strathmore to put forward a solution which was agreeable to both parties.

2.0 PROPOSAL

- 2.1 The decking is approximately 0.7m raised from ground level. There is a timber balustrade which measures 1.6m to the top of the bannister from ground level. The existing decking measures 4.15m deep off the existing kitchen (adjacent to the boundary), 2.2m deep off the existing dining room and extends to the side of the existing dining room by 1m. A set of steps allow for access to the garden and these currently angle away from the shared boundary. As stated above, the steps have been proposed to be realigned and an open trellis privacy screen is proposed to be erected.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough-Wide Local Plan 2000: H33, ENV28
National Planning Policy Framework (NPPF) Paragraphs 17, 57 and 58 of the NPPF
National Planning Practice Guidance (NPPG)
Supplementary Planning Documents: Residential Extensions SPD (2009)
Draft Maidstone Local Plan (2011-2031): DM34, SP17

4.0 LOCAL REPRESENTATIONS

- 4.1 Two neighbours have raised objection on the following grounds (in summary). NB: These objections have not been overcome through the amended plans:
 - Loss of privacy from main deck and walkway deck to flank of dwelling
 - Noise and disturbance from gatherings/BBQ smells
 - Possible environmental issues from water tanks beneath decking and potential vermin.
 - Stability of water tanks over sewer
 - Likely cause of damp as decking is above DPC which would affect attached neighbour

5.0 CONSULTATIONS

- 5.1 Teston Parish Council: Amended Comments: We have considered the newly available information. As an observation, there is no indication as to whether this has been submitted by the original applicant or by the new owner of the property.

The only change in terms of the decking appears to be the direction of the steps leading up to it. The extent and height would appear to be the same. The trellis does not address the fundamental issue with the decking i.e. that it is too high and results in overlooking of neighbouring properties, compromising privacy and security.

As per our previous comments, we have concerns regarding the trellis itself, which is intended to act as a privacy screen but which would still not offer privacy for most of the neighbouring garden and could have an unreasonable impact on aesthetics, being unattractive and itself intrusive. The Parish Council maintains its objection to the application and would wish to see the matter referred to the Planning Committee if the officer is minded to approve.

Original comments: The decking covers a very substantial area, but, more importantly, its level is some 1.25 metres above ground level. That has a significant adverse impact on the privacy of neighbouring gardens and when, presumably, the decking is used for gatherings, will exacerbate nuisance noise levels, as well as privacy intrusions.

We also understand that there are two very large rain- or grey-water tanks under the decking and their weight is probably having an adverse impact on the main drain below, unless measures have been taken to spread their weight.

If following desk-analysis your Planning Officer is minded to approve this application, we request that such opinion should be informed by a site visit and that, in the light of our objections, the matter be referred to the Planning Committee. The property in question is currently marketed for sale.

6.0 APPRAISAL

Main Issues/Planning Policy

- 6.1 The key considerations within this application are residential amenity and the impact upon Strathmore in particular.

Visual Impact/Design

- 6.2 The decking is largely to the rear of the house and the house itself is set well back from the public highway. There is also a further boundary treatment between the parking/turning area and the garden and, in this respect, the side decking is not readily visible from public vantage points. There are long distance views of the rear of the site from the other side of the Medway Valley, however, the decking would be read in context with the bulk and mass of the house, and would not therefore give rise to harm in my view. In this respect I consider the application accords with Paragraphs 57 and 58 of the NPPF with regard to providing an appropriate design. In turn the development does not harm the character and appearance of the countryside thereby complying with the requirements of Policies ENV28 and H33 of the Adopted Maidstone Borough Wide Local Plan 2000, and emerging Policy SP17 and DM36 of the Draft Maidstone Local Plan 2016 (submission version).

Residential Amenity

- 6.3 The decking has been reduced in size since originally erected and the application details the size of the reduced development. There is a moderate level change between the rear of the house and the garden and this has been incorporated in to the decking through the provision of steps down to the garden. The decking is sited mostly beside the existing flank wall of the neighbouring extension at Strathmore, only projecting beyond the neighbour where the steps project 0.8m (as scaled).
- 6.4 The first section of fence line along the shared boundary of the site with Strathmore is close-boarded and set at ground level. Due to the height of the decking, and the finished floor level of the extension at Strathmore, this section of fence feels too low and affords mutual overlooking between the two gardens.
- 6.5 The level of overlooking afforded to the decking increases the closer one is to this shared boundary with Strathmore. There is also a sense of mutual overlooking elsewhere in the garden as the shared boundary with the attached neighbour is relatively open, with low level open fencing with sparse planting.
- 6.6 Notwithstanding the mutual overlooking set out above, the existing decking at Gunwalloe does overlook Strathmore to a significant degree in my view and I consider that an unacceptable loss of privacy has occurred to the immediate area to the rear of Strathmore.
- 6.7 This undue impact is caused by the height of the existing close-boarded fence in this location which is perceived to be lower than it is from the decking level and the steps immediately outside Strathmore's extension. The applicant was informed of this on site and, accordingly, it was considered reasonable to request a privacy screen to 'infill' this open section of fencing between the rear building line of Strathmore's extension and the taller shrub planting further down the boundary. The amended trellis privacy screen would measure 1.3m wide x 0.75m high and would be installed upon timber posts so as not to take support from the existing fence. Once raised up on the posts the privacy screen would have a maximum height of 2.5m from the adjacent ground level and 1.7m from the finished floor level of the decking.
- 6.8 Accordingly the applicant has submitted a privacy screen detail which would infill this open area and reduce the ability for mutual overlooking. A fast climbing plant is also proposed to be planted alongside the trellis to infill the screen over time. It is my view that the proposed screen would be a sufficient intervention to result in the decking being acceptable. Whilst the privacy screen would exceed 2m in height once positioned I do not consider the screen would give rise to undue loss of outlook to the affected neighbour as the screen would be limited in depth and the floor level of the neighbouring extension is also raised compared to ground level to a similar level as the decking. In addition, the open nature of the trellis would be less solid than a taller fence in this location which could have given rise to outlook concerns. The change to the stairs would not have a material effect on privacy levels in my view. However it is understood that there is a perceived loss of privacy from the angle of the stairs as they are at present. Accordingly, if that perceived loss of privacy from the stairs would be reduced I am happy to support the change.
- 6.9 The neighbour to the east, "Cults" is located some distance from the side and rear decking which has been erected. The shared side boundary with Cults is approximately 5.2m from the side decking and this boundary has mature landscaping to mitigate against any potential loss of privacy to the neighbour.

- 6.10 I therefore consider the proposal, once the privacy screen has been erected, would sufficiently mitigate against the harm to residential amenity through loss of privacy previously identified. A condition can be drafted to require the privacy screen to be installed within one month of the decision and retained at all times thereafter. Once the screen is installed, I consider the development would respect the amenity of the neighbouring property thereby complying with Paragraph 17 of the NPPF which seeks a good standard of amenity for all.

Other Matters

- 6.11 The neighbour has raised concerns in relation to noise and disturbance from BBQs/gatherings, the environmental impact of tanks beneath the decking and the possible structural impact of the tanks over the sewer.
- 6.12 The garden at the property could be used for BBQs or gatherings without the decking being in place and, therefore, there are no planning grounds to consider the decking in relation to noise and disturbance.
- 6.13 The metal tanks which were originally installed beneath the decking have since been removed. In any event, their presence is not development for the purposes of the Planning Acts and could not be considered either in relation to environmental impact or stability of the ground above the sewer with regard to this application.
- 6.14 The issue of potential damp arising from the decking being set above damp proof course level is not a planning matter and falls within the scope of the Building Regulations.
- 6.15 The decking does not affect parking provision at the property.

7.0 CONCLUSION

- 7.1 In light of the above considerations, whilst the existing decking has been reduced in depth since originally erected, the decking area has resulted in an unacceptable loss of privacy to the neighbour. In response to this assessment a privacy screen has been put forward which would suitably infill the open area which allows for this overlooking to occur. It is therefore my view that, once the screen has been erected, that the loss of privacy would be adequately addressed. I therefore consider the imposition of a condition to require the installation and retention of the privacy screen would sufficiently mitigate against overlooking and duly recommend approval.

8.0 RECOMMENDATION

- 8.1 **Grant Planning Permission**, subject to the following;

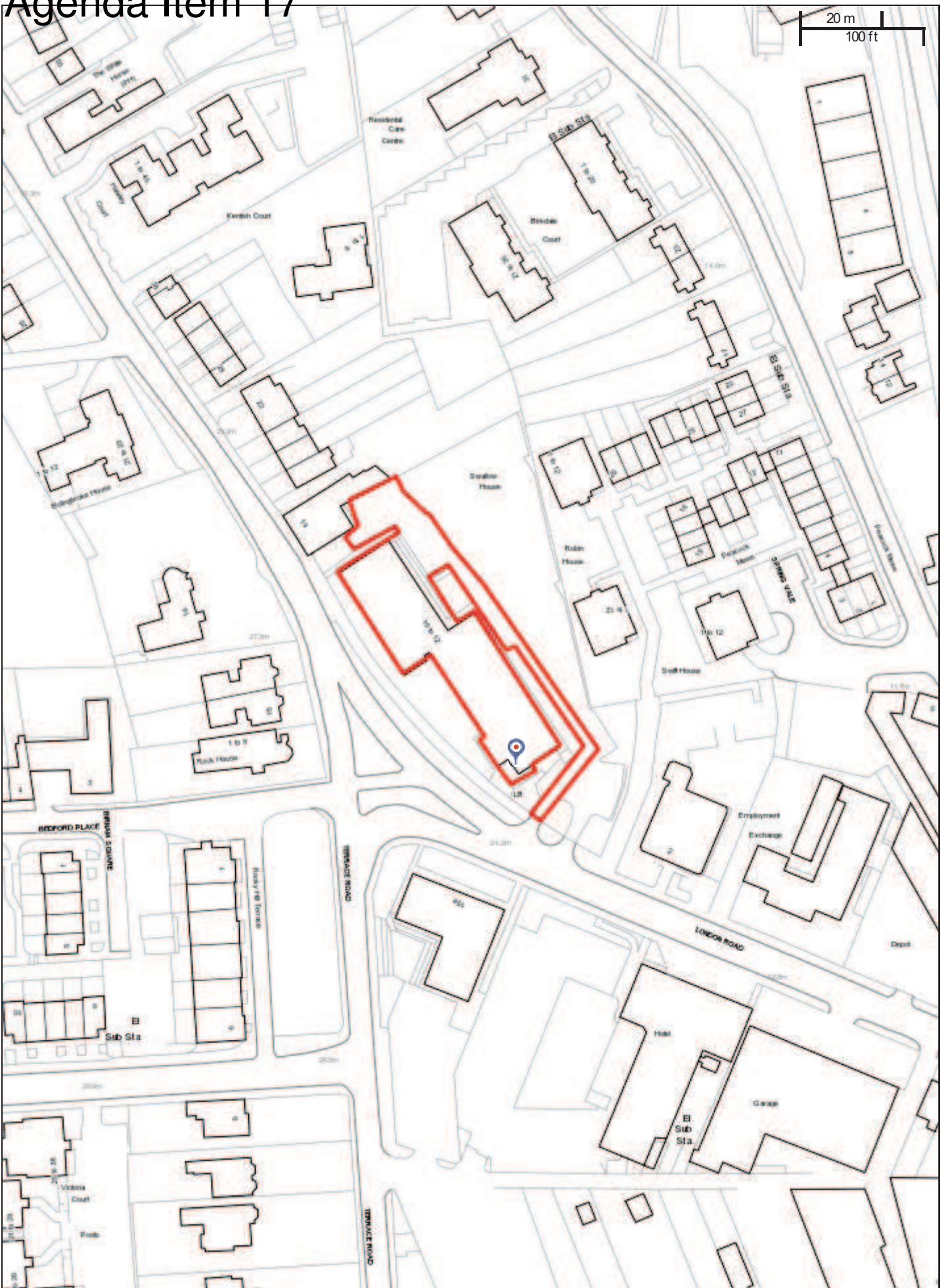
CONDITIONS

- (1) The privacy screen and realigned stairs, as detailed within plan and elevation drawings received on 29.06.17, shall be installed/alterd within one month of the date of this permission and retained and maintained in the approved position at all times thereafter. The screen shall be supported on posts within the curtilage of the application site and not attached to the party fence at any time.

Reason: In the interests of privacy and encroachment.

Case Officer: Lucy Harvey

Agenda Item 17



REPORT SUMMARY

REFERENCE NO - 17/501196/FULL		
APPLICATION PROPOSAL Erection of an additional storey on a flat roof to accommodate 10 units of residential accommodation together with associated parking and an amended access at Riverhill Apartments, London Road, Maidstone.		
ADDRESS Riverhill Apartments, 10 - 12 London Road, Maidstone, Kent, ME16 8QA		
RECOMMENDATION – Permission		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposal is considered to preserve the character and appearance of the surrounding area and would not result in any amenity or highways safety harm. The proposal would comply with the Development Plan and there are no overriding material considerations to indicate a refusal.		
REASON FOR REFERRAL TO COMMITTEE Cllr Georgia Harvey has called the application to committee for the reasons set out below.		
WARD Bridge	PARISH/TOWN COUNCIL	APPLICANT Eco-Regeneration AGENT DHA Planning
DECISION DUE DATE 31/05/17	PUBLICITY EXPIRY DATE 13/06/17	OFFICER SITE VISIT DATE 28/04/17
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): 15/505719/FULL - Variation of Condition 2 of planning permission 14/0655 (external alterations to the existing building) for materials to vary colour and higher quality finish – Permitted 15/505749/PNOCLA Prior Notification of the Change of Use from B1A Office to C3 Residential (74 flats) - Prior approval not required. 14/0655 - An application for external alterations to the existing building - Permitted 06/1859 - Installation of two condenser units to flat roof - Permitted MA/PN/13/0010 - Prior Notification of the Change of Use from B1A Office to C3 Residential (63 flats) – Prior approval not required.		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The application site is located on the east side of London Road and relates to a 6 storey building (including a part lower ground floor level) that has recently undergone conversion from offices to 74 residential flats via the prior approval process. 109 parking spaces are currently provided at the rear of the building with vehicle access taken from the southeast corner of the site onto Rocky Hill.
- 1.2 There are a mix of commercial, hotel and residential properties within the immediate surrounding area, with the development closest to the site being between 3 and 5

storeys in height. The application site is located just to the north of Maidstone town centre.

2.0 PROPOSAL

- 2.1 Erection of an additional storey on a flat roof to accommodate 10 units of residential accommodation together with associated parking and an amended access.
- 2.2 The new accommodation would all be contained within an additional flat roof extension on top of the existing building. The extension would be clad in grey zinc cladding with grey aluminium fenestration. The new level would be approx. 900mm higher than the parapet on the building. A majority of the new floor would be set in from the parapet edge of the building by approx. 1.2m with some elements abutting the inside edge of the existing parapet. Roof terraces have been incorporated on the proposed floor around the edges of the building to provide each flat an area of outside amenity space behind the parapet.
- 2.3 The proposed accommodation comprises 3x1 bed flats and 7x2 bed flats. Stepped access is provided to the floor below which has lift access to ground level.
- 2.4 Modifications are proposed to the vehicle access to convert the existing segregated access/exit to a conventional priority type junction. Works propose to remove the central area of footway and create a new bell-mouth access with paving crossing point.

3.0 AMENDMENTS

- 3.1 Amended plans have been submitted reducing the proposed development from 12 to 10 flats. A further 14 day consultation was completed on the amended plans. The number of units was reduced due to a request from the LPA for on-site and / or off-site affordable housing provision. The applicant advised that the scheme would not be viable on a 12 unit scheme if 30% of the flats had to be affordable housing in accordance with emerging policy. Policy does not require affordable provision on the revised 10 unit scheme.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan 2000: ENV21, T13
New Local Plan (submission version) May 2016: SP1, SP4, DM1, DM4, DM5, DM8, DM12, DM27,
Supplementary Planning Documents: DPD Open Space 2006.

5.0 LOCAL REPRESENTATIONS

- 5.1 Site notice, newspaper advert and letters sent to neighbouring properties.
- 5.2 Two neighbours (flats within the building) have objected to the application. Comments are summarised as follows:
- Parking pressure.
 - Construction access.
 - Noise and disturbance during construction (*non material planning consideration*)
 - Damage to trees during construction works.

- 5.1 **Cllr Georgia Harvey:** *'If you are minded to approve the above application I request that it is referred to Planning Committee on the following grounds:*

- 1. That there is no information provided on landscaping or environmental considerations or amenities.*
- 2. There appears to be little consideration for air quality.*
- 3. To ensure that the character of the development is not overly intensive and relates well to the site, neighbouring buildings and the general street scene.*

I am concerned that this development places additional strain on the site in terms of overcrowding, parking and refuse collection that have not be suitably mitigated in the application'.

6.0 CONSULTATIONS (response from initial consultation)

- 6.1 NHS: Request contribution (on the 12 unit scheme).
- 6.2 POS: Request contributions (on the 12 unit scheme)
- 6.3 SGN: Advise on location of pipes.
- 6.4 KCC Contribution: Request contribution to local libraries (on the 12 unit scheme)
- 6.5 KCC Minerals and Waste: No objection.
- 6.6 MBC EHO: No objections. Recommend conditions (on the 12 unit scheme)
- 6.7 Kent Police: No comments.
- 6.8 KCC Highways: No objections. Request conditions and advise the vehicular and footway access arrangements in the highway need to be addressed through a S278.
- 6.9 Southern Water: No objections. Request condition.

7.0 APPRAISAL

Principle of Development

- 7.2 The site is located within the urban area of Maidstone in a sustainable location in close proximity to the town centre where the principle of additional residential development is acceptable. The key issues are considered to be design, impact on the character of the area, parking provision, trip generation and amenity.

Visual Impact and Design

- 7.3 The immediate and wider area is characterised by a variety of building designs and heights and it is considered that an additional storey could be successfully accommodated at this building without appearing out of keeping with the character of the surrounding area. The new storey would only measure some 900mm above the existing parapet and a majority of the footprint would be set back over 1m from the edge of the building and so the proposal would not appear prominent within this setting. In addition the proposed materials would have a muted appearance over time and the colour scheme would integrate with the recently added cladding / external changes to the lower elevations. It is also noted that the additional storey would remain lower than the highest parts of the existing building that contain the services and lift overrun. The proposal would not have a negative impact on long range views due to the acceptable design, height and materials.
- 7.4 The proposal would be of an acceptable design standard and would, in my view, enhance the character of the building with a good quality materials and the roof extension would effectively cap off the top of this building.

- 7.4 Overall the design and appearance is considered to be acceptable and the additional storey would make a positive contribution to the character of the building.

Residential Amenity

- 7.5 The proposal would not result in any unacceptable loss of neighbour amenity due to the separation distance involved.
- 7.6 Neighbour objections have been received relating to noise and distribution during the building works. This matter is not a material planning consideration and does not warrant refusal of the application and a condition can be imposed regarding construction management.
- 7.7 The 10 flats would all provide sufficient internal living space to provide a good standard of living for the future occupants and each flat would benefit from a small external terrace area. The flats would meet the living standards set out in the nationally described space standards.
- 7.8 The council Environmental Health department has not raised any objections but has requested condition to ensure the flats are insulated to meet building regulations and protect future occupiers from traffic noise. This matter can be addressed under building regulations and therefore does not need to be secured by a planning condition.

Highways

- 7.9 No additional parking is proposed for the 10 new units. However, the site is located in a sustainable location and KCC highways have confirmed that the current provision of 109 parking spaces is adequate for the 84 flats at this site which is cumulative total including the existing. The overall level of parking provision would be in accordance with KCC Parking Standards and the councils emerging parking standards under policy DM27.
- 7.10 KCC Highways has not raised any objections to the proposed changes to the vehicle and pedestrian access and the proposed development is not considered to result in any unacceptable highways safety issues.
- 7.11 The TA assess the impact of the initial 12 unit scheme and concludes that the proposal would only generate 22 vehicle trips which is not considered to represent a significant or serve impact on the local highway network. Trip generation would be lower for the 10 flat amended scheme and KCC Highways have not raised any objections in terms of vehicle trip generation.

Landscaping

- 7.12 The proposal relates to an additional storey on an existing building with no impact on on-site trees or ecology. There is limited space at the front of the building within the site to accommodate additional landscaping / tree planting. Having discussed additional landscape options with the agent the applicant has agreed to a condition to secure some additional planting at the front of the building which can be secured by condition.

Other Matters

- 7.13 The EHO officer has requested an air quality condition to mitigate against the additional traffic generated from the development. The proposal would give rise to less than 22 additional vehicle trips per day which is not considered significant. As such this request is not considered appropriate for this scale of development and it is

unclear how / what mitigation could be provided in this instance therefore the proposed condition does not meet the required planning tests. However, I consider it would be necessary to impose a condition to ensure air quality does not negatively impact future residents within the flats and ventilation etc may need to be utilised.

- 7.14 The amended scheme for 10 units does not result in any contributions towards Parks and Open Space, NHS, Economic Development or affordable housing. According to latest government guidance 'contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm'.
- 7.15 Given that there would be no increase in existing parking provision I do not consider it would be appropriate to introduce electric charging points at the site as this would likely effect the available parking provision of existing residents. I note that there are some resident objections regarding parking pressure at the site.

8.0 CONCLUSION

- 9.1 The proposal represents a sustainable redevelopment of a brownfield site and is considered to accord with the Local Plan 2000, the NPPF and emerging Local Plan. The proposals are not considered to result in any unacceptable parking, traffic and highway safety impacts, or unacceptable visual and streetscene impacts, subject to conditions. The proposal would not have a harmful impact on the setting of any listed buildings or conservation areas.
- 9.2 Overall, the public benefits of additional housing and the development of a sustainable edge of town centre site is considered to be acceptable. As such the development is considered to be in compliance with the National Planning Policy Framework and the Local Plan 2000 and emerging Local Plan (submission version) May 2016.
- 9.3 It is therefore considered that the development of the site for residential purposes is acceptable and it is recommended that subject to conditions.

10.0 RECOMMENDATION – GRANT 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 materials to be used in the development hereby approved shall be as indicated on the approved plans unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

- (3) No structure, plant, equipment or machinery shall be placed, erected, or installed on or above the roof or on external walls without the prior approval in writing of the local planning authority;

Reason: To safeguard the external appearance and character of the building.

- (4) 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 wheel-cleaning facilities during the demolition, excavation, site preparation and construction stages of the development. The method statement shall also include details of the means of recycling materials, 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.

Reason: To ensure the construction of development does not result in highway safety.

- (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 Spec, a programme of implementation and a [5] year management plan. The landscape scheme shall specifically address the need to provide new planting along the frontage of the building.

The use or occupation of the development hereby permitted shall not commence until all planting, seeding and turfing specified in the approved landscape details has been completed. All such landscaping shall be carried out during the planting season (October to February). 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.

- (6) No development will commence until an air quality assessment in accordance with current guidelines and best practice has been provided to the satisfaction of and approved in writing by the Planning Authority. The air quality assessment will:

o Provide full details of measures that will be implemented to protect the internal air quality of buildings.

All measures identified within the approved air quality assessment that are to be installed during the course of the development will be fully implemented. No occupation will take place until a report demonstrating that each measure is fully implemented has been provided to the satisfaction of and approved in writing by the Planning Authority.

Reason: To protect air quality and peoples health.

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

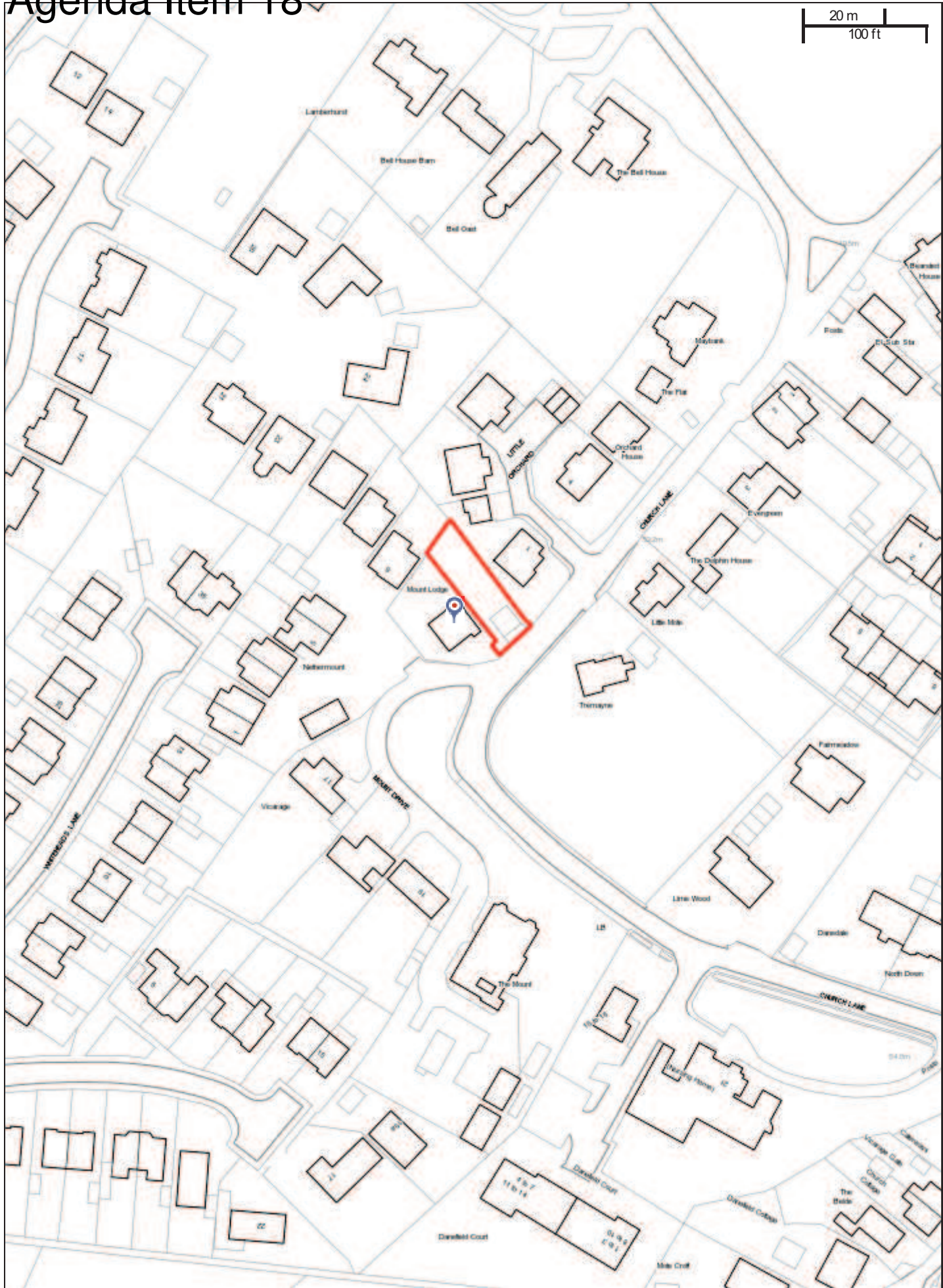
16-31, 16-31-02; received 03.03.2017, ME.14.141.19F; received 15.03.2017, 16-31-03-B; received 30.05.2017.

Reason: To clarify which plans have been approved.

Case Officer: Andrew Jolly

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

Agenda Item 18



17/502118 - Mount Lodge

Scale: 1:1250

Printed on: 19/7/2017 at 10:12 AM by ElyH

REPORT SUMMARY

REFERENCE NO - 17/502118/FULL		
APPLICATION PROPOSAL Erection of dwellinghouse and engineering operations to create off road parking.		
ADDRESS Mount Lodge Church Lane Bearsted Maidstone Kent ME14 4EF		
RECOMMENDATION - APPROVE		
SUMMARY OF REASONS FOR RECOMMENDATION The details are considered to comply with the policies of the Development Plan, where relevant, and the National Planning Policy Framework, and there are no overriding material considerations to indicate a refusal of planning consent.		
REASON FOR REFERRAL TO COMMITTEE - Bearsted Parish Council wish to see application refused and reported to Planning Committee		
WARD Bearsted	PARISH COUNCIL Bearsted	APPLICANT Mrs Diana Bishop
DECISION DUE DATE 23/06/17	PUBLICITY EXPIRY DATE 26/05/17	OFFICER SITE VISIT DATE 17/05/17
RELEVANT PLANNING HISTORY:		

- 16/502127 – Single storey side extension - Approved
- MA/14/0094 - Erection of house and engineering operations to create off road parking (replacement of expired consent MA/10/0854) - Approved
- MA/10/0854 – Erection of house and engineering operations to create off road car parking – Approved

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 'Mount Lodge' is a detached property that fronts onto Church Lane, with its existing garage sitting at a lower level to the main house. The surrounding area is predominantly residential in character, with properties of differing scale, design and age; and for the purposes of the Local Plan, the site is within the defined urban area. To the immediate northeast and northwest is housing that has been approved and constructed within the last 10 years.

2.0 PROPOSAL

- 2.01 The proposal is for the erection of a detached (4-bed) house, to be sited on the north-eastern side of 'Mount Lodge', and for a pitch roof to the garage and additional parking area for 'Mount Lodge'.
- 2.02 The same proposal was originally approved under MA/10/0854 (on 10th December 2010) and then renewed under MA/14/0094 (on 14th April 2014). The approval granted under MA/14/0094 expired in April this year.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Draft Maidstone Local Plan (2011-2031): SP1, DM1, DM10, DM27

4.0 LOCAL REPRESENTATIONS

4.01 Local Residents: 3 representations received from local residents raising the following issues:

- Loss of light/overshadowing
- Loss of privacy
- Visual impact
- Surface water drainage
- Out of date plans submitted/incorrect details submitted
- Highway safety/parking provision

5.0 CONSULTATIONS

5.01 Councillor Springett: Raises objection and comments are summarised as follows;

"Proposed dwelling will be over-dominant to adjacent property at 1 Little Orchard.

It will cause loss of light to 2 principle rooms at 1 Little Orchard that have windows looking towards the proposed building; and will cause loss of privacy to their private patio area.

Design of proposal is very poor when compared to the existing street scene and will create a cramped form of development which is out of character with the rest of the lane, which lies between two Conservation areas.

It will also introduce row of parked vehicles which is not seen elsewhere in Church Lane.

Vehicles will need to manoeuvre on blind bend in order to park on proposed parking area.

Potential loss of privacy to rear gardens of 3 properties in Nethermount to north of site

Whilst I appreciate that permission was previously granted in 2010, and renewed in 2014, there are changes that need to be taken into consideration. In 2010, there was a significant distance between the proposed dwelling and the next nearest property to the north east. Whilst I appreciate that 1 Little Orchard had been constructed by the time permission was renewed in 2014, there was an error in the officer report that failed to acknowledge the close proximity of 1 Little Orchard, and it is not clear if a site visit was undertaken at the time of renewal. Therefore, that decision could have been made on incorrect information and should be disregarded when making your decision.

Loss of some of terraced garden to Mount Lodge is disappointing and in conjunction with proposed 4 parking spaces, introduces more urban appearance to otherwise semi-rural lane in a sensitive location.

Development will contravene parts i), ii) and iii) of emerging Policy DM10 as part of site is residential garden land. As Maidstone Borough now has well in excess of a five year land supply, the harm caused by this development will not outweigh the benefit."

5.02 Bearsted Parish Council: Wishes to see the application refused and requests Planning Committee consideration;

"The Planning Committee wish to raise objection for the following reasons:

- 1. Restriction of light to neighbouring houses;*
- 2. Overlooking windows to adjacent property and gardens;*
- 3. The building style is oppressive with an overbearing design;*
- 4. Access to building is on dangerous corner with little visibility. Sight lines for parking at Mount Lodge are dangerous as parking will be cut into a bank and therefore drivers will not be able to see when exiting parking area for new property.*

Committee wish to point out that the ordinance survey map supplied with application is considerably out of date and therefore disingenuous as it does not show current density of surrounding houses."

5.03 Environmental Protection Team: Raise no objection.

5.04 **KCC Highways:** Raise no objection.

6.0 APPRAISAL

- 6.01 The proposal is the same scheme as approved under MA/10/0854 and MA/14/0094, with the latter application only expiring in April this year.
- 6.02 The neighbouring development of 'Little Orchard' was first approved in August 2009, under MA/09/0760, before the new house was approved at 'Mount Lodge'; and the impact upon the amenity of the future (now existing) residents of this cul-de-sac development were fully considered under MA/10/0854 and MA/14/0094 and this relationship was not 'overlooked' as has been suggested. Under both previous applications, no objection was raised in terms of the impact upon neighbouring residential amenity. I concur with those assessments in that the side windows on '1 Little Orchard' are small secondary windows on the ground floor and serve bathrooms on the first floor, and so any impact here would not be objectionable. Nor would the new dwelling overlook the garden/patio area immediately to the rear of this property as its rear building line/windows would be parallel. Being parallel, there would not be any unacceptable overbearing or overshadowing impact. The new dwelling would also be a sufficient distance from '9 Nethermount' to the northwest so as not to overlook (approximately 14m from the boundary).
- 6.03 No objection was raised to the development in terms of its visual impact and in terms of highway safety under both MA/10/0854 and MA/14/0094. Again, it is considered that the proposals are still visually acceptable and that the density is in keeping with the more recent developments to the northwest and northeast. KCC Highways raise no objections.
- 6.04 Under the last renewal (MA/14/0094), the proposal was considered against the NPPF and saved policies ENV6 and T13 of the 2000 Local Plan. This remains as relevant policy/guidance and the emerging policies of the submitted version of the Local Plan do not significantly change the approach of recommending approval of this proposal. Policy DM10 allows for the development of garden land subject to there being no visual harm; no harm to amenity; and suitable access. For the above reasons, the proposals comply with this policy.
- 6.05 The local planning authority has twice previously approved the same scheme, with the most recent permission expiring only in April 2017; and there are considered to be no new material planning issues that would warrant refusal.

Other Matters

- 6.06 The Environmental Protection Team raises no objection in terms of noise, air quality and land contamination, and so no objection is raised in these respects. Given the relatively modest scale and location of the proposal and the previous planning history, no objection is raised in terms of flood risk and surface water drainage.
- 6.07 There are some inconsistencies within the submitted details of this application, however, the applicant has clarified that the windows would be timber and there would be a slope up the new house (not steps as shown on the plan). Whilst the site location plan is not up to date, I have visited the site, have used up to date maps, and have therefore assessed the application with regard to the current situation on the ground. The Code for Sustainable Homes is no longer relevant within planning considerations

and the previous condition for this will be removed and replaced with a request for renewable energies to be incorporated into the scheme.

7.0 CONCLUSION

- 7.01 It is considered that the proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. I therefore recommend approval of the application on this basis.

8.0 RECOMMENDATION - GRANT planning permission subject to 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 shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the building, including those of the roof, elevations, hard surfaces and retaining walls, hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

- (3) The approved details of the parking 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) 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 is likely to lead to parking inconvenient to other road users and in the interests of road safety.

- (4) The development hereby approved shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter;

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

- (5) Prior to commencement of works/development above DPC level, written details of a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority which shall include a long term management plan. The scheme shall be designed using the principles established in the Councils adopted Landscape Character Assessment and Landscape Guidelines;

Reason: 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 appearance to the development.

- (7) Prior to commencement of works/development above DPC level, written details of the provision of swift and/or bat/bird bricks/boxes within the building shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the first occupation of the property and maintained thereafter unless otherwise agreed in writing by the local planning authority;

Reason: In the interests of biodiversity enhancement.

- (8) The development shall not commence above slab level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter;

Reason: To ensure an energy efficient form of development. Details are required prior to commencements as these methods may impact or influence the overall appearance of development.

- (9) 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 sooner, and any trees or plants which within a period of five years from the implementation 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 authority gives written consent to any variation.

Reason: In order to ensure a satisfactory appearance to the development.

- (10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extensions shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the surrounding area and in the interests of residential amenity.

- (11) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing number 2144 and unnumbered proposed elevations and floor plans received 20th April 2017;

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

Case Officer: Kathryn Altieri

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

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 27th July 2017**

APPEAL DECISIONS:

1. 16/508368

Prior Notification for the change of use of B1 Offices to C3 residential divided into three dwellings

For its prior approval regarding:

- Transport and Highways impacts of the development
- Contamination risks on the site
- Flooding risks on the site
- Impact of noise from commercial premises on the intended occupiers of the development

APPEAL: Dismissed

The Oast House, Church Farm, Collier Street, Tonbridge, Kent, TN12 9RT

(Delegated)

2. 17/500111

Erection of a front porch and removal of existing rear conservatory to be replaced with rear single storey extension. Loft conversion with alterations to roof, addition of 2no. windows and 1 no. roof light.

APPEAL: Allowed

Windy Post, Church Street, Teston, Kent, ME18 5AG

(Delegated)

3. 16/507761

Outline planning application (with access and layout for approval) for nine detached dwellings.

APPEAL: Dismissed

Appleacres, Maidstone Road, Sutton Valence, Kent, ME17 3LR

(Delegated)

4. 16/507448

Listed Building Consent - Changing the front door (Works Completed)

APPEAL: Dismissed

63 Sandling Road, Maidstone, Kent, ME14 2RJ

(Delegated)

5. 16/504122

Erection of a 2 storey five bedroom house with associated garages, garden equipment store, parking and turning area and access driveway.

APPEAL: Dismissed

Troon House, Sutton Road, Langley, Kent, ME17 3LZ

(Delegated)

6. 15/502424

Retrospective planning for relocation of window to first floor front elevation, infill of covered area to rear and the installation of three sets of sliding/folding doors, removal of existing door blank panel at first floor front elevation, the addition of window at second floor level on rear elevation, loft conversion with addition of six rooflights.

APPEAL: Allowed

Sibery Oast, Blue House, Battle Lane, Marden, Kent, TN12 9AN

(Delegated)
