

# PLANNING COMMITTEE MEETING

Date: Thursday 6 September 2018  
Time: 6.00 p.m.  
Venue: Town Hall, High Street, Maidstone

## Membership:

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

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

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<b><u>AGENDA</u></b>	<b><u>Page No.</u></b>
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 Items withdrawn from the Agenda	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 - 13 September 2018	
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting	
7. Disclosures by Members and Officers	
8. Disclosures of lobbying	
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
10. Minutes of the meeting held on 16 August 2018 adjourned to 23 August 2018 (Minutes of the adjourned meeting to follow)	1 - 12
11. Presentation of Petitions (if any)	
12. Deferred Item	13
13. 17/500357 - Land North Of Old Ashford Road, Lenham, Kent	14 - 35

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**Issued on Wednesday 29 August 2018**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

14. 18/500160 - 3 Tonbridge Road, Maidstone, Kent	36 - 75
15. 18/500346 - Lordswood Urban Extension, Gleamingwood Drive, Lordswood, Kent	76 - 108
16. 18/501181 - Land South Of Redwall Lane, Linton, Kent	109 - 143
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19. 18/502732 - 1 Marsham Street, Maidstone, Kent	188 - 208
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### **PLEASE NOTE**

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

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

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

### **PUBLIC SPEAKING AND ALTERNATIVE FORMATS**

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

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## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 16 AUGUST 2018** **ADJOURNED TO 23 AUGUST 2018**

**Present:** Councillor English (Chairman) and  
**16 August** Councillors Adkinson, Bartlett, Boughton, Cox,  
**2018** Harwood, Kimmance, Munford, Parfitt-Reid, Round,  
Spooner and Wilby

**Also** Councillors Brice, Cuming and Perry  
**Present:**

83. **APOLOGIES FOR ABSENCE**

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

84. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor Cox was substituting for Councillor Vizzard.

85. **NOTIFICATION OF VISITING MEMBERS**

Councillor Cuming indicated his wish to speak on the reports of the Head of Planning and Development relating to applications 18/502860 (Barty Farm, Roundwell, Bearsted, Maidstone, Kent) and 18/502850 (Barty House Nursing Home and Land at Barty Farm, Roundwell, Bearsted, Maidstone, Kent).

Councillor Perry indicated his wish to speak on the report of the Head of Planning and Development relating to application 18/501158 (Knoxbridge Farm, Cranbrook 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 18/501158 (Knoxbridge Farm, Cranbrook Road, Staplehurst, Kent), but would be late in arriving at the meeting.

86. **ITEM WITHDRAWN FROM THE AGENDA**

**18/500346 - ERECTION OF 115 DWELLINGS TOGETHER WITH**  
**ASSOCIATED INFRASTRUCTURE, OPEN SPACE, LANDSCAPING AND**  
**ACCESS WORKS - LORDSWOOD URBAN EXTENSION, GLEAMINGWOOD**  
**DRIVE, LORDSWOOD, KENT**

The Chairman sought the agreement of the Committee to the withdrawal of the report of the Head of Planning and Development relating to

application 18/500346 from the agenda. The Major Projects Manager explained that the Officers wished to assess the implications of the revised National Planning Policy Framework guidance in relation to ancient woodland.

A Member emphasised the need to report this application to the next meeting of the Committee to avoid the risk of an appeal against non-determination.

**RESOLVED:** That agreement be given to the withdrawal of the report of the Head of Planning and Development relating to application 18/500346 from the agenda to enable the Officers to assess the implications of the revised National Planning Policy Framework guidance in relation to ancient woodland.

87. 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 because they contained further information relating to matters to be considered at the meeting.

88. DISCLOSURES BY MEMBERS AND OFFICERS

The Chairman (Councillor English) said that, with regard to the report of the Head of Planning and Development relating to application 18/502144 (Plot 9, Eclipse Park, Sittingbourne Road, Maidstone, Kent) he was a Director of One Maidstone. However, he had not participated in the Company's discussions on the proposed development, he had not pre-determined the application, and intended to speak and vote when it was considered.

Councillor Boughton said that, with regard to the report of the Head of Planning and Development relating to application 18/502748 (15 Monkdown, Downswood, Maidstone, Kent), his mother owned a property, where he stayed, opposite the proposal site. He would make representations, and then leave the room when the application was discussed.

Councillor Harwood stated that, with regard to the reports of the Head of Planning and Development relating to applications 18/502144 (Plot 9, Eclipse Park, Sittingbourne Road, Maidstone, Kent) and 18/500346 (Lordswood Urban Extension, Gleamingwood Drive, Lordswood, Kent), he was a Member of Boxley Parish Council, but he had not participated in the Parish Council's discussions on the applications, and intended to speak and vote when they were considered.

Councillor Munford stated that, with regard to the report of the Head of Planning and Development relating to application 18/502683 (Lyewood Farm, Green Lane, Boughton Monchelsea, Maidstone, Kent), he was the Chairman of Boughton Monchelsea Parish Council, but he had not participated in the Parish Council's Planning Committee's discussions

regarding the proposed development. The Parish Council would not receive any contributions in relation to the proposed development. Further, he was no longer a Trustee of the Boughton Monchelsea Amenity Trust to which land would be transferred as part of the application for the benefit of the community. In the circumstances, he intended to speak and vote when the application was discussed.

Councillor Wilby disclosed an Other Significant Interest in the report of the Head of Planning and Development relating to application 17/503237 (J B Garage Doors, Straw Mill Hill, Tovil, Maidstone, Kent) by virtue of being a Trustee of the Hayle Place Nature Reserve which would benefit from S106 funding if the application was approved.

89. EXEMPT ITEMS

**RESOLVED:** That the report of the Head of Planning and Development relating to the Enforcement Tracker be taken in private as proposed.

90. MINUTES OF THE MEETING HELD ON 26 JULY 2018

**RESOLVED:** That the Minutes of the meeting held on 26 July 2018 be approved as a correct record and signed.

91. PRESENTATION OF PETITIONS

There were no petitions.

92. REFERENCE TO THE DEMOCRACY COMMITTEE - CONSULTATION WITH THE REGULATORY COMMITTEES ON THE USE OF BUDGETARY UNDERSPENDS

It was proposed, seconded and:

**RESOLVED:** That the Democracy Committee be asked to consider the issue of the Regulatory Committees being consulted on the use of budgetary underspends.

Voting:        12 – For        0 – Against        0 – Abstentions

93. 18/502144 - ERECTION OF A CLASS A1 RETAIL STORE AND ASSOCIATED SERVICING, PARKING, LANDSCAPING AND ACCESS ARRANGEMENTS - PLOT 9, ECLIPSE PARK, SITTINGBOURNE ROAD, MAIDSTONE, KENT

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

In presenting his report, the Principal Planning Officer advised the Committee that:

- To clarify the position regarding the sequential approach and Maidstone East, the Director of Regeneration and Place had confirmed that it would be 3/5 years before a developer could take forward a

scheme. With the planning process on top of this, the likelihood of a site being available for a retailer was at least 5/7 years away which did not fit with the needs of the applicant.

- In paragraph 7.04 of the report, reference was made to paragraph 24 of the National Planning Policy Framework (NPPF). This should refer to paragraph 86 of the amended NPPF.
- He was aware that a lobbying letter had been sent to Members that afternoon expressing concern about the recommendation set out in the report. The majority of the issues had been raised already and addressed in the report, but to clarify, the application was not contrary to Local Policy. Whilst the Local Plan did seek to direct such retail uses to the town centre, Policy DM16 allowed for out of town proposals where certain criteria are met, namely that there are no other sites available or suitable and the impact is acceptable, which was considered to be the case in this instance.
- Secondly, it was stated that the recent increase in floor space at the Next store had not been taken into account. This additional 402m2 of floorspace was considered to have an unperceivable impact and so did not affect the recommendation.

The Head of Planning and Development advised the Committee that Maidstone East was the Council's primary retail allocation and re-affirmed the position that the Director of Regeneration and Place had confirmed that it would be 3/5 years before a developer could take forward a scheme and so the site was not currently available.

Mr Davy of One Maidstone (Town Centre Management body) and Capital and Regional (Operator of The Mall Shopping Centre), an objector, and Mr Berendji, for the applicant, addressed the meeting.

**RESOLVED:** That subject to:

- (a) The prior completion of a legal agreement in such terms as the Head of Legal Partnership may advise to provide for the Heads of Terms set out in the report with a preference for the proposed contribution for public art provision in the town centre to be spent on the public art element of the Maidstone East development if this scheme comes forward; the inclusion of events held within the town centre within the Town Centre Projects; and flexibility to allow the £300k to go towards any new Town Centre Projects which arise to help mitigate the impact of the development on the town centre; AND
- (b) The conditions set out in the report,

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle, amend as necessary and add as necessary heads of terms and conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting:        12 – For        0 – Against        0 – Abstentions

94.    18/502683 - DEMOLITION OF THE EXISTING CHICKEN SHEDS AND ASSOCIATED STRUCTURES, THE ERECTION OF 85 RESIDENTIAL DWELLINGS, TOGETHER WITH ASSOCIATED ACCESS, PARKING, LANDSCAPING AND DRAINAGE - LYEWOOD FARM, GREEN LANE, BOUGHTON MONCHELSEA, 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.

In presenting her report the Principal Planning Officer advised the Committee that:

- Delegated powers would be needed to refine conditions and update the plans list condition.
- KCC Highways had submitted a further representation confirming that the recommendations of the Road Safety Audit regarding the Green Lane site access had been met. The 30 mph speed limit on Green Lane would be extended further to the south east by way of a Traffic Regulation Order. The two options for the improvements to the footway at Green Lane would need a Road Safety Audit and more detailed investigation regarding land ownership. Both resulted in a 1.2 metre wide footway which was the minimum acceptable to improve facilities for pedestrians. The works would be secured through a S278 agreement with the County Council.
- The applicant had confirmed that further discussions with the bus operator had identified the scope to enhance the frequency of buses on the no.59 route during the period 10.00 a.m. to 4.00 p.m. This would enhance the accessibility of the site by providing better connectivity to/from Maidstone town centre. A Head of Terms would need to be included in the proposed S106 legal agreement to secure this.
- A renewables condition was proposed and an informative to cover decentralised renewable energy such as ground source heating, free standing photovoltaic panels or photovoltaic panels on garages.
- The developer had agreed to make a significant contribution to be used towards making medical facilities more accessible for future residents. This contribution would be comparable to an in lieu payment towards improvements to Linton Crossroads which were already fully funded. It would be paid to the Borough Council, not the Parish Council as stated in the urgent update report, and would be greater than the sum mentioned in the urgent update report.

- With regard to the contribution sought by Kent County Council for secondary education, there was capacity at the New Line Learning Academy.
- Representations had been received from the owners of Lyewood Farm Oast, the property to the west of the proposed development, seeking the relocation of Public Rights of Way and the provision of walling or fencing and gating to protect their privacy. The developer would deal with the relocation of the Public Rights of Way under a separate process direct with Kent County Council.

Dr Macrae Tod, an objector, Councillor Smith of Boughton Monchelsea Parish Council, and Mr Kelly, for the applicant addressed the meeting.

**RESOLVED:** That subject to:

- (a) The prior completion of a S106 legal agreement in such terms as the Head of Legal Partnership may advise to provide for:
  - The Heads of Terms set out in the report, as amended by the urgent update report and by the Principal Planning Officer at the meeting, with priority being given to Boughton Monchelsea Primary School as the recipient of the contribution for primary education and then other primary schools on a geographical basis subject to compliance with the CIL Regulations; and
  - The additional Head of Terms referred to by the Principal Planning Officer at the meeting relating to enhancements to the frequency of bus services, but with priority being given, having regard to the overlap, to making the nearest medical facilities in Coxheath as accessible as possible for people living in the area; AND
- (b) The conditions and informatives set out in the report, as amended by the urgent update report and by the Principal Planning Officer at the meeting; the additional informative set out in the urgent update report, and the additional condition and informative relating to renewables proposed by the Principal Planning Officer at the meeting with the addition of the following:
  - The inclusion of a permanently wet pond in whatever sustainable urban drainage method is adopted;
  - Enhanced landscaping around Lyewood Farm Oast in the interests of residential amenity;
  - A mechanism (condition or Head of Terms) to secure the dedication of the proposed footpath/cycleway to pass along Green Lane under S25 of the Highways Act 1980;



- A mechanism, if feasible, to ensure the dedication of the driveway to Lyewood Farm Oast as public highway land under S38 of the Highways Act 1980;
- The amendment of proposed condition 15 to specify the off-site highway improvements to be carried out under S278 of the Highways Act 1980; and
- An informative relating to the establishment of a development delivery group comprising Officers, the developer, the Chairman and Vice-Chairman of the Planning Committee, Councillor Harwood, the local Ward Member and representatives of the Parish Council to oversee the implementation of this development;

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle all conditions and the Heads of Terms of the S106 legal agreement in full in line with the matters resolved by the Planning Committee.

Voting:        12 – For        0 – Against        0 – Abstentions

95. 18/502860 - VARIATION OF CONDITIONS 5 (SURFACE MATERIALS), 7 (LANDSCAPING), 19 (FOUL AND SURFACE WATER DRAINAGE) AND 31 (APPROVED PLANS) OF APPLICATION 14/506738/OUT (OUTLINE APPLICATION FOR THE ERECTION OF 100 DWELLINGS) TO ALLOW FOR FLEXIBILITY ON OPEN SPACE AND LANDSCAPE DETAILS, INCLUDE ADDITIONAL ALTERATIONS TO THE LISTED WALL AT BARTY HOUSE, AND ALTER THE TIME FOR THE DELIVERY OF APPROVED SURFACE MATERIALS AND DRAINAGE - BARTY FARM, ROUNDWELL, BEARSTED, MAIDSTONE, KENT

All Members except Councillor Kimmance stated that they had been lobbied.

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

The Principal Planning Officer advised the Committee that:

- Paragraph 7.10 of the report should refer to policy DM4 of the Maidstone Borough Local Plan 2017, not policy DM14; and
- A representation had been received from the Bearsted and Thurnham Society, but it did not raise any issues that had not been considered already.

Mr Rowe, an objector, Ms Allwood, for the applicant, and Councillor Cuming (Visiting Member) addressed the meeting. In making her representations, Ms Allwood also made reference to associated application 18/502850 for listed building consent for alterations to the boundary wall at the Barty House Nursing Home.

**RESOLVED:** That subject to:

- (a) The prior completion of a deed of variation to the legal agreement attached to permission 14/506738/OUT to provide for the Heads of Terms set out in the report except that the monies proposed to be allocated for play, amenity and wildlife improvements at the Bearsted Woodland Trust site off Ashford Road should be used for biodiversity improvements only; AND
- (b) The conditions set out in the report with the amendment of condition 7 (Landscaping) to require the provision of structural landscaping around the boundaries of the entire site to give enclosure; the amendment of condition 25 (Biodiversity Mitigation) to include a wet pond feature within one of the landscape buffers, possibly in the north-east corner of the site; and an informative advising the applicant that the landscape buffer to the south of the site should have a minimum depth of 5-10 metres,

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle, add to or amend any necessary Heads of Terms of the deed of variation to the legal agreement attached to permission 14/506738/OUT and conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting:        11 – For        1 – Against        0 – Abstentions

96. 18/502850 - LISTED BUILDING CONSENT FOR ALTERATIONS TO BOUNDARY WALL, RELOCATION OF GAS CABINET AND PROVISION OF LANDSCAPING TO FACILITATE IMPROVED ACCESS - BARTY HOUSE NURSING HOME & LAND AT BARTY FARM, ROUNDWELL, BEARSTED, MAIDSTONE, KENT

All Members except Councillors Boughton and Parfitt-Reid stated that they had been lobbied.

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

The Principal Planning Officer advised the Committee that paragraphs 7.02 and 7.04 of the report should refer to policy DM4 of the Maidstone Borough Local Plan 2017, not policy DM14.

Mr Rowe, an objector, and Councillor Cuming (Visiting Member) addressed the meeting. Ms Allwood, agent for the applicant, had already addressed the meeting on this and associated application 18/502860/OUT.

**RESOLVED:** That Listed Building Consent be granted subject to the conditions set out in the report.

Voting:        11 – For        0 – Against        1 – Abstention

**FURTHER RESOLVED:** That the Joint Transportation Board be requested to investigate concerns which have been raised about highway and pedestrian safety in Roundwell, Bearsted; specifically, the need for a reduction in traffic speeds to 30 mph, the limited forward visibility of vehicles travelling along the road and the danger to pedestrians having to cross Roundwell to the southern side as there is no footpath on the northern side.

Voting:            12 – For            0 – Against            0 – Abstentions

97.    18/501158 - PROVISION OF NEW FARM ACCESS TO KNOXBRIDGE FARM FROM THE A229, INCLUDING LANDSCAPING, CROSSING OVER STREAM AND BARRIER (RE-SUBMISSION OF 16/508630/FULL) - KNOXBRIDGE FARM, CRANBROOK ROAD, STAPLEHURST, TONBRIDGE, KENT

All Members except Councillors Cox and Parfitt-Reid stated that they had been lobbied.

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

The Major Projects Manager drew the Committee's attention to a further representation which had been received from a local resident in support of the new access road as it would result in an improvement in highway safety.

Councillor Sharp of Staplehurst Parish Council, Mr Watts, for the applicant, and Councillors Brice and Perry (Visiting Members) addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to grant permission subject to conditions and informatives to be finalised by the Head of Planning and Development acting under delegated powers. In making this decision, Members felt that the proposed development would support the rural economy pursuant to policy DM37 of the Maidstone Borough Local Plan 2017 and improve highway safety, and that these benefits would outweigh the identified harm to the character and appearance of the countryside in this locality which would be mitigated significantly by the proposed landscape and biodiversity enhancements.

**RESOLVED:** That permission be granted subject to conditions and informatives to be agreed and finalised by the Head of Planning and Development acting under delegated powers; the conditions/informatives to include but not be limited to:

Conditions

The requirement for a Landscape and Ecological Management Plan; the tree and hedgerow planting to incorporate native species;

The requirement for any trees or plants which, within a period of 10 years from the completion of the development, die, are removed or become seriously damaged or diseased, to be replaced in the next planting season with others of similar size and species;

The requirement for a detailed ecological mitigation strategy; and

The requirement for visibility splays to be provided prior to commencement of use and maintained thereafter.

#### Informatives

An informative advising the applicant that the woodland shaw planting should include native species such as wild service, hazel, lime, oak, hornbeam and hawthorn and that chestnut fencing should be used to protect the areas of new planting.

An informative advising the applicant that the Council may consider serving a Tree Preservation Order to protect the woodland shaws after the 10 year tree or plant replacement period expires.

Voting:        12 – For        0 – Against        0 – Abstentions

98.    18/502327 - DEMOLITION OF EXISTING CAFE BUILDING AND ERECTION OF NEW MOTE PARK CENTRE WITH ASSOCIATED TERRACES, BIN STORAGE AREA AND CAR PARKING - MOTE PARK MAIDSTONE, WILLOW WAY, MAIDSTONE, KENT

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

Mr Tricker addressed the meeting on behalf of the applicant.

**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, with the amendment of condition 17 to provide for two additional bat boxes within the proposed development and an informative suggesting that the applicant look at the potential for some outside seating shaded by trees, possibly in the form of an orchard with apple trees native to Kent (the Head of Planning and Development be given delegated powers to finalise the precise wording of the amended condition and the additional informative and to amend any other conditions as a consequence).

Voting:        10 – For        2 – Against        0 – Abstentions

99.    18/502656 - ERECTION OF STORAGE, MESS AND WELFARE FACILITIES FOR PARK MAINTENANCE TEAM - MOTE PARK MAIDSTONE, WILLOW WAY, MAIDSTONE, KENT

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

Mr Tricker addressed the meeting on behalf of the applicant.

**RESOLVED:**

1. That permission be granted subject to the conditions set out in the report with:
  - The amendment of the date referred to in condition 7 to read 04/07/18;
  - The amendment of condition 5 to require the submission of a landscaping scheme comprising at least two trees to replace the one which will be lost to the development and native shrub planting on the bund to break up and soften the outline of the development;
  - An additional condition (Renewables) requiring the incorporation of photovoltaic panels and rainwater harvesting and grey water recycling measures within the development; and
  - An additional condition (Biodiversity Enhancements) requiring the incorporation of bird or bat boxes within the eaves of the building.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended and additional conditions and to amend any other conditions as a consequence.

Voting:        7 – For        2 – Against        3 – Abstentions

**FURTHER RESOLVED:** That the Heritage Culture and Leisure Committee be asked to consider the provision of a footway from the Leisure Centre car park to the sports pitches to the rear of the Centre.

100. 18/500346 - ERECTION OF 115 DWELLINGS TOGETHER WITH ASSOCIATED INFRASTRUCTURE, OPEN SPACE, LANDSCAPING AND ACCESS WORKS - LORDSWOOD URBAN EXTENSION, GLEAMINGWOOD DRIVE, LORDSWOOD, KENT

See Minute 86 above.

101. ADJOURNMENT OF MEETING

At 10.15 p.m., following consideration of the report of the Head of Planning and Development relating to application 18/502656, the Committee:

**RESOLVED:** That the meeting be adjourned until 6.00 p.m. on Thursday 23 August 2018 when the remaining items on the agenda will be discussed.

102. DURATION OF MEETING

6.00 p.m. to 10.15 p.m.

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

**6 SEPTEMBER 2018**

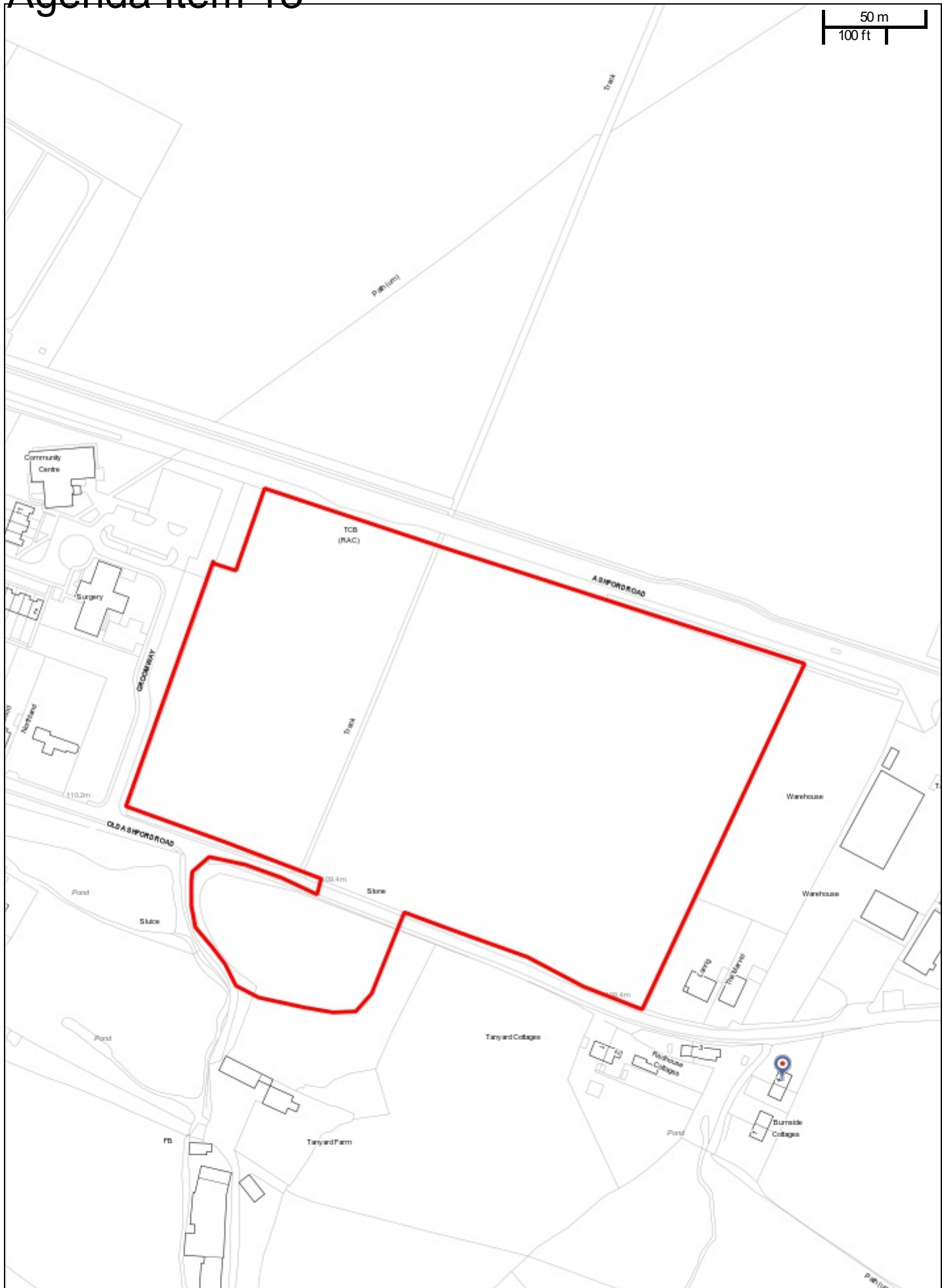
#### **REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT**

##### **DEFERRED ITEM**

The following application stands deferred from a previous meeting of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

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

# Agenda Item 13



17/500357/HYBRID Land North of Old Ashford Road

Scale: 1:2500

Printed on: 29/8/2018 at 11:35 AM by SummerF



<b>REFERENCE NO - 17/500357/HYBRID</b>		
<b>APPLICATION PROPOSAL</b> Full application for the erection of 48 dwellings and associated infrastructure, landscaping and open space; and outline application for the erection of 102 dwellings (access, layout and landscaping sought)		
<b>ADDRESS</b> Land North Of Old Ashford Road, Lenham		
<b>SUMMARY OF REASONS FOR RECOMMENDATION – (APPROVE SUBJECT TO LEGAL AGREEMENT &amp; CONDITIONS)</b> <ul style="list-style-type: none"> <li>• The site is allocated in the Local Plan for approximately 145 dwellings under policy H1(41).</li> <li>• The proposals comply with the criterion under policy H1(41), and other relevant policies within the Local Plan.</li> <li>• There is no unacceptable impact from 150 dwellings (being 5 more dwellings than the approximate yield).</li> <li>• The development is considered to be of a high quality in terms of its design, layout, and materials.</li> <li>• Permission is therefore recommended.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> <ol style="list-style-type: none"> <li>1. Lenham Parish Council raises objections for the reasons outlined below and request committee consideration.</li> <li>2. Councillors J &amp; T Sams have requested the application be reported to Planning Committee for the following (summarised) reasons: <ul style="list-style-type: none"> <li>• Over intensification and lack of open space.</li> <li>• Impact upon the North Downs, detrimental impact upon the view from the historic Cross and insufficient screening and protection of the view.</li> <li>• Inadequate provision within open space for children’s play area.</li> <li>• Access of development onto the Old Ashford Road which will have a detrimental effect on users in and around Lenham square. The access should be onto the A20 where proper mitigation could be achieved.</li> <li>• The development is incongruous and of poor design with insufficient consideration taken upon neighbouring residents and those who will eventually live there.</li> <li>• Inadequate detail regarding potential flooding highlighted by local residents.</li> </ul> </li> </ol>		
<b>WARD</b> Harrietsham & Lenham	<b>PARISH COUNCIL</b> Lenham	<b>APPLICANT</b> Broad Oak Motor Group Limited <b>AGENT</b> Lee Evans Planning
<b>DECISION DUE DATE</b>		<b>PUBLICITY EXPIRY DATE</b>

28/09/18		22/08/18	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
16/504855	EIA Screening Opinion for the erection of 155no. Dwellings with associated garages, parking, access, open space and landscaping at land north of Old Ashford Road, Lenham	EIA Not Required	08/08/16

## **1.0 DESCRIPTION OF SITE**

1.01 The site is on the east side of Lenham and is a rectangular parcel of open arable land between the A20 to the north, and Old Ashford Road to the south, with an area of some 5.2ha. To the west are houses, a surgery and community centre, and to the east are two houses and commercial buildings beyond. Public right of way (PROW) KH433, which is a restricted byway, runs through the centre of the site from south to north. The AONB is immediately north of the A20 and rises steeply northwards towards the World War One Memorial Cross which was recently made a Grade II listed building. The site also includes land on the south side of Old Ashford Road where an attenuation pond for surface water drainage is proposed, and Tanyard Farm a Grade II listed house is just to the south of this land. The site is allocated in the Local Plan under policy H1(41) for approximately 145 houses subject to a number of criterion.

## **2.0 PROPOSAL**

2.01 The application seeks permission for 150 houses in two parts:

1. Firstly, detailed permission is sought for the erection of 48 houses within the southwest corner of the site and fronting Old Ashford Road. This would include an area of open space within the centre of site along the line of the PROW, and the main access from Old Ashford Road.
2. Secondly, outline permission is sought for the remainder of the site for the erection of 102 houses which would use the same access off Old Ashford Road. The layout and landscaping for this part is being considered at this stage but the appearance and height of the houses are not.

2.02 This basically means that the layout and landscaping for the whole site is being considered now but design and appearance is only being assessed for the 48 houses. The design and appearance of the remaining 102 houses would be assessed at a later date under reserved matters.

2.03 The detailed element has mainly detached two storey houses fronting Old Ashford Road with a number of access points. Within the southwest corner would be mainly terrace properties and apartments blocks. Dwellings would include 2, 3, and 4 bed properties with 40% affordable housing. A small children's play area is proposed towards the north end of the site. The

outline element features a mix but with mainly terrace properties and some detached houses. It is anticipated that this will provide a mix of 1, 2, 3, and 4 bed properties and 40% affordable housing would be provided. The layout and design will be discussed in more detail in the assessment below.

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

- Maidstone Borough Local Plan (2011-2031): SS1, SP8, SP18, SP19, SP20, SP23, H1, ID1, H1(41), DM1, DM2, DM3, DM4, DM6, DM8, DM12, DM19, DM20, DM21, DM23
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Planning Guidance (2018)
- MBC Public Art Guidance (2018)
- Kent Downs AONB Management Plan (2014-2019)
- Draft Lenham Neighbourhood Plan

### **4.0 LOCAL REPRESENTATIONS**

4.01 **Local Residents:** 34 representations received raising the following (summarised) points:

- Harm to the landscape and AONB.
- Design is not in keeping.
- Loss of view of the cross.
- Access should be onto the A20.
- Impact on local infrastructure.
- Traffic impact.
- Highway safety.
- Lack of parking.
- No play area.
- Flood risk from surface and groundwater.
- Drainage problems due to springs.
- Loss of farmland.
- Foul drainage inadequate.
- Impact on wildlife.
- Too many houses.

4.02 **Lenham Neighbourhood Plan Group:** Raise the following (summarised) points:

- Lack of clear vista to cross.
- Lack of landscaping along south boundary.
- Question amount of open space and off-site contribution and whether off-site open space should/can be provided.
- More houses than policy suggests.
- Parking should be provided for the community centre.
- Drainage problems.
- Access should be off A20.

4.03 **CPRE Kent:** Raise the following (summarised) points:

- Lack of landscaping.
- Loss of views to the cross.
- Risk of Groundwater pollution
- Soakaways contravene Building Regulations and interfere with the PROW
- Lighting impact on bats
- Lack of children's and young people's play space.

4.04 **Kent Downs AONB Unit:** Raises the following (summarised) issues:

- Highly visible from the AONB.
- Detracts from views towards the AONB.
- Welcome the incorporation of mature 4 to 6 metre high trees along the site's frontage with the A20, substantial tree planting throughout the site, including a wide band running on an east to west axis through the centre of the site.
- Structural landscaping must be secured throughout the entire site, not just the area subject to the full application and provided in areas outside of private ownership.
- Height should be restricted to two stories.
- Structural planting along the site's frontage with the A20 should be secured in advance of development taking place.
- Lighting to be carefully controlled across the site.

## **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 **Lenham Parish Council:** Raises objections and wish the application to be heard at Planning Committee for the following (summarised) reasons:

- The calculation for the open space requirement assumes that the adjacent Lenham Community Centre and car park is available as Amenity Green Space which it quite clearly is not.
- The shortfall of on-site open space should be provided within Lenham either within the site or offsite. Any offsite provision should be within distance as required by the Accessibility Standards set out in MBLP Policy DM19 (iii).
- MBLP Policy H1 (41) states that the site has the capacity to provide approximately 145 dwellings. The Parish Council believes there should be a reduction in the number of units on the site to allow for the provision of substantial areas of internal landscaping as required by MBLP Policy H1 (41) (4). The amount and type of open space currently proposed within the layout is not adequate to meet the requirements of MBLP Policy H4 (41).

- There should be a reduction in size of some of the units and some units should be pulled back from the Old Ashford Road frontage to allow for substantially enhanced new planting along the frontage as required by MBLP Policy H1 (41) (1).
- Additional planting should be provided along the frontage to the A20 Ashford Road by reducing the size of the private gardens and garage courts.
- The scheme should follow the principles for the protection of the AONB established by the Inspector in the Jones Homes appeal decision to the west of Ham Lane and south of the A20 (14/502/973/FULL, dated 29<sup>th</sup> April 2016 Condition 5).
- A destination play area for children and young people should be provided which could be realised by reducing the number of dwellings currently proposed and/or reducing the size of some dwellings.
- A larger number of smaller dwellings within the scheme would comply with the Parish Council's perception of local need within the village which is for more smaller starter homes rather than the greater number of large executive detached homes currently included.
- The current scheme is a gross overdevelopment of the site, which clearly fails to meet even the basic requirements for environmental protection of the AONB established by the Inspector at the Local Plan Examination. That requirement is reflected in established development plan policies MBLP Policies H1 (41) and DM19 which both apply to this site.
- In respect of the surface water drainage provision no attempt has yet been made to mitigate the flooding caused by the Bourne stream which when active runs down the Eastern boundary of the site. Until such times as plans agreed by KCC flooding are presented this application should not be approved.

5.02 **Natural England: No objections** and advise that national guidance is taken into account and impact upon the AONB is carefully considered.

5.03 **Environment Agency: No objections.**

5.04 **KCC Highways: No objections** subject to conditions (which pass the relevant tests) to cover extension of the 30mph limit on Old Ashford Road and provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.

5.05 **KCC PROW: No objections**

5.06 **KCC Lead Local Flood Authority: No objections** subject to conditions requiring detailed drainage calculations; securing off-site storage;

maintenance and verification of the drainage; and preventing groundwater pollution.

5.07 **KCC Ecology: No objections** subject to conditions securing the reptile mitigation measures and enhancements.

5.08 **KCC Economic Development:** Request the following contributions to mitigate the impact of the development:

- £3324.00 per applicable house and £831.00 per applicable flat towards phase 1 of Harrietsham Primary School expansion.
- £4635.22 towards installation of conversation and adult lip reading classes in the Village Hall.
- £1281.28 towards Lenham Youth service enhancement of mobile unit and equipment.
- £21,844.10 towards Lenham Library enhanced library services including additional stock.
- £9597.56 towards provision of automatic doors for disabled access to Lenham Community Centre.

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

5.10 **NHS:** Seek £142,560 towards reconfiguration, refurbishment/upgrade to the Len Valley Practice or towards provision of new premises.

5.11 **MBC Parks:** Seek £164,100 to deliver improvements to the children's play facilities, sports pitch & infrastructure at Ham Lane & William Pitt Field.

5.12 **MBC Landscape:** Raise some concerns re. proximity of parking bays to trees in the northwest corner and plot 16 near the northern boundary in terms of future pressure.

5.13 **MBC Environmental Health: No objections** and recommend conditions relating to air quality emissions reduction, and installation of electric vehicle charging points.

5.14 **Southern Water:** Advise that there is not sufficient capacity in the local network at present.

5.15 **Kent Police:** Recommend measures to minimise crime are incorporated.

5.16 **UK Power Networks:** No objections.

## **6.0 APPRAISAL**

6.01 The principle of housing development at the site is acceptable it being allocated in the Local Plan for housing under policy H1(41). The key issues are therefore whether the proposals comply with the site policy criterion

and any other relevant policies within the Local Plan. Whilst the application seeks 5 more dwellings than referred to under policy H1(41), this is an approximate and paragraph 4.189 of the Local Plan states that the dwelling yields for each site are an estimate and the actual number could be higher or lower following detailed consideration of an application. I will therefore assess the proposals with reference to matters under the site policy and any other relevant considerations. Neighbourhood Plan's are a material consideration but as Lenham's is at a very early stage (public consultation to be carried out September 2018), it does not attract sufficient weight to have any bearing on the assessment of this application.

### Design & Layout

- 6.02 As outlined above, the layout and landscaping for the whole site is being considered now but design and appearance is only being assessed for the 48 houses in the southwest corner and fronting Old Ashford Road. The layout is shaped around the access from Old Ashford Road and the large central open space which affords views to the memorial cross. The entrance road runs north and then splits to the west and east. On the western part of the site are detached houses that front Old Ashford Road and courtyard development behind with terrace apartment blocks. The eastern part has two perimeter blocks which address streets, and houses fronting the roads on the north and east boundaries of the site. Buildings face Old Ashford Road and address the access into the site and the central open space area which is appropriate. The proposed building line along Old Ashford Road generally lines up with buildings either side of the site. Good connectivity is provided to the community centre via a pedestrian link to the west and there are good links within the development itself.
- 6.03 In terms of the site policy requirements, the proposals retain and substantially enhance the existing hedging and trees along both the north and south boundaries. This is through a 5m wide landscape buffer along the majority of the northern boundary, apart from some small sections where there are parking areas. This would include a native hedgerow 4 rows wide and mix of native trees. This would add to the existing hedging and trees and fill the gaps and provide for a substantial buffer. The Parish Council consider this buffer should be larger and cite the appeal decision at Ham Lane where the Inspector required a 15m buffer. Firstly, I do not consider a 15m buffer is necessary in this case because there are existing trees and hedging over much of the north boundary (unlike Ham Lane) which would be added to. Where there is a gap new planting is proposed and there are also trees on the opposite side of the A20 (albeit they are not under the applicant's control). Secondly, Ham Lane was not a site allocated in the Local Plan and it is considered that the proposed landscaping will accord with the site policy.
- 6.04 For the south boundary much of this is open at present and the proposals are to retain the hedging where it exists and introduce a new native hedge row and trees. The number of access points along Old Ashford Road has been reduced from the original 8 to 5 and some detached garages have been removed to ensure a stronger landscape boundary here. I consider

both areas of landscaping must be outside of private gardens to ensure it is maintained as structural landscaping and a condition can ensure this. I also consider this structural landscaping should all be provided early on under phase 1 of the development, which can be secured by condition. This landscaping will serve to soften and in time to a degree screen the development and complies with criterion 1.

6.05 The restricted byway would be retained through the site with ample space either side to ensure there would be no safety issues with users and the new development (criterion 2). The layout has been designed to provide a pronounced vista which affords clear views to the memorial cross to the north in line with criterion 3. The proposals have been amended since submission to move some buildings further west and the applicant has provided plans to demonstrate a clear view which opens up as one travels northwards. This view is ensured through the provision of a substantial area of open space in the centre of the development (0.55ha), which exceeds the amount specified under criterion 10 of the policy (0.34ha). Whilst there is a road running through the centre (which is necessary to provide access), being low level it would not detract from the view. The agent has confirmed that a children's play area is proposed at the north end of the open space but this would be a Local Area of Play (LAP) which is for younger children and so would have smaller play features rather than large equipment. As such, it would not intrude greatly on the vista. The central open space would therefore provide a distinct and positive feature of this development with views of the Grade II listed cross. Criterion 3 refers to open drainage channels or swales in this open space, however, the applicant is proposing alternative SUDs measures which will be discussed below.

6.06 With regard to criterion 4 and 5, the proposals have been designed taking into account the submitted Landscape and Visual Impact Assessment (LVIA) with significant landscaping on the northern boundary, and internal landscaping through a green corridor of trees that would run along the main road that runs from west to east through the site. Trees would also be provided along other internal roads and many trees are proposed within gardens. This will in time screen and soften the development and ensure an acceptable impact from and towards the AONB. The Local Plan Inspector in his Interim Findings acknowledged that the site would be visible from the AONB, just as the adjacent industrial estate is already visible but that there is scope for mitigation in the design and landscaping of the development to soften the edge of the built development. This would be achieved through the proposed landscaping so that the impact upon the AONB is limited to an acceptable level. He also outlined that the site is sufficiently distant from the Pilgrims Way and set at a lower level such that its impact on the wider available views would be limited.

6.07 Houses and gardens would be laid out to ensure sufficient privacy and outlook. With regard to the amenity of existing properties, new houses would be sufficient distances from houses in the southeast corner and to the west to ensure there is no unacceptable impact upon privacy or outlook. In terms of road noise from the A20, the acoustic assessment identifies measures including glazing specifications, alternative ventilation



systems and an acoustic barrier to garden areas (1.8m close boarded fence). These can be secured by condition to ensure appropriate amenity.

- 6.08 In terms of parking, this is generally in accordance with the Council's parking standards with 1 space for 1/2 bed flats, 1.5 spaces for 2 bed houses, and 2 spaces for 3/4 bed houses, all independently accessible. KCC raise no objections in terms of parking.
- 6.09 Overall, the layout is considered to be of a high quality providing a distinct character through the large central open space and vista of the memorial cross, and with substantial landscaping on the boundaries and within the site. The proposals create a high quality and attractive layout providing active frontages and focal buildings and complying with the requirements of policy H1(41) and policy DM1 of the Local Plan. The structural landscaping, which accords with the site policy, would serve to limit as far as possible the impact of the allocated housing site upon the setting of, and views towards the AONB.

#### Appearance & Scale

- 6.10 The site policy requires a high standard of design incorporating the use of vernacular materials and policy DM1 seeks high quality design and positive responses to local character. The applicant has proposed a traditional appearance with detached, semi-detached, and terrace houses, all of two storeys, and two storey apartment blocks.
- 6.11 The buildings have a mix of roof styles mainly with gables, but also some hipped roofs and catslide roofs on buildings picking up on vernacular styles. Garages when not integral have been designed to appear as Kentish out buildings using brickwork or timber boarded walls. Materials will include tile hanging, painted timber boarding, multi stock brickwork, and timber windows. A variety of plain tile, slate and leaded flat roofs will be used. Ragstone would be used on some of the walling that fronts the central open space area. Detailing is provided on houses including decorative plinth courses, detailing above door and window openings, bay windows, and chimneys.
- 6.12 Overall, I consider the appearance and scale of the buildings to be to a high standard in accordance policy DM1 of the Local Plan and high quality materials can be secured by condition.

#### *Surfacing & Boundary Treatments*

- 6.13 Surfacing includes a variety of materials with the main roads being tarmac but driveways and parking courtyards will be block paving or similar. Pathways within the open space would be gravel or a similar material that is rural in character which can be secured by condition. Boundary treatments would include brick walls on exposed boundaries with ragstone panels in places. Close boarded fencing would be provided within gardens. Overall, I consider these details would provide a high quality appearance to the development.

### Landscaping & Ecology

- 6.14 As outlined above, the landscaping scheme is robust and provides a quality structural element to the scheme and would provide an attractive environment and setting for the development. Some concerns have been raised by the landscape officer regarding the proximity of parking bays to trees in the northwest corner and plot 16 near the northern boundary in terms of future pressure. The parking bays would be below the canopies of some sycamore trees here but they are not category A trees and on balance this is not considered objectionable. Plot 16 and its garden are near to a category B hawthorn tree but the tree is to the north and so would not block sunlight or overshadow the property so on balance I consider this is an acceptable relationship.
- 6.15 With regard to ecology, the scoping survey required a reptile survey to be carried out which has been submitted. This found a low population of common lizard within the grass verge along the A20. A small loss of reptile habitat for the new footpath towards the A20 would occur and so a reptile mitigation strategy has been provided that will provide additional habitat through meadow planting in the northern section of the central open space. Prior to any ground works starting, a translocation exercise would take place. KCC Ecology raises no objections to this mitigation. Enhancements would be made in the form of hedgehog nesting boxes, gaps under any new fencing to allow hedgehogs access onto all garden areas, bird boxes, and bat roosting spaces within the new buildings.

### Access & Highways Safety

- 6.16 KCC Highways have raised no objections with regards to the new access points on Old Ashford Road or the impact of traffic on the local highway network. It is proposed to provide a footway along the entire frontage on the northern side of Old Ashford Road and extend the 30mph limit in line with the site policy. I note representations have referred to highway safety and congestion but there are not grounds to oppose the application on this basis and it accords with policy DM21. I also note preference for access onto the A20 by some but the adopted policy requires access onto Old Ashford Road only.

### Infrastructure & Open Space

- 6.17 In line with policy DM20 major residential development will put pressure on existing services and requests for monies to mitigate the impact of the development towards primary education, health, open space, community learning, youth services, libraries, and social care have been requested. I have assessed these requests and consider them to be necessary to mitigate the impact of the development due to the additional pressure future occupants would place upon these services, and consider them to pass the legal tests for securing financial contributions.

6.18 With regard to public open space, this has been questioned a number of times in terms of the application of policy DM19 and calculation of the off-site contribution. Policy DM19 seeks to deliver 5 types of open space on new housing developments and the amount will depend on the size of the development and the availability of open space within the local area. Where open space to serve the development cannot be provided in full on a site, for example due to site constraints or housing numbers, then provision should be made off-site nearby. If it can't be provided off-site then a financial contribution is appropriate.

6.19 In this case, 0.7ha of public open space which is mainly semi-natural is being provided on site including a small children's play area (LAP). Whilst the play area is not a policy requirement, as the site is near the edge of the village, I consider it is appropriate to have some play facilities on the site. This amount of open space exceeds the specific policy requirements (0.34ha) but this development would generate a need for around 3.2ha of open space. Clearly, this cannot be provided on site whilst providing for the number of dwellings and a good quality layout appropriate to the rural location. Therefore I have questioned whether there is any off-site land that could be used for open space, particularly the land to the south where a attenuation pond would be provided. The applicant does not consider useable sized areas for other types of open space could be accommodated to the south and I agree as the land potentially available would be very limited and be of an irregular shape. Therefore, an off-site contribution of £164,100 is appropriate in lieu of provision as allowed for under policy DM19. The Parks Team have considered the representations made and advise that this is the appropriate amount and correct calculation (and have discounted the adjacent Lenham Community Centre and car park as Amenity Green Space). Some representations consider that houses should be reduced to provide more open space but I do not consider the open space gained from removing 5 houses is sufficient to warrant this. Ultimately, the approach taken to open space is not unacceptable or contrary to policy.

#### Affordable Housing

6.20 Affordable housing would be provided at 40% which is in accordance with the Local Plan for rural greenfield sites. The tenure split would be 60% affordable rent and 40% shared ownership. Whilst policy SP20 seeks indicative targets for a split of 70/30, the applicant does not wish to increase above a 60/40 split and as this is a target, it is not considered grounds to refuse the application.

#### Flood Risk & Drainage

6.21 The site is not within a high flood risk area but some groundwater flooding has occurred in the past predominantly along the southern boundary of the site and within the south-eastern corner. Although there are no fluvial flood risk associated with the site, photographs have been submitted that show water along the east edge of the site and in neighbouring properties. Therefore to protect against any potential surface and groundwater

flooding, all finished floor levels would be minimum of 150mm above external ground levels and the use of soakaways in the area at risk of rising groundwater will be avoided. The east edge of the site also forms part of the landscaping scheme rather than being developed.

6.22 In terms of surface water from the development, water from the main roads and houses within the detailed part of the site would run to a proposed attenuation pond on the south side of Old Ashford Road. This pond will have an outfall control for discharge into the existing ditch/stream network. Private access and parking areas would be permeable. The houses on the outline phase would have soakaways within rear gardens. KCC (LLFA) have reviewed the details and raise no objections subject to conditions. They advise that if further testing reveals that infiltration is limited for the permeable areas and soakaways, then the attenuation pond could be used. On this basis, open drainage channels or swales in the central open space are not required.

6.23 With regard to foul drainage, Southern Water have advised that there is insufficient capacity at present. Additional off-site sewers, or improvements to existing sewers will therefore be required. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested (by the developer) and provided to drain to a specific location. Planning conditions should not duplicate other legislation and so I do not consider a condition is reasonable or necessary.

#### Heritage

6.24 The housing development is over 100m away from the Grade II listed Tanyard Farmhouse with Old Ashford Road between. The site is visible from this building and the listed building can be seen across the site from the A20. However, I do not consider the application site significantly contributes to the listed buildings significance which mainly derives from its architecture and materials as shown in the listing. As such, the development would not be harmful to its setting or significance. The attenuation pond is a low impact and 'soft' landscape feature and would not harm the setting of Tanyard Farm. The recently listed memorial cross was constructed as a testament to those who died during the First World War. It is clearly seen from places within the village and in a prominent position 'above' the parish and some of its significance derives from its size and prominence. The development would obscure some views from Old Ashford Road but it would still be visible from the PROW through the site which forms the approach to the cross. Due to the distance from the cross (0.5km), I do not consider the development would harm its setting.

#### Other Matters

6.25 With regards to archaeology, some field work has been carried out on the site where the detailed application is proposed and some finds associated with the Roman period were made. The east field has been investigated in the southern half with no archaeology revealed and the geophysical survey

in the northern half again showed no archaeological features. On this basis conditions are considered appropriate and this has been agreed by KCC.

- 6.26 Issues raised by third parties not addressed in the assessment above relate to loss of farmland. The site is allocated in the Local Plan where the loss of farmland was fully considered and this is not grounds for the LPA to object to the application.
- 6.27 Environmental Health has requested an Air Quality Emissions Reduction condition, however, as the development is not near to an area of poor air quality, I consider that charging points for dwellings is a proportionate response in this case in accordance with policy DM6.
- 6.28 With regard to the Council's Public Art Guidance, this only applies to applications submitted after 1<sup>st</sup> January 2018. With regard to the Kent Minerals Plan, the site does not fall within a minerals safeguarding area.

## **7.0 CONCLUSION**

- 7.01 I have considered all representations received on the application and for the above reasons the proposals are considered to be acceptable and provide a high quality development in accordance with site policy H1(41), and other relevant policies within the Local Plan. Permission is therefore recommended subject to a legal agreement and the conditions set out below.
- 7.02 There is a second recommendation to seek delegated powers to grant permission without the Heads of Terms (excluding affordable housing) in the event that the legal agreement is not completed and decision notice issued before the Community Infrastructure Levy (CIL) commences on 1<sup>st</sup> October. If this occurred, then the development would have to pay CIL and monies towards primary education, health, open space, community learning, youth services, libraries, and social care cannot be collected. Affordable housing would still be secured under a legal agreement.

## **8.0 RECOMMENDATION(S):**

### **RECOMMENDATION 1:**

In the event that the decision notice is issued prior to 1<sup>st</sup> October 2018, subject to the prior completion of a legal agreement to provide for the Heads of Terms set out below and subject to the conditions as set out below, the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION**, and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Heads of Terms:

1. £3,324.00 per applicable house and £831.00 per applicable flat towards Phase 1 of Harrietsham Primary School expansion.
2. £4,635.22 towards installation of conversation and adult lip reading classes in the Village Hall.
3. £1,281.28 towards Lenham Youth service enhancement of mobile unit and equipment.
4. £21,844.10 towards Lenham Library enhanced library services including additional stock.
5. £9,597.56 towards provision of automatic doors for disabled access to Lenham Community Centre.
6. £142,560 towards reconfiguration, refurbishment/upgrade to the Len Valley Practice or towards provision of new premises.
7. £164,100 to deliver improvements to the children's play facilities, sports pitch & infrastructure at Ham Lane & William Pitt Field.
8. 40% affordable housing (60/40 split in favour of affordable rent/shared ownership)

## **RECOMMENDATION 2:**

In the event that the decision notice is not issued prior to 1<sup>st</sup> October 2018, subject to the prior completion of a legal agreement to provide for the Heads of Terms set out below and subject to the conditions as set out below, the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION**, and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

### Heads of Terms:

1. 40% affordable housing (60/40 split in favour of affordable rent/shared ownership)

### Conditions:

1. The operational development within 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. Scale
- b. Appearance

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 on the detailed and outline phases until details of the proposed slab levels of the building(s) and the existing site levels (including buildings where finished floor levels will be a minimum of 150mm above ground level) for that phase 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 on the detailed and outline phases until the applicant, or their agents or successors in title, has secured the implementation of the following for that phase:
  - (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
  - (ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a 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 and that due regard is had to the preservation in situ of important archaeological remains.

5. 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.

6. No development including site clearance and demolition shall take place on the detailed and outline phases until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority for that phase. The AMS should detail implementation of any aspect of the development that has the potential to impacts on trees and their roots and detail any tree works necessary to implement the approved scheme and include a tree protection plan.

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

7. No development above slab level shall take place on the detailed and outline phases 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 for that phase. The development shall be constructed using the approved materials and they shall include the use of ragstone in walling as shown on the approved plans, clay tile hanging and roof tiles, slate roof tiles, painted timber boarding, and multi stock brickwork.

Reason: To ensure a satisfactory appearance to the development.

8. No development above slab level shall take place until details of the ragstone walling 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.

9. No development above slab level shall take place on the detailed and outline phases 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 for that phase. The development shall be constructed using the approved materials. Surface materials shall avoid the use of tarmac for driveways, parking areas and pathways through the open space.

Reason: To ensure a satisfactory appearance to the development.



10. No development above slab level shall take place on the detailed and outline phases until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority for that phase. The development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land to which they relate and maintained thereafter. Details shall include the use of ragstone walling and walling on boundaries exposed to public view.

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

11. No development above slab level shall take place on the detailed and outline phases until details of any external meter cupboards, vents, or flues have been submitted to and approved in writing by the Local Planning Authority for that phase. 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.

12. No development above slab level shall take place until specific details of the landscaping scheme, as shown on drawing no. 2378/16/B/4 RevA, which shall be designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall include a full planting specification, programme of implementation and a 10 year management plan. The scheme shall include the following:

- Structural landscaping along the north, east, south, and west boundaries of the site set outside of the garden/boundaries of properties and details of long-term management.
- Structural landscaping along the north boundary of the site being implemented alongside the detailed element of the development.
- Planting to provide natural/semi-natural open space within the central open space area.

Reason: In the interests of landscape and AONB protection and to ensure a satisfactory appearance to the development.

13. No development above slab level shall take place until details of the equipping and laying out of the children's play area, and the mechanism for the ongoing management and maintenance of all the public open space areas within the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure satisfactory public open space and its ongoing management and maintenance.

14. No development above slab level shall take place on the detailed and outline phases 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 for that phase. 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

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

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

16. No development above slab level shall take place until details of ecological enhancements and as outlined at paragraph 4.10 of the Preliminary Ecological Appraisal (KB Ecology) dated 29/04/15 have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be carried out prior to the occupation of the development and thereafter retained. Details shall include the following:

- Hedgehog nesting boxes and gaps under new fencing to allow hedgehogs access onto all garden areas.
- Bird and bat boxes.
- Bird and bat nesting features integral to buildings.
- Wildlife friendly drainage gullies.

Reason: In the interests of biodiversity protection.

17. The approved details of the access points 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.

18. Before the development hereby permitted is first occupied, the following highways works shall be fully implemented:

- A new footway along the entire south boundary of the site on Old Ashford Road.
- Extension of the 30mph limit on Old Ashford Road to at least the east edge of the site.

Reason: In the interests of highway safety.

19. No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:

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

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

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction).

20. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

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

21. 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.

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. If any of the planting, seeding and turfing specified in the approved landscape details 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 they 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

24. 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.

25. The development shall be carried out in accordance with the approved Reptile Mitigation Strategy (KB Ecology) dated 02/03/18 unless otherwise agreed with the Local Planning Authority.

Reason: In the interests of biodiversity protection.

26. The development shall be carried out in accordance with the noise mitigation measures as outlined at section 5.0 of the Noise Impact Assessment (MRL Acoustics) dated January 2016 unless otherwise agreed with the Local Planning Authority.

Reason: In the interests of biodiversity protection.

27. The development hereby permitted shall be carried out in accordance with the Approved Drawing List received on 23/08/18.

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

Case Officer Richard Timms



<b>REFERENCE NO -</b> 18/500160/FULL		
<b>APPLICATION PROPOSAL</b> Demolition of Existing Office Building and Erection of 43 No. apartments and associated vehicular and pedestrian access.		
<b>ADDRESS</b> 3 Tonbridge Road Maidstone Kent ME16 8RL		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application shows a 7m set back from Tonbridge Road and an articulated front elevation. The scheme therefore meets all relevant policies in terms of visual impact, design, highway impact and residential amenity. It has demonstrated that a contribution to affordable housing would make the scheme unviable.  Review mechanisms are necessary in the legal agreement to allow for future variations in the viability of the scheme that may allow for contributions that accord with Policy ID1 of the Maidstone Borough Local Plan 2017.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called into Committee by Cllr Boughton  Committee authority is sought for an amendment to the Heads of Terms of the legal agreement to reflect the new NPPF and NPPG on viability and contributions.		
<b>WARD</b> Fant	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Tonbridge Road Development Ltd <b>AGENT</b> Go Planning Ltd
<b>TARGET DECISION DATE</b> 12/07/18	<b>PUBLICITY EXPIRY DATE</b> 10/09/18	

## 1. BACKGROUND

1.01 The application was reported to the Planning Committee of 5 July 2018 with the following resolution: Grant Planning Permission subject to:

(a) The prior completion of a S106 legal agreement in such terms as the Head of Legal Partnership may advise to secure a libraries contribution of £2,064.68;

(b) The conditions and informatives set out in the report with the deletion of condition 7 relating to surface water drainage, the additional drainage conditions referred to by the Principal Planning Officer in her verbal

update at the meeting and an additional informative relating to the possibility of providing a car sharing scheme operating from the site being investigated by the applicant (the wording to be finalised by the Head of Planning and Development acting under delegated powers), the Head of Planning and Development be given delegated powers to grant permission and to be able to settle or amend any necessary Heads of Terms of the legal agreement in line with the matters set out in the recommendation and as resolved by the Planning Committee.

- 1.02 The original committee report, urgent update and minutes are attached as an **Appendix**.
- 1.03 Since the committee resolution, it has also come to light that unfortunately a revised planning application form that indicated a proposed tenure of full private housing was not uploaded to the public access part of the website. This has been corrected and formal re-consultation and publicity by site notice and press advertisement has taken place.
- 1.04 This delayed the issue of the decision notice pending the statutory consultation necessary and in the meantime the National Planning Policy Framework and its accompanying Planning Practice Guidance have been revised which need to be addressed.
- 1.05 Paragraphs 123 and 124 (Air Quality/Noise) are now paragraphs 180 and 181 but do not materially change the issues.
- 1.06 Affordable housing (previously paragraphs 47 and 50) is now dealt with in paragraphs 61-64 but do not materially change the issues.
- 1.07 In terms of the key issues of contributions and viability in the NPPF, there are significant changes.
- 1.08 In terms of contributions, Paragraph 34 states:  
*"plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan".*
- 1.09 In terms of viability, the NPPF paragraph 57:

*"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence*



*underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available."*

- 1.10 The viability appraisals were submitted on the understanding that they contain commercially sensitive information before the NPPF revision and are not need to be made publicly available.

- 1.11 Also relevant to this case is the amended PPG which states:

*"Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles.*

*Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy compliance can be achieved over time. As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project."*

## **2. REPRESENTATIONS**

- 2.01 Re-consultation on the correct application form has been carried out and expires on 29 August 2018. However, the Site and Press Notices do not expire until 7 September 2018.

## **3. ASSESSMENT**

- 3.01 The main issues relating to the viability of the scheme are the build cost, and sales values used. The independent review of a fully private rental scheme indicates a significant loss (in the region of £485k) and that a fully market sale has a smaller but still significant loss (loss in the region of £225k). On the basis of both appraisals, the proposed scheme is not viable for either tenure with current day costs and values. This is the same situation as was reported at the 5 July 2018 Planning Committee meeting.
- 3.02 However, in this case, the developer is also the site owner so the scheme could proceed on a marginal basis with lower than standard profit margins albeit not allowing contributions to be paid other than the discretionary Libraries contribution.

3.03 House price inflation may make the scheme viable with planning obligations in the longer term. There are also potential variables in build costs. In the light of the high likelihood of variabilities in the economy in the next few years, a mechanism should be put in place to ensure that the scheme remains policy compliant over its lifetime as noted in the new NPPG.

3.04 Specifically the independent viability appraisal make suggestions for 3 review mechanisms as follows:

*"Should the Council be minded to grant consent with less than policy-compliant S.106 contributions and provision of affordable housing, we would recommend a viability review mechanism is included in the S.106 agreement. In accordance with government guidance and the RICS guidance on viability in planning, such review mechanisms should be carried out prior to the implementation of the scheme.*

*If the scheme is limited by the S.106 to being PRS only for a fixed period, then a clawback mechanism if and when units are sold on the open market should be included.*

*If the Council's intention is to ensure that the scheme is started in a timely manner then we would suggest the "pre-implementation" review is carried out if the scheme has not reached slab level two years of consent being granted"*

3.05 It is therefore recommended that review mechanisms be included in the s106 legal agreement. It is my recommendation that this would be two-fold: one review mechanism prior to the implementation of the scheme and a second if units are sold on the open market.

3.06 The third review mechanism suggested by the consultant (if the development has not reached slab level within two years of consent being granted) is not necessary in my view. This planning permission will have the standard 3 year commencement condition and such as there is no justification from a land use planning point of view for adding a review mechanism with a different timescale.

3.07 The applicant has indicated his acceptance of this in principle and indeed solicitors have been appointed by them to engage on the drafting of the agreement.

3.08 The recommendation below has been updated to add in the viability review heads of term and to make the changes to drainage conditions and the car sharing informative that were resolved previously.

#### **4. RECOMMENDATION**

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and

Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee)

- for a libraries contribution of £2064.6 and
- 2 review mechanisms as follows: prior to the implementation of the scheme of the scheme; if units are sold on the open market;
- The following conditions

## **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) Development hereby permitted shall be carried out in accordance with the following drawing numbers: 17-932-001 Rev P.1 Location Plan; 17-932-002 Rev P.7 Site Plan; 17-932-010 Rev P.4 Ground & 1st Floor Plans; 17-932-011 Rev P.4 2nd, 3rd & 4th Floor Plans; 17-932-012 Rev P.3 5th & Roof Plans; 17-932-013 Rev P.6 North & East Elevations; 17-932-014 Rev P.4 South & West Elevations; 17-932-015 Rev P.5 Street Scene; 17-932-018 Rev P.3 Sections 1; 17-932-019 Rev P.2 Sections 2; 15-671-E01.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) Prior to the commencement of development, details of the proposed slab levels of the buildings and the existing site levels shall 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. These details shall include any proposed re-grading, cross-sections and retaining walls.

Reason: In order to secure a satisfactory form of development having regard to the topography of the site. Details are required prior to commencement of development to ensure that no unnecessary altering of levels takes place to accommodate the scheme.

- 4) The low-carbon sources of energy in Photo Voltaic panels as hereby approved shall be implemented as approved and shall be retained thereafter.

Reason: To ensure an energy efficient form of development.

- 5) Prior to the commencement of development, the following shall have been submitted to and approved in writing by the Local Planning Authority
- a) details of archaeological field evaluation works in accordance with a specification and written timetable
  - b) following from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable.

Reason: To ensure that features of archaeological interest are properly examined and recorded. Details are required prior to commencement of development to ensure that works do not damage items of archaeological value that may be present.

- 6) Prior to the commencement of development, details (including a specification for acoustic glazing and alternative means of purge ventilation to enable cooling should it be required without needing to open windows) shall be submitted to and approved by the Local Planning Authority to demonstrate how the development will fully meet the recommendations of the submitted acoustic report (carried out by Clement Acoustics, ref 11182-NEA-02- May 2016) with approved measures in place prior to first occupation of the relevant residential unit and retained as such thereafter.

Reason: To protect residential amenity. Details are required prior to commencement as the measures necessary may need to be integral to the design of the development.

- 7) Prior to the commencement of development, a construction management plan shall be submitted to approved in writing by the Local Planning Authority. The approved facilities and arrangements shall be provided prior to construction work commencing and maintained for the duration of the construction works. The plan shall include:
- details of arrangements for loading/unloading and turning
  - details of parking facilities for site personnel and site visitors
  - A dust management plan
  - Measures to minimise noise generation (including vibration)
  - Measures to manage the production of waste and to maximise the re-use of materials

- Measures to minimise the potential for pollution of groundwater and surface water and prevent surface water discharge on to the public highway

Reason: To maintain highway safety and to protect the amenities of local residents. Details are required prior to commencement as potential impact will arise from the point of commencement.

- 8) Development shall not begin 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 be based on the Drainage Scheme Proposals (Drawing Ref. 16-015\_SKC01 Rev.A) and 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 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 building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:

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

The drainage scheme as approved shall subsequently be maintained in accordance with these details. Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction), as per the requirements of paragraph 103 of the NPPF and its associated Non-Statutory Technical Standards

- 10) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features. Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with the National Planning Policy Framework.
- 11) Prior to the commencement of development, details of a sustainable surface water drainage scheme shall have been submitted to and approved in writing by the Local Planning Authority. The surface water scheme should be compliant with the Non-Statutory Technical Standards for Sustainable Drainage (March 2015) and shall include measures to prevent discharge of surface water onto the highway. The scheme should specify responsibilities for the implementation of the SUDS scheme; specify a timetable for implementation; provide a management and maintenance plan for the lifetime of the development; including arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. There shall be no provision for infiltration of surface water into the ground unless it has been demonstrated that there will be no risk to controlled waters. The scheme shall be implemented in accordance with the approved details prior to first occupation of any dwelling and maintained as such thereafter.

Reason: To prevent flooding by the ensuring the satisfactory storage and disposal of surface water from the site. Details are required prior to commencement to maximise the options that are available to achieve a sustainable drainage system. Infiltration of surface water into

contaminated ground has the potential to impact on surface water quality and pose unacceptable risks to controlled waters.

- 12) Prior to the commencement of development, details of the proposed means of foul water disposal shall have been submitted to and approved in writing by the Local Planning Authority with the approved measures in place prior to occupation and retained permanently thereafter.

Reason: To avoid pollution of the surrounding area. Details are required prior to commencement as groundworks will reduce the options available.

- 13) Prior to the commencement of development, a scheme for the enhancement of biodiversity shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include the location and design of swift bricks and bat boxes, tubes or tiles and take account of any protected species that have been identified on the site, shall include the enhancement of biodiversity through integrated methods into the design and appearance of the dwellings and in addition shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals prior to first occupation of dwellings in any phase or sub-phase and shall be maintained in perpetuity.

Reason: To protect and enhance biodiversity. This information is required prior to commencement of development as works have the potential to harm any protected species present.

- 14) Prior to the development reaching damp proof course level, written details (and where appropriate, samples) of all facing materials and external surfacing materials of the development hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved materials.

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

- 15) Prior to first occupation of any residential unit, fencing, walling, railings and other boundary treatments (including provision of gaps under boundary fencing to facilitate ecological networks) shall be in place that are in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority and the approved boundary treatments shall be retained as such thereafter.

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

- 16) Prior to first occupation of any residential unit, facilities for the storage of domestic refuse shall be in place in accordance with details hereby approved

Reason: To ensure a satisfactory arrangement for refuse collection.

- 17) If during construction/demolition works evidence of potential contamination is encountered, all works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed in accordance with the agreed plan.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 18) Prior to first occupation of any residential unit, a verification report shall be submitted to the Local Planning Authority. The report shall include a) details of any post remediation sampling and analysis, b) 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. c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development in any phase or sub-phase can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 19) Prior to first occupation of any residential unit, the proposed bathroom, toilet, and staircase windows and the secondary bedroom windows located on the west (side) building elevation shall be fitted with obscured glass and retained thereafter.

Reason: In order to preserve amenity and prevent overlooking and loss of privacy.



- 20) Prior to first occupation of any residential dwellings hereby approved, a detailed Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority with the agreed measures implemented within three months of first occupation and retained. Thereafter the Travel Plan should include the following: a) objectives and targets, b) Measures to promote and facilitate public transport use, walking and cycling, c) Promotion of practises/facilities that reduce the need for travel, d) Monitoring and review mechanisms, e) Travel Plan co-ordinators and associated support, f) Details of a welcome pack for all new residents including local travel information, g) Marketing, h) Timetable for the implementation of each element.

Reason: In order to promote sustainable travel choices and to help reduce air pollution.

- 21) Prior to first occupation of any residential dwellings hereby approved, management arrangements for the communal areas of the site and access roads shall be in place that are in accordance with a plan that has previously been submitted to and approved in writing by the Local Planning Authority and shall be retained thereafter. The plan should include a) The areas within the scope of the management plan and the maintenance requirements of these; b) Method and works schedule for maintaining communal areas and estate roads; c) Details of the parking control measures to be implemented within the site; d) Details on the enforcement of parking control measures; e) The setting up of an appropriate management body; f) The legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery; g) Ongoing monitoring of implementation of the plan.

Reason: To protect the amenity of future residents and the character and appearance of the development.

- 22) Prior to first occupation of any residential dwellings hereby approved, the cycle parking, car parking and internal access/turning arrangements shown on the approved plans shall be provided, surfaced and drained in accordance with the approved details and shall be retained permanently for the use. The car parking spaces shall be retained for visitor use only. Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015 (or subsequent revision) shall be carried out on the land so shown or in such a position as to preclude vehicular access to parking areas.

Reason: Development without provision of adequate access and parking is likely to lead to inconvenience to other road users and be detrimental to amenity.

- 23) Prior to first occupation of any of the residential dwellings hereby approved, the vehicle access from Tonbridge Road shall be laid out in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The details shall include details of suitable visibility splays and measures to ensure their retention, and confirmation of the position of any gates (require a minimum set back of 7 metres from back edge of the pavement) with the approved measures retained thereafter.

Reason: In the interests of highway safety including in relation to the high pedestrian footfall in Tonbridge Road.

- 24) Prior to first occupation of any of the residential dwellings hereby approved, landscaping shall be in place that is in accordance with a landscaping scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall include on a plan, full details of the size, species, spacing, quantities and location of proposed plants, together with any hard surfacing, means of enclosure, and indications of all existing trees, hedges and any other features to be retained, and measures for their protection during the course of development. Any part of the approved landscaping scheme that is dead, dying or diseased within 5 years of planting shall be replaced with similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity and an appropriate standard of accommodation.

- 25) Prior to first occupation of any of the residential dwellings hereby approved, details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used shall be submitted to and approved in writing by the Local Planning Authority. The details shall show that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 (in areas of low background sound levels a target of NR30 shall be achieved) as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever it's operating. After installation of the approved plant, it shall be retained in accordance with the approved details and no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority.

Reason: In order to protect the amenities of neighbouring occupiers and future residents of this development.

- 26) Prior to first occupation of any of the residential dwellings hereby approved, details of any external lighting to be placed or erected within the site shall have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of measures to shield and direct light from the light sources so as to prevent light pollution and in order to minimise any impact upon ecology. The development shall be carried out in accordance with the approved details and maintained as such permanently thereafter.

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

- 27) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development above slab level shall take place until details of such measures, According to the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained

Reason: To secure crime prevention and safety of the area

- 28) Details of provision of electrical car charging point shall be submitted for the approval of the Local Planning Authority before first occupation of the building hereby permitted.

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

#### INFORMATIVES

- 1) The applicant is reminded of the requirements of approved document E of the Building Regulations 2010 in terms of protecting future residents of the apartment blocks from internally generated noise.
- 2) The applicant is advised that detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding. The applicant is reminded of the requirement for a formal application to connect to the public sewerage system. The applicant is advised to contact Southern Water for further advice including in relation to protecting infrastructure during construction works , Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)
- 3) The applicant is advised that due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the

site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to contact Southern Water for further advice including in relation to protecting infrastructure during construction works, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

- 4) The applicant is advised of their responsibility to ensure, that before the development hereby approved is commenced, that all necessary highway approvals and consents are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action by the Highway Authority.
- 5) The applicant is advised of the Mid Kent Environmental Code of Development Practice and it is recommended that no demolition/construction activities take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.
- 6) The applicant is advised that any facilities used for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume of the tanks.
- 7) The applicant is advised that adequate and suitable measures should be in place to minimise release of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.
- 8) The applicant is advised that any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- 9) The applicant is advised that the lighting scheme provided in accordance with the planning condition should adhere to advice from the Bat Conservation Trust and Institution of Lighting Engineers
- 10) The developer is encouraged to investigate provision of a car-sharing scheme operating from the site.

Case Officer Marion Geary

## REPORT SUMMARY

**5 July 2018**

<b>REFERENCE NO -</b> 18/500160/FULL		
<b>APPLICATION PROPOSAL</b>  Demolition of Existing Office Building and Erection of 43 No. apartments and associated vehicular and pedestrian access		
<b>ADDRESS</b> 3 Tonbridge Road Maidstone Kent ME16 8RL		
<b>RECOMMENDATION</b> Approve subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  The application shows a 7m set back from Tonbridge Road and an articulated front elevation. The scheme therefore meets all relevant policies in terms of visual impact, design, highway impact and residential amenity. It has demonstrated that a contribution to affordable housing would make the scheme unviable.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>  Called into Committee by Cllr Boughton		
<b>WARD</b> Fant	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Tonbridge Road Development Ltd <b>AGENT</b> Go Planning Ltd
<b>DECISION DUE DATE</b>  12.07.2018	<b>PUBLICITY EXPIRY DATE</b>  18.05.2018	<b>OFFICER SITE VISIT DATE</b>  23.01.2018
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		

### **RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):**

#### **3 Tonbridge Road**

16/501674/FULL

Proposed external changes consisting of, additional dormer to rear elevation, additional dormer to side elevation, removal of front door at ground and basement level to front elevation

Approved Decision date: 09.05.2016

16/501842/PNOCLA

Prior notification for the change of use of a building from office use to a 9 No. apartments.

For its prior approval to.

Transport and Highways impacts of the development.

Contamination risks on the site.

Flooding risks on the site.

Prior Approval Not Required

Decision date: 23.06.2016

16/507491/FULL

Demolition of existing buildings and erection of 20 No. Apartments

Approved

Decision date: 16.06.2017

16/508704/PNOCLA

Prior notification for the change of use of an office to 7 no. residential units. For its prior approval to Transport and Highways impacts of the development.

Contamination risks on the site. Flooding risks on the site. Impacts of noise from commercial premises on the intended occupiers of the development.

Prior Approval Granted

Decision date: 10.02.2017

MA/PN/14/0001

Prior Notification application for the change of use office building to up to 9 self contained flats as shown on details received 07/01/14 & 23/01/14.

Prior Approval Not Required

Decision date: 18.02.2014

09/1827

Planning permission for demolition of existing office block and erection of part five storey part six storey building comprising 14no. two-bedroom apartments with associated parking. Plans submitted are as follows: 0916/D/101; 0916D/400; 0916/D/401; 0916/D/200; 0916/D/102 received on 8 October 2009.

Refused

Decision date: 28.01.2011

## **5 Tonbridge Road**

15/510179/OUT Outline application (All matters reserved) for redevelopment with up to 65 dwellings and associated vehicular and pedestrian access, car and cycle parking, street and external lighting, main services, bin stores and other ancillary development.

PER - Application Permitted 22.12.2016

17/504144/OUT Removal of condition 14 (scheme of mitigation to address poor air quality shall be provided ) of planning permission 15/510179 (All matters reserved) for redevelopment with up to 65 dwellings and associated vehicular and pedestrian access, car and cycle parking, street and external lighting, main services, bin stores and other ancillary development.

PER - Application Permitted 18.12.2017

18/500229/REM

Reserved matters of scale, appearance and layout to application 17/504144/OUT for erection of 51 dwellings and associated vehicular and pedestrian access, car and cycle parking, street and external lighting, main services, bin stores and other ancillary development.

Approved

Decision date: 27.04.2018

18/500718/REM

Reserved matters application for access (conditions 1, 2 and 4) and phase 1 landscaping (conditions 1 and 3) of 17/504144/OUT (Removal of condition 14 (scheme of mitigation to address poor air quality shall be provided ) of planning permission 15/510179 (All matters reserved) for redevelopment with up to 65 dwellings and associated vehicular and pedestrian access, car and cycle parking, street and external lighting, main services, bin stores and other ancillary development.)

Approved

Decision date: 27.04.2018

## **MAIN REPORT**

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

- 1.1 The site is located on the gyratory section of Tonbridge Road with two lanes of one way traffic travelling past the site frontage (east to west). This section of road forms part of the A20 with the A26 (Tonbridge Road) starting further to the west. A signalised pedestrian crossing is located 20m to the east of the site.
- 1.2 The site is approx. 0.12 ha with dimensions of 13-17m wide and a depth of 76m. It lies to the west of Maidstone West Railway Station. The front part of the site is separated from the railway station by a pair of semi-detached Victorian properties which have been converted to residential use. The rear part of the application site directly adjoins the railway station. The ground level on the application site is significantly higher than the railway station, with this rise in ground level continuing to the west of the application site along Tonbridge Road.
- 1.3 The area surrounding the application site is mixed in terms of the character and scale of existing buildings and the range of land uses. Beyond the entrance to the railway station is a 6-storey building providing retail use at ground floor with residential on the upper floors (Broadway Heights - 58 flats 05/1719). To west of the site, 5-9 Tonbridge Road has an existing vehicular access adjoining the boundary with the application site. That site is occupied by a mixture of retail and other commercial uses but with a recent planning permission for residential redevelopment of a 4-storey block of flats and terraced houses. Further to the east is the Vines Medical Practice (3-storey) with residential properties to the rear. On the opposite side of Tonbridge Road is an office building with a substantial mansard roof (Vaughan Chambers) providing four floors (including roof space) with an adjoining single storey building on the corner providing a cycle shop.
- 1.4 The application site is currently occupied by a 3-storey red brick building with a part flat, part sloping tiled roof last in office use (planning use class B1/A2). At ground floor level the building has an undercroft vehicular access from Tonbridge Road to a rear parking area. The site is not located in a Conservation Area and the nearest listed buildings are approximately

100m away. There are no protected trees or landscape designations either on or adjacent to the application site.

## **2. PROPOSAL**

- 2.1 At the Planning Committee meeting of 15 June 2017 under application reference 16/507491/FULL, it was resolved to grant full planning permission for Demolition of the existing building and erection of 20 no. apartments in a 4 storey block and permission was granted on the 16 June 2017. The application had been deferred from the meeting of 16 March 2017 for air quality concerns to be landscape-led with trees and planting on the Tonbridge Road frontage and the treatment of the elevations to be reconsidered to improve amenity for future occupants.
- 2.2 The current revised proposal is for the demolition of the existing office building and the construction of a mainly 5 storey residential building with a part recessed 6th floor. The proposed building has a linear footprint with a block fronting Tonbridge Road and then extending towards the rear of the site. It has a width of approx. 10m and a depth of approx. 57m. A number of PV panels are intended to be sited on the roof.
- 2.3 The ground floor of the building provides 1 x 1st floor flat and 1 duplex flat each accessed from the front of the site set behind areas of amenity space. This is intended to give an active frontage. The ground floor provides integral refuse storage that is within 10m of Tonbridge Road to accord with guideline for efficient refuse collection. It includes an integral cycle store (43 racks) and 2 undercroft visitor car parking spaces with an indication of electric car charging points. The building retains and reuses the existing vehicular access on to Tonbridge Road located next to the eastern boundary for a distance of approx. 30m.
- 2.4 The building is arranged around 4 staircase cores providing access to the accommodation on the upper floors of the building. There is only a lift in the front part of the building accessing 12 units. There are 5 ground floor flats. Hence there are 26 upper floor flats accessed by stairs only. All of the proposed flats (40 x 1-bed and 2 x 2-bed and 1 x 3 bed duplex) are dual aspect as a minimum, with all upper floor flats provided with balconies.
- 2.5 A financial viability assessment has been prepared provided to the Council. Having reviewed the consultations for financial contributions, the applicant would be willing to contribute the Library Contributions as evidenced by KCC and confirms that the development would be provided with Superfast broadband. It is stated that these would not undermine the deliverability of the scheme and are offered on a without prejudice basis.
- 2.6 The fire strategy for the site includes for a BS 8458:2015 mist type sprinkler system to be installed to the apartments. The applicant submits that this would ensure the buildings would meet part B of the building regulations, being an acceptable solution to the access constraints for fire tenders. As to whether a sub station is required for the development, the



applicant states that presently UK Power Networks has not provided a design for the site and as such this cannot be confirmed. Should a sub-station be ultimately needed, then the applicant submits that it could be accommodated within the ground floor undercroft zones.

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

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Local Plan 2017:  
SP1 Maidstone urban area  
SP19 Housing mix  
H1(16), Slencrest House, 3 Tonbridge Road, Maidstone  
DM1 Principles of good design  
DM2 Sustainable design  
DM5 Development on brownfield land  
DM6 Air quality  
DM12 Density of housing development  
DM19 Open space and recreation  
DM20 Community facilities  
DM21 Assessing the transport impacts of development  
DM23 Parking standards  
DM24 Renewable and low carbon energy schemes  
ID1 Infrastructure Delivery

### **4. LOCAL REPRESENTATIONS**

4.1 Local Residents: Adjoining neighbours were notified of the application as originally submitted. A site notice was also put up at the site. One objection has been received from the neighbouring landowner in response:

- ☐ Support the height of six storeys.
- ☐ Low level of parking provision so pressure on-street parking in nearby residential streets.
- ☐ 5- 9 Tonbridge Road site will need to be gated - a significant additional development cost
- ☐ Insufficient justification for no parking for residents or visitors.
- ☐ No provision for delivery vehicle parking and turning space
- ☐ Delivery vans and Refuse collection vehicles on Tonbridge Road reducing the flow of traffic and impacting the visibility of the highway
- ☐ A long narrow building that occupies the majority of a long, narrow site which is too close to boundary: inadequate for construction and maintenance of a tall apartment block.

- ☐ Construction activities very constrained because of the narrowness of the site. Tower cranes would be severely constrained because Network Rail do not allow such cranes to oversail their operational land.
- ☐ Cranes impose a risk to other adjoining landowners and occupants.
- ☐ No fire engine access to the back of the site.
- ☐ electricity sub-station needed
- ☐ No affordable housing and no s106 contributions proposed by the applicant on grounds of viability.
- ☐ The redevelopment proposals are not viable or deliverable in the market. The ground works will be very expensive and high costs of construction and risk
- ☐ Likely the site will be undeveloped or subject to a further application at a later date to reduce the density of development to a viable level.
- ☐ Appreciate the maximisation of density at edge of town centre location but the scheme that is not deliverable in the market.

## 5. CONSULTATIONS

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

- 5.1 Southern Water: No development or new tree planting should be located within 3 metres either side of the external edge of the public sewer and all existing infrastructure should be protected during the course of construction works. No new soakaways should be located within 5 metres of a public sewer
- 5.2 Kent Police: The applicant/agent has not demonstrated that they have considered crime prevention nor have attempted to apply the seven attributes of CPTED in their submitted on-line plans or in a DAS. To date we have had no communication from the applicant/agent and there are other issues that may need to be discussed and addressed including a formal application for BREEAM and SBD if appropriate. These include: 1. Boundary treatments 2. Access control 3. Lighting 4. Mail delivery 5. Cycle and bin storage
- 5.3 UK Power Networks No objections
- 5.4 Kent County Council Local Highway Authority no objections: the levels of adjacent on road car parking restraint, the nearby opportunities for alternative forms of transport and the level of services available within reasonable walking and cycling distances, two car parking spaces is not an unreasonable approach. No objection subject to conditions on Construction Management; prevent the discharge of surface water onto the highway;

Provision and permanent retention of the vehicle parking spaces and/or garages; cycle

- 5.5 Maidstone Borough Council Client Services: Freighters would not be able to reverse off Tonbridge Road into the site so the bin store needs to be within 10m of Tonbridge Road. They should allow for 6 x 1100 litre refuse bins and 10-15 recycling bins or 5 x 1100 litre for recycling
- 5.6 Maidstone Borough Council Environmental Protection: The railway line and the road as the most significant noise sources. The levels are such that an uprated specification for acoustic glazing is provided. The scheme would only be successful for windows closed and so will need to be combined with alternative means of ventilation. This should be capable of purge ventilation to enable cooling should it be required without needing to open windows.
- 5.7 Land contamination: The former commercial/industrial area has potential to have been affected by land contamination.
- 5.8 Air Quality: The site is within the Council's air quality management area and the application includes an air quality assessment. The assessment is acceptable and concludes that the no further mitigation measures are required to protect future residents from poor air quality.
- 5.9 Kent County Council Community Services : contributions required for libraries of £2064.68 and installation of Superfast Fibre Optic Broadband .Although there is a Primary and Secondary need, due to 5 obligation restriction KCC are unable to pursue against this scheme.
- 5.10 NHS (West Kent Commissioning Group): no contributions sought
- 5.11 Kent County Council (Archaeology) – no response
- 5.12 Network Rail- no response
- 5.13 Kent County Council (drainage)- awaiting response.
- 5.14 Environment Agency- awaiting response.

## **6. APPRAISAL**

- 6.1 The principle of the loss of the existing building and commercial uses accords with the Local Plan designation and has been established by the 20-unit residential redevelopment planning permission from last year.
- 6.2 Policy H1 (16) was an allocation for 10 units. The policy requires consideration of the exposed location of the site on the slopes of the Medway Valley in a prominent position overlooking the town centre with visual impact assessment of the potential impact from College Road and the All Saints area including the Lockmeadow footbridge; the eastern/south eastern elevation shall be well articulated given the exposed location of the site; assess archaeological implications arising from the development and in particular the adjacent Roman cemetery site; include appropriate air quality

mitigation measures; ideally a joint development with the immediately adjacent American Golf site allocated under policy H1(14) to ensure a comprehensive and inclusive design approach.

6.3 The remaining main planning considerations include:

- ☐ Air quality
- ☐ Design, layout, appearance and density
- ☐ Standard of accommodation
- ☐ Highways
- ☐ Trees, landscaping, and ecology
- ☐ Planning Obligations/Viability.

Air quality

- 6.4 Paragraph 124 of the NPPF states 'Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.'
- 6.5 Policy DM5 of the local plan sets out that 'Proposals located close to identified air quality exceedance areas as defined through the Local Air Quality management process will require a full Air Quality Impact Assessment in line with national and local guidance' The housing site allocation H 1 (16) in the local plan states that the council will seek to approve air quality mitigation measures to be implemented as part of the development.
- 6.6 The application site is within an Air Quality Management Area (AQMA) that covers the whole of Maidstone town centre. This area that has been identified as having poor air quality due to the nature of road networks and traffic movements. The environmental protection team has not raised any objection to the submitted AQ report in the light of the Maidstone Borough Council Air Quality Planning Guidance.
- 6.7 Reflecting the adjacent site at 5 Tonbridge Road, the main front elevation of the revised proposal has been set back by 7m from Tonbridge Road boundary with the area to be landscaped in order to provide a better environment for an area where residential occupation levels are increasing.
- 6.8 This landscaping is expected to include landscaping to improve air quality eg small leafed Lime trees and a hedge to the front of the building, ornamental Crab Apple and Hornbeam Hedging in the area next to the boundary with 5 Tonbridge Road, cherry trees along the rear boundary and trellis and ivy on the retaining wall adjacent to Maidstone West Railway Station. A recommended condition requires details and the replacement of planting should it fail within a period of 5 years.

- 6.9 Electric charging points are indicated to be included and can be conditioned.

Design, layout, appearance and density

- 6.10 Policy DM 1 of the local plan states that proposals which would create high quality design will be permitted. Proposals should respond positively to and where possible enhance the character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage.
- 6.11 It is considered that the development is in accordance with those policy requirements of the housing site allocation H1 (16) in the local plan which seeks the following: design to reflect the exposed location of the site on the slopes of the Medway Valley in a prominent position overlooking the town centre and visible from College Road and the All Saints area including the Lockmeadow footbridge; the eastern/south eastern elevation need to be well articulated given the exposed location of the site. Development proposals will be of a high standard of design and sustainability incorporating the use of vernacular materials that will weather well and complement the area; a high density scheme will be developed reflecting that the site is in a town centre location.
- 6.12 Land owners of the application site and of 5-9 Tonbridge Road have been encouraged by officers to collaborate with ideally one development proposal coming forward for both sites. Unfortunately an agreement for collaboration has not been secured and the Council remains obliged to consider the current application on its individual merits as a standalone redevelopment.
- 6.13 The character and appearance of Tonbridge Road varies significantly as travelling away from the town centre. Recent development such as the Vine Medical Centre has changed the character of the area and planned development and the housing allocations are likely to change this character further. Development in the immediate vicinity of the site is between 2-4 storeys on the frontage, with higher 6 storey development further eastwards towards the town centre at Broadway Heights.
- 6.14 The design and appearance of the proposed building has been guided by advice provided as part of the planning history, including consideration by the Council's design surgery. At the front of the site the proposed building will have a significantly greater bulk and scale than the existing building on the site. The front block of the proposal includes references to the adjacent Victorian property; including the two bays to the front elevation and the proposed fenestration design and proportions. In relation to building scale, this reflects taller buildings in the locality or other multi-storey buildings at higher ground levels.
- 6.15 There are a variety of different building facing materials in the local area including red brick (Vaughan Chambers) stone cladding (6 Tonbridge Road), red brick and render (8 Tonbridge Road) and buff brick (1 Tonbridge

Road). The new building will be constructed with a buff facing brick, with green/blue cladding at 5th storey level and grey cladding at 6th storey level. The green/blue cladding will continue to recessed elements to both flanks and the colour will be matched to the balcony railings. This choice of facing materials is considered appropriate in this location, reflecting the modern design approach in accordance with the housing allocation.

- 6.16 The design of the proposed development has considered the exposed location of the application site on the slopes of the Medway Valley in this prominent position overlooking the town centre. In support of the planning application context photographs have been provided from these locations the proposed building will be seen in the context of tall buildings on higher land to the north. The design, scale and appearance of the building is considered acceptable in these views.
- 6.17 The footprint and extent of the proposed building reflects the linear shape of the application site. The proposed design has provided interest and rhythm to the side and rear elevations of the building (east, west and south) through fenestration, the balconies, different facing materials and the staircase cores. It is considered that the building meets the aspirations set out in the housing allocation.
- 6.18 Policy DM12 of the local plan advises that all new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area. Subject to this overriding consideration, within and close to the town centre new residential development will be expected to achieve net densities of between 45 and 170 dwellings per hectare. The application site covers an area of 0.12 hectares with the proposal providing 43 residential dwellings which amounts to a residential density of 358 dwellings per hectare (the 20 unit approved scheme is 167 dph).
- 6.19 It is accepted that the proposed residential density is very significantly higher than the precise density figure specified in the housing allocation. However it is in line with the aspiration for a high density development to make the best use of urban land. Maidstone West Railway Station entrance is close to the application site as are bus stops and with the other facilities available in this town centre location, the site is in a highly sustainable location and the proposed density is considered acceptable in this context.

#### Standard of accommodation

- 6.20 The core principles set out in the NPPF state that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM1 advises that development should respect the amenities of occupiers of neighbouring properties and uses by ensuring that development does not result in excessive noise, activity or vehicular movements, overlooking or visual intrusion. The policy states that the built form would not result in an

unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.

- 6.21 With the south facing orientation of the rear elevation and the separation distance of 4m increasing to 5m to the building, it is considered that the new building is of a form and siting that is acceptable in relation to the impact on sunlight and daylight provision to the new residential conversion to the east.
- 6.22 At the rear of this neighbouring property is a small external area at ground level which is 2 metres below ground level on the application site. The immediately adjacent windows on the proposed building serve a staircase core and with the retaining wall and the separation from the boundary the proposed building is considered acceptable in relation to privacy and overlooking.
- 6.23 The land to the west of the application site at 5-9 Tonbridge Road is currently occupied by a mixture of commercial uses, including a fireplace shop, a golf shop and offices on the Tonbridge Road frontage with general industrial and storage types uses behind. A rear vehicular access to the rear currently runs along the boundary with the application site. This neighbouring site is on higher ground reflecting the general change in ground level when travelling west away from the town centre. This site has a recent planning permission for redevelopment with 51 dwellings with an apartment block of 4 storeys at the front and terraced houses to the rear. A distance of between approx. 10m will separate the two proposed new buildings due in part to a 2 lane, vehicular access road. As part of the current application, the design of the building provides dual aspect residential units. This layout has allowed the majority of main habitable room windows to be located on the east and south building elevations, ie facing away from 5 Tonbridge Road. The western flank of the proposal has been consciously designed with fenestration to minimise any mutual overlooking with that neighbouring apartment block if erected eg with oriel style windows giving angled restricted views out plus windows to non-habitable rooms or secondary windows which can be conditioned to be obscure glazed.
- 6.24 The proposed layout of the development provides a good standard of residential accommodation overall with adequate daylight, sunlight and privacy provision to all of the proposed flats. The balconies provide amenity space for most of the flats and there is also an open amenity area proposed at the rear of the block. Similarly, it has been demonstrated that there will be acceptable relationships to neighbouring property with regard to daylight and sunlight matters. Overall it is considered that the relationship between the buildings is acceptable and there would be acceptable amenity for occupants of all the relevant developments in this part of Tonbridge Road

Impact On The Local Highway Network Including Traffic And Parking

- 6.25 The application site is in a sustainable location. The site is in close proximity to Maidstone West Train station. The town centre is within walking distance and other everyday services (including a doctors, schools and parks) are all within a short distance of the site. Bus stops are located along Tonbridge Road and these provide access to the town centre, local hospital, and other nearby towns where residents may commute to.
- 6.26 The existing vehicular access to Tonbridge Road and the proposed access within the site has been considered by the Local Highway Authority and no objection has been raised.
- 6.27 A Transport Assessment has been submitted in support of the planning application. As a virtually car free development, there will be still be delivery and other service vehicles attracted to the site, arguably more with the car- free nature of the development. There is no specific on site parking/turning for delivery for service vehicles although there is scope for a small parking bay in the frontage at the expense of some of the frontage landscaping. However, KCC as Local Highway Authority has concluded that the proposal that includes service vehicles parking on the highway would not result in a severe impact on highway safety which is the key test of the NPPF.
- 6.28 The proposal includes 2 visitor car parking spaces which KCC say is acceptable for this central location where other forms of transport are readily available. The proposal also includes 43 cycle parking spaces in an appropriate location on the site. The low car parking provision and the proposed servicing arrangements for the development including the size and location of the refuse storage area have been considered by the Local Highway Authority and no objection has been raised when considering the scheme against policies DM21 and DM23 of the local plan.
- 6.29 With the nature of this location, the applicant needs to give careful thought to construction phase arrangements including vehicle unloading/loading, operative parking. A planning condition is recommended requesting the submission and approval of these details prior to work commencing.
- 6.30 The existing vehicular access to Tonbridge Road and the proposed access within the site has been considered by the Local Highway Authority and no objection has been raised.

#### Trees, Landscaping And Ecology

- 6.31 The housing site allocation H1 (16) states that development proposals should be designed to take into account the results of a detailed arboricultural survey, tree constraints plan and tree retention/protection plans.
- 6.32 The existing site has limited existing tree planting, landscaping or ecology capability with the site predominantly occupied by buildings or hard



surfacing with some overgrown planting along the southwest boundary with other trees on the boundary to the west of site with 5-9 Tonbridge Road.

- 6.33 The proposed development allows for the appearance of the site to be enhanced with improvements in relation to tree planting, landscaping and ecology. The submitted proposal has been considered by the council's landscape officer who has no objection in principle. It is recommended that planning conditions secure swift bricks and bat boxes, tubes or tiles within the new building.

#### Affordable housing and development viability

- 6.34 Policy ID1 of the local Plan relates to infrastructure delivery. In the event of competing demands for developer contributions towards infrastructure the Council's hierarchy of prioritisation set out in policy ID1 is: affordable housing, transport, open space, public realm, health, education, social services, utilities, libraries and emergency services.
- 6.35 The KCC request for a Libraries contribution of ££2064.68 has been accepted by the developer.
- 6.36 The NPPF (Chapter 6) supports the delivery of a wide choice of high quality homes, this includes at paragraphs 47 and 50 the provision of affordable housing. The Council's adopted Affordable Housing policy sets out at policy AH1 the requirement for affordable housing..
- 6.37 The developer has demonstrated that the site cannot economically sustain the provision of 40% affordable housing in its submission of both a market sale and a private rented model. Independent advice on the viability figures has concurred with that. In order to allow the site to come forward as part of a financially viable development it is not recommended that there be any requirement for affordable housing. Having said this, it is understood that the developer is intending to privately rent out the units which are nonetheless likely to give an important contribution to meeting the local demand for flats of this tenure and size close to public transport and local services.

#### Other Matters

- 6.38 Paragraph 123 of the NPPF sets out 'Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through conditions; recognise that development will often create some noise...' The location of the development on a busy road and the proximity of the railway line both have the potential to cause nuisance to future occupiers. A noise exposure assessment by Clement Acoustics ref 11182-NEA-02 (dated May 2016) for the 20 unit scheme was re-submitted in support of the planning application and its overall conclusions are considered by Environmental Protection to

be equally valid. A planning condition is recommended to secure all of the mitigation that is outlined in this report.

- 6.39 The site is not in a location at risk of fluvial flooding. In relation to surface water, pre-commencement conditions are recommended seeking the submission of details of a sustainable drainage scheme and implementation of the approved details.
- 6.40 Southern Water raises no objection in principle.
- 6.41 The housing site allocation H1(16) states that development will be subject to the results and recommendations of a land contamination survey. There may be contamination present due to the previous commercial land use and ground works could disturb any contamination that is present warrants a requirement for a watching brief condition.
- 6.42 The extant planning permission considered the proximity of a Roman cemetery and so there is potential for Roman remains. There were some targeted archaeological investigations and some specialist assessment of the archaeological potential and the extent of previous works on site but it seems that details of existing ground disturbance was not clear. A planning condition is suggested requiring archaeological field evaluation works in accordance with a specification and written timetable.

## **7. CONCLUSION**

- 7.1 The existing vacant building makes little positive contribution to the character of the area and the removal of this building is supported. The current application provides an opportunity to bring this site back into beneficial use and to make more efficient use of the land that is available in this highly sustainable location.
- 7.2 Collaboration to form a single access road to access both developments has not been possible to secure and the Borough Council is required to consider the current application on its own individual merits.
- 7.3 The design, appearance, scale and proportions of the proposed building satisfactorily address the Tonbridge Road streetscene and both existing and proposed adjacent development. The proposed building is acceptable in terms of impact on the amenities of existing and future neighbouring occupiers including daylight, sunlight, outlook and privacy. The proposal will provide a acceptable standard of the residential accommodation in relation to noise and air quality. The access, car parking and servicing arrangements are acceptable to the Local Highway Authority.
- 7.4 It is accepted that the proposed residential density is considerably higher than the precise density figure specified in the housing allocation; however it is in line with the aspiration for a high density development and the site is in a highly sustainable location and so the proposed density is considered acceptable in this context.

- 7.5 In terms of design and appearance, the scale and building proportions in this prominent location are acceptable from all potential viewpoints including the low land to the south and south east as required in policy H1(16).
- 7.6 The site plan shows areas of landscaping in the open areas of the site. This landscaping includes a wall/fence boundary. The expectation as to how the frontage is to be treated is to be the same as for the 20 unit planning permission- for small leafed Lime trees and a hedge to the front of the building, ornamental Crab Apple and Hornbeam Hedging, cherry trees along the rear boundary and trellis and ivy on the retaining wall adjacent to Maidstone West Railway Station. These can be subject of a landscaping condition so that the objective is met of gradually softening and greening Tonbridge Road to suit an increasingly residential neighbourhood.
- 7.7 The financial viability of the development has been reconsidered in relation to the provision of affordable housing and other planning obligations and only the requested library contributions can be sustained based upon the submitted appraisals.

## **8. RECOMMENDATION**

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee)requiring a libraries contribution of £2064.68

☐ The following conditions

## **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) Development hereby permitted shall be carried out in accordance with the following drawing numbers: 17-932-001 Rev P.1 Location Plan; 17-932-002 Rev P.7 Site Plan; 17-932-010 Rev P.4 Ground & 1st Floor Plans; 17-932-011 Rev P.4 2nd, 3rd & 4th Floor Plans; 17-932-012 Rev P.3 5th & Roof Plans; 17-932-013 Rev P.6 North & East Elevations; 17-932-014 Rev P.4 South & West Elevations; 17-932-015 Rev P.5 Street Scene; 17-932-018 Rev P.3 Sections 1; 17-932-019 Rev P.2 Sections 2; 15-671-E01.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) Prior to the commencement of development, details of the proposed slab levels of the buildings and the existing site levels shall 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. These details shall include any proposed re-grading, cross-sections and retaining walls.

Reason: In order to secure a satisfactory form of development having regard to the topography of the site. Details are required prior to commencement of development to ensure that no unnecessary altering of levels takes place to accommodate the scheme.

- 4) The low-carbon sources of energy in Photo Voltaic panels as hereby approved shall be implemented as approved and shall be retained thereafter.

Reason: To ensure an energy efficient form of development.

- 5) Prior to the commencement of development, the following shall have been submitted to and approved in writing by the Local Planning Authority
- a. details of archaeological field evaluation works in accordance with a specification and written timetable
  - b. following from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable.

Reason: To ensure that features of archaeological interest are properly examined and recorded. Details are required prior to commencement of development to ensure that works do not damage items of archaeological value that may be present.

- 6) Prior to the commencement of development, details (including a specification for acoustic glazing and alternative means of purge ventilation to enable cooling should it be required without needing to open windows) shall be submitted to and approved by the Local Planning Authority to demonstrate how the development will fully meet the recommendations of the submitted acoustic report (carried out by Clement Acoustics, ref 11182-NEA-02- May 2016) with approved measures in place prior to first occupation of the relevant residential unit and retained as such thereafter.

Reason: To protect residential amenity. Details are required prior to commencement as the measures necessary may need to be integral to the design of the development.

Prior to the commencement of development, a construction management plan shall be submitted to approved in writing by the Local Planning Authority. The approved facilities and arrangements shall be provided

prior to construction work commencing and maintained for the duration of the construction works. The plan shall include:

- ☐ details of arrangements for loading/unloading and turning
- ☐ details of parking facilities for site personnel and site visitors
- ☐ A dust management plan
- ☐ Measures to minimise noise generation (including vibration)
- ☐ Measures to manage the production of waste and to maximise the re-use of materials
- ☐ Measures to minimise the potential for pollution of groundwater and surface water and prevent surface water discharge on to the public highway

Reason: To maintain highway safety and to protect the amenities of local residents. Details are required prior to commencement as potential impact will arise from the point of commencement.

- 7) Prior to the commencement of development, details of a sustainable surface water drainage scheme shall have been submitted to and approved in writing by the Local Planning Authority. The surface water scheme should be compliant with the Non-Statutory Technical Standards for Sustainable Drainage (March 2015) and shall include measures to prevent discharge of surface water onto the highway. The scheme should specify responsibilities for the implementation of the SUDS scheme; specify a timetable for implementation; provide a management and maintenance plan for the lifetime of the development; including arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. There shall be no provision for infiltration of surface water into the ground unless it has been demonstrated that there will be no risk to controlled waters. The scheme shall be implemented in accordance with the approved details prior to first occupation of any dwelling and maintained as such thereafter.

Reason: To prevent flooding by the ensuring the satisfactory storage and disposal of surface water from the site. Details are required prior to commencement to maximise the options that are available to achieve a sustainable drainage system. Infiltration of surface water into contaminated ground has the potential to impact on surface water quality and pose unacceptable risks to controlled waters.

- 8) Prior to the commencement of development, details of the proposed means of foul water disposal shall have been submitted to and approved in writing by the Local Planning Authority with the approved measures in place prior to occupation and retained permanently thereafter.

Reason: To avoid pollution of the surrounding area. Details are required prior to commencement as groundworks will reduce the options available.

- 9) Prior to the commencement of development, a scheme for the enhancement of biodiversity shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include the location and design of swift bricks and bat boxes, tubes or tiles and take account of any protected species that have been identified on the site, shall include the enhancement of biodiversity through integrated methods into the design and appearance of the dwellings and in addition shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals prior to first occupation of dwellings in any phase or sub-phase and shall be maintained in perpetuity.

Reason: To protect and enhance biodiversity. This information is required prior to commencement of development as works have the potential to harm any protected species present.

- 10) Prior to the development reaching damp proof course level, written details (and where appropriate, samples) of all facing materials and external surfacing materials of the development hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved materials.

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

- 11) Prior to first occupation of any residential unit, fencing, walling, railings and other boundary treatments (including provision of gaps under boundary fencing to facilitate ecological networks) shall be in place that are in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority and the approved boundary treatments shall be retained as such thereafter.

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

- 12) Prior to first occupation of any residential unit, facilities for the storage of domestic refuse shall be in place in accordance with details hereby approved

Reason: To ensure a satisfactory arrangement for refuse collection.

- 13) If during construction/demolition works evidence of potential contamination is encountered, all works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning

Authority and the remediation has been completed in accordance with the agreed plan.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 14) Prior to first occupation of any residential unit, a verification report shall be submitted to the Local Planning Authority. The report shall include a) details of any post remediation sampling and analysis, b) 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. c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development in any phase or sub-phase can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 15) Prior to first occupation of any residential unit, the proposed bathroom, toilet, and staircase windows and the secondary bedroom windows located on the west (side) building elevation shall be fitted with obscured glass and retained thereafter.

Reason: In order to preserve amenity and prevent overlooking and loss of privacy.

- 16) Prior to first occupation of any residential dwellings hereby approved, a detailed Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority with the agreed measures implemented within three months of first occupation and retained. Thereafter the Travel Plan should include the following: a) objectives and targets, b) Measures to promote and facilitate public transport use, walking and cycling, c) Promotion of practises/facilities that reduce the need for travel, d) Monitoring and review mechanisms, e) Travel Plan co-ordinators and associated support, f) Details of a welcome pack for all new residents including local travel information, g) Marketing, h) Timetable for the implementation of each element.

Reason: In order to promote sustainable travel choices and to help reduce air pollution.

- 17) Prior to first occupation of any residential dwellings hereby approved, management arrangements for the communal areas of the site and access roads shall be in place that are in accordance with a plan that has previously been submitted to and approved in writing by the Local

Planning Authority and shall be retained thereafter. The plan should include a) The areas within the scope of the management plan and the maintenance requirements of these; b) Method and works schedule for maintaining communal areas and estate roads; c) Details of the parking control measures to be implemented within the site; d) Details on the enforcement of parking control measures; e) The setting up of an appropriate management body; f) The legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery; g) Ongoing monitoring of implementation of the plan.

Reason: To protect the amenity of future residents and the character and appearance of the development.

- 18) Prior to first occupation of any residential dwellings hereby approved, the cycle parking, car parking and internal access/turning arrangements shown on the approved plans shall be provided, surfaced and drained in accordance with the approved details and shall be retained permanently for the use. The car parking spaces shall be retained for visitor use only. Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015 (or subsequent revision) shall be carried out on the land so shown or in such a position as to preclude vehicular access to parking areas.

Reason: Development without provision of adequate access and parking is likely to lead to inconvenience to other road users and be detrimental to amenity.

- 19) Prior to first occupation of any of the residential dwellings hereby approved, the vehicle access from Tonbridge Road shall be laid out in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The details shall include details of suitable visibility splays and measures to ensure their retention, and confirmation of the position of any gates (require a minimum set back of 7 metres from back edge of the pavement) with the approved measures retained thereafter.

Reason: In the interests of highway safety including in relation to the high pedestrian footfall in Tonbridge Road.

- 20) Prior to first occupation of any of the residential dwellings hereby approved, landscaping shall be in place that is in accordance with a landscaping scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall include on a plan, full details of the size, species, spacing, quantities and location of proposed plants, together with any hard surfacing, means of enclosure, and indications of all existing trees, hedges and any other features to be retained, and measures for their protection during the course of development. Any part of the approved landscaping scheme that is dead,



dying or diseased within 5 years of planting shall be replaced with similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity and an appropriate standard of accommodation.

- 21) Prior to first occupation of any of the residential dwellings hereby approved, details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used shall be submitted to and approved in writing by the Local Planning Authority. The details shall show that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 (in areas of low background sound levels a target of NR30 shall be achieved) as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever it's operating. After installation of the approved plant, it shall be retained in accordance with the approved details and no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority.

Reason: In order to protect the amenities of neighbouring occupiers and future residents of this development.

- 22) Prior to first occupation of any of the residential dwellings hereby approved, details of any external lighting to be placed or erected within the site shall have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of measures to shield and direct light from the light sources so as to prevent light pollution and in order to minimise any impact upon ecology. The development shall be carried out in accordance with the approved details and maintained as such permanently thereafter.

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

- 23) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development above slab level shall take place until details of such measures, According to the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained

Reason: To secure crime prevention and safety of the area

- 24) Details of provision of electrical car charging point shall be submitted for the approval of the Local Planning Authority before first occupation of the building hereby permitted.

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

## INFORMATIVES

- 1) The applicant is reminded of the requirements of approved document E of the Building Regulations 2010 in terms of protecting future residents of the apartment blocks from internally generated noise.
- 2) The applicant is advised that detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding. The applicant is reminded of the requirement for a formal application to connect to the public sewerage system. The applicant is advised to contact Southern Water for further advice including in relation to protecting infrastructure during construction works , Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)
- 3) The applicant is advised that due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to contact Southern Water for further advice including in relation to protecting infrastructure during construction works , Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".
- 4) The applicant is advised of their responsibility to ensure, that before the development hereby approved is commenced, that all necessary highway approvals and consents are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action by the Highway Authority.
- 5) The applicant is advised of the Mid Kent Environmental Code of Development Practice and it is recommended that no demolition/construction activities take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.
- 6) The applicant is advised that any facilities used for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume of the tanks.
- 7) The applicant is advised that adequate and suitable measures should be in place to minimise release of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and

nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

- 8) The applicant is advised that any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- 9) The applicant is advised that the lighting scheme provided in accordance with the planning condition should adhere to advice from the Bat Conservation Trust and Institution of Lighting Engineers

Case Officer Marion Geary

Case Officer Sign	Date
Marion Geary	

**Item 17, Page 60**  
**Maidstone**  
**Kent**  
**ME16 8RL**

**3 Tonbridge Road**

**Ref: 18/500160/FULL**

**KCC (Drainage):** We did have a pre-application discussion with the consultant for the original site so it may be that a drainage strategy is available that may be applicable if the revised proposal only changes in height and internal layouts. There is very little space in which to accommodate surface water attenuation and given this is a full application, unfortunately we cannot recommend the application be determined until a surface water drainage strategy has been provided for review.

**Environment Agency:** No comments

**Additional Information:** A Surface Water Drainage Scheme has been submitted which details use of Permavoid units under the access road with channel drains and a restricted discharger to the sewer. The scheme includes calculations for Climate Change Modelling.

**Discussion:**

It is understood that the above drainage details arose from past discussion between the applicant's consultants and KCC (drainage). Any formal views of the consultee will be reported verbally. The condition on surface water drainage in the agenda report will be retained as the details are still needed in addition to the overall strategy.

**Recommendation remains unchanged**

18/500160 - DEMOLITION OF EXISTING OFFICE BUILDING AND  
ERECTION OF 43 NO. APARTMENTS AND ASSOCIATED VEHICULAR AND  
PEDESTRIAN ACCESS - 3 TONBRIDGE ROAD, MAIDSTONE, KENT

The Chairman and Councillors Adkinson, Bartlett, Boughton, Round and Wilby 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 said that KCC Flood and Water Management had now commented on the information provided for the proposed drainage strategy, which detailed the use of Permavoids under the access road and hard surfaces, and considered it to be acceptable in principle subject to the attachment of conditions requiring:

- The submission of a sustainable surface water drainage scheme for the site;
- The submission of an operation and maintenance manual for the proposed sustainable drainage scheme detailing how the scheme would be implemented and maintained; and
- The submission of a Verification Report demonstrating that the surface water drainage system had been installed correctly and would be able to achieve objectives in dealing with surface water.

The recommendation remained unchanged subject to the deletion of condition 7 relating to surface water drainage and the attachment of the conditions relating to surface water drainage as recommended by KCC Flood and Water Management.

Mr Stroud addressed the meeting on behalf of the applicant.

**RESOLVED:** That subject to:

(a) The prior completion of a S106 legal agreement in such terms as the Head of Legal Partnership may advise to secure a libraries contribution of £2,064.68; AND

(b) The conditions and informatives set out in the report with the deletion of condition 7 relating to surface water drainage, the additional drainage conditions referred to by the Principal Planning Officer in her verbal update at the meeting and an additional informative relating to the possibility of providing a car sharing scheme operating from the site being investigated by the applicant (the wording to be finalised by the Head of Planning and Development acting under delegated powers), the Head of Planning and Development be given delegated powers to grant permission and to be able to settle or amend any necessary Heads of Terms of the legal agreement in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting: 6 – For 5 – Against 1 - Abstention

Councillors Adkinson and Boughton requested that their dissent be recorded

# Agenda Item 15



<b>REFERENCE NO -</b> 18/500346/FULL		
<b>APPLICATION PROPOSAL</b> <p>Erection of 115 dwellings together with associated infrastructure, open space, landscaping and access works.</p>		
<b>ADDRESS</b> Lordswood Urban Extension Gleamingwood Drive Lordswood Kent		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>The application has a significant impact from the loss and deterioration of Ancient Woodland and the harm from encroachment into the open countryside and to its character and appearance.</p> <p>The new National Planning Policy Framework gives a greater degree of protection to Ancient Woodland from planning decisions on development. It is not considered that the current application achieves the test of demonstrating “<i>wholly exceptional reasons</i>”. It is not a nationally significant infrastructure project nor does it provide a public benefit that would clearly outweigh the loss and deterioration of habitat.</p> <p>The extra units, compared to the scheme allowed on appeal, will increase the population in the development and thus the impact on the Ancient Woodland being retained will be greater and more harmful. The scheme is similarly also contrary to Maidstone Borough Local Plan policy DM3.</p> <p>The adoption of the Local Plan and improved housing supply gives substantially more weight to Policy SP17 of the Maidstone Borough Local Plan in the consideration of the scheme than was the case when the Inspector made his decision. The proposal breaches policy SP17 as it encroaches into the open countryside by reason of its location and harms the character and appearance.</p> <p>It is not considered that the extant permission granted appeal is a material consideration that is substantial enough to outweigh the harm identified.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> <p>Called into Committee by Boxley PC and contrary to their views.</p> <p>The application was withdrawn from the Planning Committee of 16 August 2018 for Officers to consider the detailed implications of the new National Planning Policy Framework with regard to Ancient Woodland and to obtain formal confirmation from Medway Council on its requests complying with the CIL Regulations.</p>		
<b>WARD</b> Boxley	<b>PARISH/TOWN COUNCIL</b> Boxley	<b>APPLICANT</b> McCulloch Homes And Palm

		Developments Limited <b>AGENT</b> Tetlow King Planning
<b>TARGET DECISION DATE</b> 12/07/18		<b>PUBLICITY EXPIRY DATE</b> 03/08/18

### **Relevant Planning History**

15/503359/OUT

Outline application with all matters reserved for residential development (approx. 89 dwellings) plus open space, biomass plant and access road (plus emergency access) (Revised Scheme).

Appeal Allowed      Decision Date: 30.11.2015

13/1797

Outline application with all matters reserved to develop the site for residential (approximately 89 dwellings) with open space, access road and biomass heating plant as shown on drawing no: PL001 Rev 11, PL002 Rev 11 and PL003 Rev 11,

Refused      Decision Date: 23.04.2014

13/1587 Request for Screening Opinion - Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Environmental Impact Assessment Not Req.      Decision Date: 03.10.2013

Provisional TPO Woodland Order No: 5007/2015/TPO dated the 07.08.2015 (not confirmed)

Provisional TPO Woodland Order No TPO ref 5008/2018/TPO dated 14.08.2018

### **MAIN REPORT**

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

- 1.01 The site is close to the Medway Council district. It is outside the urban confines of Lordswood and is thus in the countryside. It comprises an area of 4.28ha mainly being 2 fields in open agricultural land with some Ancient Woodland.
- 1.02 It is sited to the east of Lordswood, a residential area that spans the Borough boundaries and was developed in the 1960s and 70s. The red line application site includes a main access through the woodland to Gleamingwood Drive plus land needed either side for visibility splays and



also an emergency access to the south to Westfield Sole Road and a non-vehicular link to the northernmost extent (Sindals Lane).

- 1.03 To the east, the site is bounded by Sindals Lane, an unmade track, to the North by Roots Wood and the site of Gibraltar Farm. Gibraltar Farm has an outline planning application for up to 450 homes (originally allowed on appeal).
- 1.04 The M2 motorway forms a boundary to the southern edge of Lordswood and separates it from Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.05 The site has been used for horse related purposes in the past and is mainly 2 fields. They are separated visually from open agricultural land to the east and south by a small bund planted with a mixture of deciduous trees and an inner row of mature coniferous trees.
- 1.06 Gleamingwood Drive follows the perimeter of the built up area and on its eastern side is lined with mature trees designated as Ancient Woodland owned by the applicant. This adjoining woodland is known as Reeds Croft and Cowbeck Woods and has an area of approx. 7 ha. These two woodland parcels are believed to have remained more or less continuously wooded since at least 1600, although part of Reeds Croft Wood was replanted in the 19th or 20th Century, in part for softwoods and in part for commercial sweet chestnut coppice.
- 1.07 The new access road would be created through the Ancient Woodland from Gleamingwood Drive and another section of roadway through Ancient Woodland would link the 2 fields. The housing units themselves and a landscaped buffer area would be entirely contained within the open fields sections of the application site.
- 1.08 The site lies on the edge of countryside which forms a gap between Lordswood and Hempstead to the east, but the gap between these settlements has no specific landscape policy protection. It does fall within the Local Landscape Character Type of "Dry Valleys and Downs" and the "Bredhurst and Stockbury Downs Landscape Character Area" in the Maidstone Landscape Character Assessment of 2012, as amended in 2013. The Ancient Woodland within the site is acknowledged to have been maintained by coppicing in the past but there is currently no active management.
- 1.09 A public right of way (PROW) runs along the NE boundary (PROW KH37). The Ancient Woodland forms a strong visual barrier between suburban development and open farmland. The woods themselves do not have a PROW through them but there are informal paths and hence there is some informal use of the application site and the adjacent wooded area for recreation such as dog walking.
- 1.10 A provisional woodland TPO ref 5008/2018 has recently been served on this site and adjoining woodland.

## **2. PROPOSAL**

- 2.01 The scheme is for 115 dwellings, an increase of 26 dwellings over that approved in the outline appeal scheme, approx. 27 dwellings per hectare. Generally the new houses are detached and semi detached with a few terraces. They are mainly 2 storeys but there are some 2.5 storey dwellings, the latter have eaves heights of 7m and ridge heights of 10.5m. The mix is 2, 3 and 4 bed properties. There are to be 46 affordable units comprising; 12 x 2 bed; 31 x 3 bed; 3 x 4 bed. Of these, 32 units (70%) will be social rented and 14 (30%) will be shared ownership.
- 2.02 In the centre of the site is a triangular open space indicated to include a Locally Equipped Area for Play (LEAP).
- 2.03 In terms of renewable and low carbon design, the applicants state that the new development has been designed to meet best practice criteria relating to sustainable design and the scheme incorporates a number of energy efficiency measures such as passive solar design and orientation, high quality roof, wall and floor insulation, air tightness and the use of energy efficient appliances and lighting throughout the development.
- 2.04 A palette of traditional materials is proposed which are intended to compliment the proposed contemporary external appearance. They consist of Cambridge dark weathered brick, profiled Larch cladding Black stained profiled Larch cladding; Marley artificial slate; Black rainwater goods Joinery: pale grey aluminium windows and doors.
- 2.05 The perimeter is predominately surrounded by trees. Parking areas and communal areas which are publicly accessible are generally overlooked by adjacent dwellings providing a natural surveillance. Footpaths are intended to be visually open, and have clear intended routes to encourage their use.
- 2.06 Street lighting will be introduced for all public routes, to consist of energy efficient LED luminaires with no up lighting to minimise light spillage.
- 2.07 A comprehensive ecological appraisal in support of the application addresses biodiversity and the ancient woodland. Most affected woodland areas are overstood coppice with low bat roosting potential so the risk to roosting bats is relatively low. The report also concludes that the existing woodland is of relatively poor quality for the majority of specialist woodland birds. The 2 reptile species found are both relatively common in Kent (slow-worm and common lizard).
- 2.08 An objective of this application is the need to find a vehicular access route through Reeds Croft Wood having the least impact on the Ancient Woodland. The application has therefore been accompanied by a detailed route plan based on a precise survey of trees forming part of the Ancient Woodland.
- 2.09 The carriageway will have a gradual bend and a narrowing chicane intended to result in minimal loss of trees and coppice stools all of which have been the subject of a detailed survey. Specifically, the tree survey states that the route will require the loss of smaller trees, such as some of

the birch and chestnut and some of the weaker birch and beech. Revision to the roadway, narrowing by approx. 2m where it passes tree group 36, has reduced the impact and enabled a further tree in the group to be retained.

- 2.10 Overall the Tree Report submitted concludes that the proposed development results in the loss of very few trees. Most trees being lost are stated to be those of low quality and value and that the impact on trees is not materially altered from that already deemed acceptable and allowed at appeal.
- 2.11 A landscape visual impact assessment states that the proposed new scheme will have no greater visual impact on the landscape setting than the approved appeal scheme despite the increase in unit numbers.
- 2.12 As with the scheme allowed on appeal, the development would have a single access from Gleamingwood Drive, with a secondary emergency access onto Westfield Sole Road using an existing entry point. Westfield Sole Road is narrow with passing points at regular intervals but it has no pedestrian access so is not suitable as a main access. (NB the appeal decision was in outline subject to a Unilateral Undertaking, with all matters reserved but the Inspector specifically approved the access from Gleamingwood Drive and the link access between the 2 housing parcels as per the submitted drawings).
- 2.13 Trip forecasts to determine the impacts on the surrounding highway network have been updated due to the increase in number of proposed dwellings on the site, and have also factored in recent approvals that may affect highway capacity. The assessment concludes that the proposed development is in a sustainable location with respect to local facilities and public transport, whilst its impact on the local highway network is minimal.
- 2.14 Following comments from KCC as the Local Highway Authority, changes have been made such as the relocation of the proposed crossing point at the site access junction with Gleamingwood Drive in order to tie in with existing provision and to avoid the loss of the first section of existing parking layby on the opposite side of the road.
- 2.15 In response to KCC concerns about the need for off site highway improvements at Gleamingwood Drive/Lordswood Lane Junction, the applicant's consultants have suggested an alternative scheme: partial widening on the eastern side of Lordswood Lane and where the footway and verge is at a comparable level to the carriageway, to reduce queuing, to address the existing overrunning of the verges which already occurs on the northbound Lordswood Lane and on the left turn radius from Gleamingwood Drive. Works to the splitter islands and white lining of Round Wood roundabout have been agreed with KCC.
- 2.16 In addition to the network of woodland walks, the proposed development benefits from an accessible pedestrian footpath that provides access from Gleamingwood Drive to all units and sections for a circular footpath along the site's perimeter.

2.17 The landscape masterplan proposes

- Retention, protection and positive management of important landscape features
- Removal of the conifer tree belt
- Retention and enhancement of existing hedgerow along Westfield Sole Road and creation of a 10m tree/scrub buffer;
- Creation of a 15m buffer to the Ancient Woodland
- creation of areas of public open space and amenity areas
- informal green linear recreational route around the proposed development;
- landscape/ecological management/enhancement of the site and woodland adjacent
- Creation of a new footpath link to Gleamingwood Drive.

2.18 The scheme includes provision of policy compliant onsite affordable housing.

2.19 Foul drainage is intended to connect to the main sewer and surface water to infiltration to ground as part of SuDs scheme.

2.20 The agent has submitted the following in support:

- Affordable housing additional benefits: an increase of 10 additional affordable homes; there is an acute need for affordable homes in the Borough which the 46 affordable homes arising from the current application would make a significant contribution towards addressing.
- Highways additional benefits: Widening of the previously proposed footway on the southern side of the access to become a footway/cycleway; Introduction of a chicane around the group of trees on the outside of the bend before entering the site proper to give greater clearance to them; Relocation of the proposed crossing point at the site access junction with Gleaming Wood Drive to avoid the loss of the first section of existing parking layby on the opposite side of the road; Lordswood Lane/Gleaming Wood Drive priority junction improvement works
- Landscape additional benefits: retention, enhancement and positive management of important landscape features on and abutting the site; reinstatement of woodland coppicing; removal of the conifer tree belt; enhancement of the perimeter deciduous tree belts; reinforcement of hedgerow along Westfield Sole Road; and creation of a 15m buffer between the ancient woodland and proposed housing; more space around the mature outgrown hedgerow

- Central area of public open space has been enlarged and redesigned to provide a more attractive focal point and natural play area. Frontages now overlook the ancient woodland buffer zone and areas of informal open space. This will provide better natural surveillance and will improve ease of access for landscape maintenance, ensuring the future success and longevity of the buffer zone.
- Trees and Ancient Woodland additional benefits: proposed scheme reduces the amount of woodland that is lost; a detailed Woodland Management Plan has been submitted whereas the extant consent merely required such a management Plan to be put in place. Conservation-led woodland management proposed, delivering the wood fuel product that will contribute to the continued management of the woodland in perpetuity and securing better controls over public access and usage.
- Ecology additional benefits: Survey work has indicated that there is no overriding ecological impediment to reinstating coppice with standards management with dormice, birds foraging bats and flora all likely to benefit considerably.
- Extant scheme: My clients have confirmed that should this current application be delayed or refused then they would proceed with the previous scheme in order to maintain the additional value secured in the site. My clients pursued 2 original outline applications and appeals in order to secure the consent and will therefore have no desire to lose this position now and return the site to the existing vacant use. This consent already establishes the principle of the access road through the Ancient Woodland and indeed the principle of development more generally of the site. This is therefore a recognised fall-back position in planning terms that should be considered in the context of the current submission.

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

National Planning Policy Framework (NPPF 2018)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017 (MBLP) SS1; SP17; SP19; SP20; SP23; DM1; DM3; DM6; DM8; DM12; DM19; DM20; DM21;DM23;DM30; H1; ID1

Supplementary Planning Documents: Air Quality; Public Art.

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

- 4.01 48 objections received from local residents raising the following (summarised) issues

- This site has not been identified as a housing allocation site in the Maidstone Borough Council
- Road fatalities in the area
- 115, from the original 89, is too many extra houses
- many of the surveys, transport etc are out of date
- approval gets given and as this has set a precedent - plans change and
- Pleased with the biomass plant removal
- This build is coupled with the Gibraltar Farm build next door of 450 homes – overall impact should be assessed
- Local residents not given opportunity to attend meetings
- Other sites should be developed with less of an impact.
- proposed entrance is on an already tight and dangerous bend that buses cannot pass cars
- Junction will be an accident blackspot.
- Needs significant improvements to Gleamingwood Drive
- access to the site should be via Westfield Sole Road to A2
- emergency exit onto Westfield Sole Road is unsuitable for that purpose since it exits onto a narrow country lane
- needs new slip roads on and off of the A2 and peak time traffic lights at the roundabout
- improve the cycle lane
- improve bus infrastructure
- fire risk of the new houses
- inadequate parking
- needs a suitable pedestrian crossing
- should not result in less layby parking outside the site
- impact on overstretched GP Surgeries and local secondary schools, a new doctors surgery is needed
- Loss of ancient woodland is unnecessary, will suffer damage by resident using it as a short cut or for recreation.
- Identity of the area should remain characterised by Woods.
- harm to wildlife- Some species not listed in the ecology report
- loss of natural barrier against sound/fumes/smells/cross winds

- loss of privacy and views
- parking on Gleamingwood Drive makes the road dangerous- too narrow and unsafe by blind spots
- roads impassable when heavy snow
- loss of green wedge into the urban area when brownfield sites or empty properties in urban areas exist
- harms the local beauty of the area
- should pay a levy to Medway Council
- access should be from Maidstone not Medway
- need to take notice of the views of the residents
- Only a few Lordswood residents who come under Maidstone Council were informed of this build and then, at a very late stage in the planning process.
- headlight nuisance at new junction, affecting sleep
- unsustainable, allow the sprawl of London to increase into Kent
- South east is overheated and overcrowded
- Affordable homes are not necessary- just upsizing.
- merging of urban areas
- concrete will affect surface water drainage
- opens up the woods for more development
- loss of biomass boiler nullifies the Inspectors approval
- not enough parking at local shops
- noise during construction
- huge amount of housing going up in this part of Kent
- profiteering
- Travel Plan will not make any difference
- Sewers will not cope
- Commuting misery to our already overcrowded trains and coaches.
- Bus routes only serve Chatham station during the morning and evening peak.
- Water which is already in seriously short supply during periods of drought

- on the edge of the Kent Downs AONB and is an area of Local Landscape Importance
- the development did not get declared on legal searches
- devaluation of house prices
- Teenagers and young adults with cars will stay at home as cannot afford to move out so will park in Lordswood roads necessitating permits.
- Shameful that views of every person who lives in the area ignored by local council and Government

### **Woodland Trust**

- Strongly objects due to the loss of and damage to Ancient Woodland; contravenes national and local planning policy and flies in the face of the government's intention to better protect Ancient Woodland from inappropriate development; needs a minimum 30m buffer and alternative routes for the access road and link road.
- The Government has recently updated the National Planning Policy Framework. Protection for ancient woodland and ancient and veteran trees has been strengthened. This application contravenes paragraph 175c which refers to the need for wholly exceptional reasons and a suitable compensation strategy. Exceptional reasons are defined as follows: "For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat." The proposed development does not fit these criteria and as such should be refused.

### **Ward and Medway Council Members**

- previous application was only allowed on appeal
- a negative impact upon local residents from the increase in numbers of dwellings
- overdevelopment
- detrimental impact on the quality of life during construction period and also when finally built out
- Junction 3 of the M2 is already beyond capacity and 300 hundred more cars will have an enormous impact
- The traffic now is much heavier than when the original application was submitted
- The impact on local schools, doctors and dentist will have an impact on an area already over developed, and all this area is served by Medway Hospital a hospital already very overstretched.



- Boxley Parish Council has thoroughly covered all the relevant reasons why this application should be refused.

#### **Local MP (Tracey Crouch)**

- impact on the local area from increasing number of dwellings
- pressure on local infrastructure, services and roads
- Nearby application for 450 dwellings has been granted on appeal.
- concerns about the scale of housebuilding taking place in the area

## **5. CONSULTATIONS**

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

### **5.01 Boxley PC- Strongly objects**

- a greenfield site is inherently unsustainable
- incongruous urbanisation into the countryside
- Planning Inspector was heavily swayed by the inclusion of a sustainable bio-mass
- MBC now has a 5-year housing
- Poorly related to the existing built up urban area.
- visual impact
- main access creates significant gaps in the woodland- harm to the street scene and loss of visual amenity
- direct loss of Ancient Woodland
- loss of connectivity for Dormice and bats
- harm to wildlife habitat from lighting, activity, recreational use
- loss buffer zone to the rural strategic gap
- Harms setting of the North Downs AONB and its landscape and scenic beauty.
- light and noise pollution
- loss or deterioration of irreplaceable habitat and aged veteran trees
- selling coppiced wood would require additional road traffic movements,

- the applicant is exploring how to get volunteers involved suggests that the funding of future woodland management is not robust
- inadequate car parking
- Inadequate Travel Plan: unmaintainable, unfunded
- Unlikely to get an on-site LEAP managed by MBC
- No sustainable inclusive and mixed communities
- inadequate public transport or cycling routes
- Over 500m from the nearest stop through a wooded area
- Local sewer network inadequate
- Unsafe access
- Outdated 2013 traffic count statistics
- M2 junction 3 is beyond its design capacity.
- proposed Lower Thames Crossing is expected to increase local road usage
- inadequate local medical services
- air pollution
- no consultation took place with the community
- 106 payments are requested for: Highway junction improvements; the local parish council hall; that the bike routes are linked.

5.02 Additional objections on revised plans: the junction improvement of the left hand lane of Gleamingwood Drive, for drivers turning left into Lordswood Lane, is not included and it is unlikely to be financed by the Gibraltar Farm development. Concern that the proposed improvement on Lordswood Lane will be insufficient in width and length especially as the junction is extensively used by HGVs. Insufficient parking spaces, All road surfaces should be permeable to allow rain water to be captured over a larger area as possible; The Green Travel Plan is not achievable and not enforceable; KCC's Consultee Comment – The cycle path does not continue along Gleaming Wood Drive (past the Industrial Estate) to the Lords Wood Lane junction - a cycle route from the development to the Lords Wood Lane junction is needed. KCC response falls short on the impact of the development on Jct3 of the M2 and associated roundabouts, Walderslade Woods and local highway infrastructure.

5.03 Medway Council: No objection subject to a Section 106 Agreement to secure the following developer's contributions:

- Nursery School Expansion: £105,248.00 and Primary School Expansion: £95,953.37 at one or more of: St. Benedict's RCP, Lordswood Primary or Kingfisher Primary
  - Secondary School Expansion: £179,194.97 at Holcombe Grammar School
  - £80,070.00 towards the provision of open space locally
  - Appropriately worded conditions pertaining to access arrangement, lighting, submission of a Construction Environmental Management Plan to ensure that mud is not brought on to the highway and the hours of the construction would not be detrimental to the amenities of the local residents.
- 5.04 Medway CCG- Funding sought of £53814.25 towards running a Minor Illness Clinic in Lordswood.
- 5.05 KCC Education: KCC schools could not accommodate the increased pupil demand for both Primary and Secondary provision. Medway Council's confirmation needed that schools within that area can accommodate the additional demand or will be expanded to do so.
- 5.06 Environment Agency- a low environmental risk. The applicant may be required to apply to the EA for other consents, permissions or licenses.
- 5.07 Forestry Commission- refers to standing advice and in the wider planning context the Forestry Commission encourages local authorities to consider the role of trees in delivering planning objectives. For instance through the inclusion of green infrastructure (including trees and woodland) in and around new development; and the use of locally sourced wood in construction and as a sustainable, carbon lean fuel.
- 5.08 Natural England: proposal is unlikely to affect any statutorily protected sites. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development. The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose.
- 5.09 Natural England has published Standing Advice on protected species and Ancient Woodland. This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community.
- 5.10 KCC Ecology objection: direct loss of Ancient Woodland through the creation of two access roads to facilitate the development that will result in a loss of connectivity throughout the site.

- Reduction in the area of other semi-natural habitat adjoining the woodland though the proposed 15metre buffer could provide similar benefits if it is established and managed appropriately.
- Disturbance to species present within the Ancient Woodland including breeding birds, dormice and bats.
- Increase in recreation within the woodland, trampling of the ground flora and a disturbance to protected species within the site.
- Lighting scheme could be developed to minimise the impact but impact cannot be avoided completely.
- fly tipping/Garden encroachment:
- Translocation of the soils from the proposed road ways can enable the seedbank to be retained active
- Needs management of the woodland for the lifetime of the development, regardless of whether the proposed works are economically viable.
- A minimum of a 15 metre woodland buffer along the boundary of the woodland must be created and managed appropriately as per the current NE Standing Advice.
- Protected Species surveys were carried out in 2013 but the results are likely to still be valid but there will be a need for updated species surveys for detailed mitigation strategies and any EPS licence applications. Consider management on the grassland fields for suitable reptile habitat. 5 species of bats are foraging within the site mainly along the woodland boundaries and hedgerows which should be retained within the proposed development.
- Detailed lighting strategy must demonstrate that there will be minimal light spill in to the open/natural spaces.
- Dormice have been recorded within the Ancient Woodland and the proposed development site so the canopy should be retained across the access road.

- 5.11 KCC Archaeology- The site lies within a general broad area of prehistoric and Roman archaeological potential requiring a programme of archaeological work.
- 5.12 KCC (PROW)- Public Rights of Way KH37 restricted byway runs along the eastern boundary of the site and should not affect the application
- 5.13 KCC (Drainage) - No objection subject to a condition for a sustainable surface water drainage scheme with additional ground investigation carried out in relevant locations across the site to support the use of infiltration: soakage tests are compliant with BRE 365, a modified infiltrate rate and any soakaway with an appropriate half drain time.

- 5.14 UKPN: 33KV overhead network crosses the land so steps must be taken to ensure their safety when working near the overhead network.
- 5.15 KCC (Highways and Transportation): A new priority T-junction onto Gleamingwood Drive that will be positioned at the south western end of the site is consistent with 15/503359, with the alignment influenced by the need to minimise loss of trees. At least one of the footways should be widened to form a shared footway/cycleway, commensurate with the larger scale of development and consistent with that on Gleamingwood Drive. The TA needs details such as the location, date or number of readings. Visibility sightlines of 2.4m x 43m are required due to the 30 mph speed limit on Gleamingwood Drive. Sightlines should be perpendicular to the kerblines. Swept path analysis has been provided - the turning manoeuvres of refuse vehicles can be accommodated. To the south west the new 2m wide footway will provide connectivity to the existing nearby bus stop. To the north east the 2m wide footway is shown to require the removal of several on-street parking spaces: prefer widening of the carriageway and the provision of a build-out to assist pedestrian crossing movements, which should be the subject of a Road Safety Audit. An emergency access is proposed onto Westfield Sole Road. This will need barrier control and improved visibility sightlines.
- 5.16 The TA highlights how the site is well-placed in relation to several key local facilities within Lordswood: local shops, primary/infant/junior schools, health centres, leisure centres and employment areas. Additional facilities are also available further afield at Walderslade and Hempstead Valley. Pedestrians and cyclists are assisted by the shared route that runs along Gleamingwood Drive to the west with connectivity to facilities in Lordswood and Walderslade. There is a dedicated pedestrian access at the northern end of the site providing a more direct route into Lordswood for residents within the northern part of the site.
- 5.17 There are bus stops on the Gleamingwood Drive/Clanton Road corridor. The development must be supported by bus stops with accessible waiting facilities for all passengers, ie. Raised kerbing for low floor access and dropped kerb/tactile paving to assist crossing pedestrians. These works should be secured as part of a S278 Agreement. There are bus links with scope for interchange with rail services at Chatham railway station.
- 5.18 The submitted Travel Plan has measures and initiatives proposed for the dissemination of travel information, overseen by a TP Co-ordinator, with a process of survey and review. Monitoring requirements should only cease when there is sufficient evidence for all parties to be sure that the travel patterns of the development are in line with the objectives. A fee of £5000 is required to fund KCC's review of monitoring reports and work with the TP Coordinator to achieve the objectives. This should be secured via a Section 106 Agreement.
- 5.19 The TA seeks to quantify the net change in traffic generation that could arise having regard to extant planning permission no.15/503359. This is a legitimate methodology if permission 15/503359 can be lawfully implemented. The trip generation forecasts indicate that the proposed development will generate up to 76 vehicle trips in each AM and PM

peaks. The vehicle trip rates are identical to those applied within the TA that supported the 2015 application and have not been updated but there is no set rule against using an earlier version. In overall terms, the TA predicts a net increase of 17 vehicle trips in both the AM and PM peak periods which are modest in the context of the traffic flows already on the local network as a whole.

- 5.20 Trip Distribution: two thirds of trips being assumed to route to the west via Gleamingwood Drive and the Round Wood Roundabout. Over a third of all trips are assumed to route via Walderslade Woods (A2045) they have used traffic surveys undertaken in September 2013. This data is older than 3 years and is not therefore representative of current conditions, affecting the robustness of the findings.
- 5.21 Road crash data (2012 – 2017) identified 14 incidents, of which one resulted in serious injury. None in the vicinity of the proposed site access. The assessment of traffic impact has included background traffic growth over the period to 2018 (current year) and 2023 (horizon year). Uncertain whether this includes the 450 dwellings at Gibraltar Farm (MC/14/2395) approved by the Secretary of State as recently as March 2017. Capacity modelling analysis has been undertaken for peak periods on the key junctions when the development will be fully occupied in 2023. The Lordswood Lane/ Gleamingwood Drive junction is predicted to operate over practical capacity during both peak periods in 2023. The additional traffic will result in a further worsening of operating conditions. The predicted 38 vehicles queuing northbound would be more likely to impede traffic flow at the Round Wood Roundabout. Concerned that traffic growth over the intervening period has reduced the available capacity at the junction. Require this impact to be mitigated.
- 5.22 At Round Wood Roundabout, the additional traffic will result in a further deterioration in operating conditions. The applicant should fully mitigate the impact of the development.
- 5.23 Proposed 253 car parking spaces include 23 visitor spaces which accord with requirements. Cycle parking is proposed in accordance with the minimum standards. Suitable carry distances for refuse can be achieved.
- 5.24 (Additional Comments) The additional information submitted by the applicant has addressed principal areas of concern and enables the holding objection previously raised to be removed: avoiding any loss of existing on-street parking spaces. The arrangements improve upon those previously submitted in how they better cater for all types of road user. The internal layout has been amended to enable the shared footway/cycleway to extend into the site. Priority workings have been included where tree retention necessitates a narrower carriageway width. Further capacity modelling of the Gleaming Wood Drive/Lordswood Lane junction has been undertaken with the traffic generation of the Gibraltar Farm development and a proposal to improve the junction by widening the Lordswood Lane carriageway. In the case of the Round Wood Roundabout, the applicant has reaffirmed minor adjustments to road markings and splitter islands. The modifications are unlikely to prevent a worsening of the already extensive queuing on Walderslade Woods in the

PM peak. Whilst KCC Highways remain concerned about worsening congestion in this locality, it is recognised that the differential in impact between the consented 89 dwellings and the proposed 115 dwellings will make it difficult to sustain an objection.

- 5.25 Southern Water- The exact position of the public water mains must be determined before the layout of the proposed development is finalised. The results of an initial desk top study indicate that cannot accommodate the pumped flow without additional local infrastructure. Alternatively, the developer can discharge foul flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the foul system. Suggest condition for a drainage strategy for means of surface water drainage and foul disposal and an implementation timetable; need to ensure that arrangements exist for the long term maintenance of the SUDS facilities to avoid the inundation of the foul sewerage system. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers. No habitable rooms should be located closer than 15m to the boundary of a proposed pumping station site. Southern Water can provide a water supply to the site. The proposed development would lie within a Source Protection Zone around a public water supply sources.
- 5.26 Kent Police- ( initial comments) Note section Secured By Design in the DAS, but significant concerns about the amount and type of permeability/footpaths provided through the parking court and general lack of natural and informal surveillance, particularly from active rooms, use of some blank elevations; Recessed front doors; Door sets and windows, should be certified to PAS24:2016.
- 5.27 (Comments on revisions): note the changes to the proposed site plan and the inclusion of recommendations made from a CPTED aspect
- 5.28 Environmental Protection
- The proposed development is not in an Air Quality Management Area, and unlikely to be an issue for the new residents. However, any air quality impact for existing residents would need to be properly mitigated.
  - The site does not appear on our database as being potentially contaminated.
  - The main potential noise source would be the M2: the external noise levels in back garden and other relevant amenity areas should conform to the standard identified by BS 8233 2014
  - One EV Charging Points 1 Publically accessible EV "rapid charge" point (of 22kW or faster) should be provided per 10 residential dwellings (where no dedicated off-street parking is provided). Ideally any dwellings with dedicated off-street parking should be provided with their own charge points for low-emission plug-in vehicles. Where not practicable, contribution towards installation at nearby locations should be considered.

- 5.29 Parks and Open Space- some of the 3.87 ha requirement for open space under DM19 could be met on site and the provision of an enhanced LEAP would serve children and young people in the area. However due to the sites location there are no adjacent MBC sites that could be enhanced for other Open Space types such as sport, allotments or natural open space. However Walderslade Woods is a nearby natural area which may be suitable for access enhancement. Boxley Parish Council has a number of leaflets promoting public way-marked trails around the woods; they may benefit from additional funding to improve or extend those networks and associated directional and interpretational signage. The woodland is roughly bounded by Boxley Road, Forestdale Road and Walderslade Woods (road).

## **6. APPRAISAL**

### **Main Issues**

- 6.01 The key issues for consideration relate to:

- Principle of Development and the Allowed Appeal
- Landscape Impact
- Ecology
- Ancient Woodland
- Environmental Sustainability
- Design and Layout
- Traffic and Highways
- Developer Contributions

### **Principle of Development and the Allowed Appeal**

- 6.02 By letter dated 30 November 2015 (following a Public Inquiry in October 2015) an Inspector granted outline planning permission (15/503359/OUT) on an identical site for residential development of up to 89 dwellings plus open space, biomass plant and access road from Gleamingwood Drive (plus emergency access to Westfield Sole Road).
- 6.03 The Inspector did acknowledge that the site was outside the development boundary and was in an area appreciated and enjoyed as countryside. However, he said that there needed to be a balance to be struck in assessing the merits of development.
- 6.04 Since the appeal decision, there is an adopted Local Plan and a 5 year housing land supply (6.5 years). These both give substantially more weight to Policy SP17 of the MBLP in the consideration of the scheme than was the case when the Inspector made his decision. Policy SP17 defines the countryside as land outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages defined on the policies map. It says that development proposals in the countryside



will not be permitted unless they accord with other policies in this plan, they will not result in harm to the character and appearance of the area, they do not have significant adverse impact on the setting of the Kent Downs AONB and they retain the separation of individual settlements.

- 6.05 As well as not giving countryside protection policies full weight, the Inspector said that tree screening would largely conceal housing from the south and east, even in winter. He considered the appeal proposal to be a natural extension of existing development of the Medway conurbation. However, Policy SP17 resists the principle of development in the countryside: whether visually screened in the long term or close to an urban boundary are not factors which necessarily outweigh against that policy.
- 6.06 The proposal breaches policy SP17 as it encroaches into the open countryside by reason of its location and thus also harms its character and appearance. Set against that is the need to consider if there are matters which outweigh that non-compliance with the Development Plan.
- 6.07 The appeal decision is an extant planning permission that must be viewed as a material consideration of significant weight if it provides a “fall back” position, ie: if it is a genuinely realistic alternative development opportunity. The planning permission granted in the appeal decision requires outstanding details of access, appearance, landscaping, layout and scale all to be submitted before 30 November 2018. Once the last of the reserved matters were to be approved, the developer would have a further 2 years to implement. The implementation target date is therefore not established as yet because it depends on an as yet unknown timeframe (being the time taken to approve the reserved matters applications). The reserved matters submission would be expected to include the biomass boiler as a key component of that outline consent.
- 6.08 The appeal decision does establish the principle for development of this countryside site with housing and creating an access with its consequent impacts upon the Ancient Woodland but it is for 26 fewer houses and includes a biomass boiler.
- 6.09 The section 106 Unilateral Undertaking (UU) included a commitment to submit a scheme to secure the biomass boiler. The time trigger for that is before implementation which, as mentioned above, is a date that has not been established. For the “fall back position” to be a genuinely realistic one, the developers need to indicate that they intend to implement the appeal decision and there are no obstacles to doing so. The planning statement indicates that the developer has no intention of building a biomass boiler because practical implementation of this was explored in great detail in conjunction with wood fuel providers and found to be an unviable proposition. As such this scheme does not propose to deliver an on-site biomass facility.
- 6.10 Whether the appeal decision is a genuine fall back position and thus a material consideration when determining this planning application is a matter of subjective judgement and inevitably one which is finely balanced. It is a scheme with 26 fewer houses and includes biomass boiler

and so is a distinctly different scheme to the current application. That this full application has been submitted could be viewed as an indication that the developer does not genuinely wish to progress the 89 unit/biomass scheme. The developer has had nearly 3 years to have submitted the reserved matters pursuant to the outline appeal decision but has not done so to date. They have indicated that they are aware of the need to submit Reserved Matters before 30 November 2018 to safeguard the outline decision.

## **Ecology**

- 6.11 The ecological appraisal undertaken continues to acknowledge the importance of the site as Ancient Woodland having high habitat and nature conservation value. The wood has been subject to damage due to informal recreational use with a number of informal footpaths running through it and being well used by local dog walkers. Reference is made to various hedgerows also having high nature conservation value with the survey identifying the presence of badgers, numerous bird species, slow worms and common lizard, bats and dormice.
- 6.12 Paragraph 170 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued sites of biodiversity and soils, recognising the wider benefits from natural capital and ecosystem services of trees and woodland; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Notwithstanding the proposed mitigation, the proposal will disturb protected species. It is also likely that the proposal will bring about an increase in harmful recreational use of the woodland, risk of predation by domestic cats and additional losses arising from perceived harm of having trees close to houses. There is also the likely harmful impact of artificial lighting along with the reasonable possibility of fly tipping, garden encroachment by houses directly backing onto the woodland buffer while increasing the risk of non-native species establishing within the woodland. Paragraph 175 of the revised NPPF states: planning permission should be refused if significant harm to biodiversity resulting from a development cannot be avoided or adequately mitigated, or, as a last resort, compensated. I am satisfied that overall, the ecological mitigation proposed allows the scheme overall to comply with that national policy and would not be a ground for refusal.

6.13

## **Landscape Impact**

- 6.14 Policy DM30 for development in the countryside requires that impacts on the appearance and character of the landscape to be appropriately mitigated and assessed in a Landscape and Visual Impact Assessment. In terms of the Indicative Landscape Masterplan, the principles are sound and the Landscape and Visual Impact Assessment appears to comply with current guidelines.

- 6.15 As with the appeal decision, it is still the case that the application site has no designation of a landscape of local value in the current Local Plan albeit the Ancient Woodland designation is a valuable contributor to landscape quality.
- 6.16 Key characteristics of the landscape are a mixture of arable fields, paddocks, remnant orchards and small to medium blocks of woodland in an irregular pattern. The application site is within the north western corner which is outside the AONB (yet provides a setting to it) and includes large blocks of Walderslade suburbs in between woodland. The overall condition assessment is 'poor' for the whole Landscape Character Assessment (LCA) with moderate sensitivity; guidelines are to 'restore and improve' including avoiding further built development which is out of character in terms of materials and design; conserve the blocks of Ancient Woodland; restore and improve the woodlands by improving management within historical coppice and introducing greater structural diversity; and reduce overgrazing, removing rubbish and discouraging fly-tipping.
- 6.17 Clearly this application would not accord with the guidelines of the LCA as it introduces built development (albeit there is an attempt in the materials and design to be sensitive) nor would it conserve blocks of Ancient Woodland. It does give an opportunity to require improved woodland management by re-coppicing and introducing greater ecological diversity. The Inspector said that this specific site did not warrant landscape protection based on objective landscape character assessment. Essentially, this accords with other decisions from appeal Inspectors which have clarified that it is necessary to assess landscape harm on a site by site basis ie. Being in the countryside is not, in itself, an objective basis on which to assign landscape value.
- 6.18 The detailed Landscape and Visual Appraisal seeks to demonstrate that given the height of the proposed houses, existing woodland, proposed landscaping and landscape buffers and existing bunds, that the proposal will be well contained within the landscape.
- 6.19 The application sites lies outside the identified built up area of Lordswood defined by the outer edge of Gleamingwood Drive. The developed areas of the application site are set, on average just over 100m back from the road with dense woodland intervening. It is accepted that it would be an isolated pocket of suburban development because of the general need to site the housing units in the open fields and thus secure some protection of the Ancient Woodland.
- 6.20 Given the current height and depth of the intervening woodland fronting Gleamingwood Drive, which is mainly deciduous in nature, the trees, when in leaf and in daytime, are likely to present glimpse views of the houses through the trees. This is considered to be similarly the case when viewing the site from Westfield Sole Road to the south and also to the east where there are existing planted bunds.
- 6.21 Due to rotational coppicing that would take place as part of woodland management, it is likely through the trees from Gleamingwood Drive will

be the outline of houses addition to the impact of lights from, houses, street and car lights.

- 6.22 The site is generally exposed to the open countryside spreading out towards Lidsing, Bredhurst and Hempstead. Regarding long range views to the site from the south and easterly directions from public vantage points, abutting the site to the north east is Sindals Lane which is a PROW whilst there are further PROWs to the north east. The application sets out a number of landscape mitigation measures as follows being:
- The retention and protection of important landscape features abutting the site including the Ancient Woodland, perimeter hedgerows and trees and deciduous tree belts abutting the eastern and southern site boundaries.
  - Enhancement of perimeter tree belts and removal of alien conifer trees along the east and south site boundaries.
- 6.23 There would be landscape screening augmentation of the existing mixed planting on the bunds with local tree species (eg Field Maple, Oak, Beech, Hornbeam, Wild Cherry) and the conifers removed. Hedge and scrub planting would be Field Maple, Hazel, Hawthorn, Holly and Spindle.
- 6.24 Notwithstanding existing planting, the development could significantly intrude into views from these directions unless and until the proposed planting on top perimeter bund matures and in the short term, it could affect the perception of a gap between settlements contrary to Policy SS1 and SP17 of the MBLP.

### **Ancient Woodland**

- 6.25 A provisional TPO on the site has been served in the interests of amenity but cannot override the planning permission granted on appeal.
- 6.26 Policy DM3 of the Local Plan requires new development to protect and enhance the natural environment by incorporating measures where appropriate to protect areas of Ancient Woodland and to enhance, extend and connect fragmented Ancient Woodland; supporting opportunities to enhance, restore and connect other habitats, including links to habitats outside Maidstone Borough, where opportunities arise.
- 6.27 Ancient Woodland is irreplaceable and an important ecological resource. The Standing Advice for Ancient Woodland and Veteran Trees published by Natural England and the Forestry Commission sets out aims in relation to Ancient Woodland and veteran trees: this resource is an irreplaceable biological and cultural asset that needs protection and maintenance, and improvement in the condition of the UK's tree and woodland resource needs sensitive sustainable management.
- 6.28 The submitted arboricultural information consists of a tree survey, tree constraints plan and tree protection plan although more information is needed on the proposed 'no dig construction' and further arboricultural information in accordance with BS5837: 2012 is required.

- 6.29 The Inspector who allowed the appeal in 2015 regretted the loss of some trees and soil under the access roads. Nonetheless, he said that less than 2% of Ancient Woodland on the site would be removed to provide the access and that the harm was outweighed by the benefits of management to the overall area of Ancient Woodland. He said that, where necessary, roots could be bridged to ensure that trees could continue to thrive. Some coppice stools would need to be relocated and that was to be ensured by planning condition he imposed. Therefore overriding the direct loss and impact on the Ancient Woodland was that the remainder would be managed and maintained, the low density of 21 dwellings per hectare (dph) and that access through the woodland facing Gleamingwood Drive and a footway along a small part of that road, would not seriously compromise the perception of the woodland as an attractive feature in his opinion.
- 6.30 The Inspector formed the view that as the Ancient Woodland had not been managed for a considerable time, selective coppicing and felling on a rotational basis would be beneficial for its long term health and future biodiversity. That the products of woodland management would be used in a biomass installation (serving a 6 of the houses) was mentioned by the Inspector as a sustainability benefit.
- 6.31 The main impact on the Ancient Woodland remains the creation of a bellmouth with visibility splays onto Gleamingwood Drive with the access road having a width of just under 8 metres where it enters the woodland continuing in a broadly straight line of 5.1m width with a 2.3m wide footpath/cycleway on its southern edge for just under 100 metres before emerging from the designated extent to the Ancient Woodland and turning to the north. A narrowed chicane has been added in this scheme between the 2 most important trees in this stretch of roadway so that the extent of engineering is reduced giving a lessened impact on their Root Protection Zones. This chicane will also assist traffic calming and provide a gateway into the development.
- 6.32 As the access has been revised to be slightly narrower, there is marginally less impact on the Ancient Woodland compared to the appeal scheme. However, it cannot be denied that road will still create a significant gap in the otherwise currently largely unbroken aspect provided by the existing woodland and an adopted road and junction would inevitably urbanise and appear out of character in the existing wooded frontage. The fragmentation of the Ancient Woodland, the loss of ecological connectivity and the lack of a recommended 15m buffer between the new Road and the Ancient Woodland means the impact is greater still. There are implications of reducing the area of other semi-natural habitats adjoining the woodland resulting in a negative impact on the biodiversity of the woodland.
- 6.33 A second section of the Ancient Woodland will be removed in order to link the northern and southern housing parcels. This is said to have been based on a detailed survey and the tree report states that it involves removal of smaller trees that are of little consequence to the woodland overall. However, there is still a loss of habitat and ecological connectivity

and it is still technically Ancient Woodland that has national policy protection.

- 6.34 Regarding direct loss of Ancient Woodland from the current application, the main site access route and that providing access between the north and south housing parcels follow routes to minimise tree loss though of course this is still significant and has implications beyond the actual footprint of the roads. The long term impact of creating permanent roadways through ancient woodland is greater than the loss of individual trees for the width of the proposed roadway itself: there may be trees lost on the line of the roadways due to the construction process because additional room is likely to be required for the construction itself.
- 6.35 Root systems that are disturbed or damaged can become unviable or unstable and a hazard to road users and pedestrians. This effect is ongoing for future regenerating woodland, which will need to be managed so that it does not present a hazard to road users. There are long term ecological implications to permanently fragmenting woodland: less viable, as populations are less able to move freely; more disturbance from traffic noise, vehicle emissions, road lighting.
- 6.36 As detailed above, the Inspector was of the view that the appeal scheme was acceptable overall. However, that decision was made based on policy DM3 not being in an adopted Local Plan and also paragraph 118 of the NPPF 2012. It is therefore necessary to re-assess the rationale for that decision in light of the Local Plan now being adopted and the change in emphasis in the recently published NPPF 2018 which can be interpreted as giving a very substantial level of extra weight to preservation of the Ancient Woodland over that of the original NPPF.
- 6.37 Paragraph 118 of the now superseded NPPF stated:
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss*
- 6.38 The new NPPF in paragraph 175 states:
- Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.*
- 6.39 What could constitute a “wholly exceptional reason” is given in a footnote as “For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat”.

- 6.40 The applicants have continued to offer a management scheme to ensure that there will always be a belt of uncoppiced woodland between the proposed development and houses on the opposite side of Gleamingwood Drive. The applicant also refers to the screening effect of the 15m wide buffer zone that will be in place irrespective of coppicing and which will be planted up with natives species mix.
- 6.41 Whilst the applicant has committed that any soil forming part of the Ancient Woodland lying beneath the line of the proposed roads would be removed and translocated elsewhere on the site as compensatory measure, that in itself does not amount to wholly exceptional reason for the loss and damage to the Ancient Woodland nor, in my view, does it constitute a compensation strategy referred to in the new NPPF.
- 6.42 The intended mitigation is:
- A woodland management plan.
  - Retention of all existing hedgerows, dormouse and reptile translocation and new habitats either on or off site as appropriate.
  - Non-native trees cleared and new native habitats created in their place
  - The 15m buffer zones around the housing areas would be planted up with a native species mix of a type and density to discourage access from the housing areas into the Ancient Woodland which would be supplemented by a post and rail fence within the buffer zone.
  - selective felling and management to improve foraging and hibernation
  - Trees abutting the proposed main site access road would have canopies to interlock and an artificial dormouse bridge.
  - sympathetic lighting of the scheme
  - log-piles to provide habitat for dead wood specialists
  - roost and nest boxes
  - retention of existing hedgerows on site
  - coppice regime to benefit ground flora and improve structural diversity;
  - selective removal of coniferous component; remove and control any growth/re-growth of non-native species;
  - manage sapling trees for growing on as future standards
  - use wood chipping for paths to allow access through the woodland whilst controlling public access to ecologically sensitive areas through dense boundary vegetation/fencing/ use of brash hedging

- 6.43 Given the likely direct harmful impacts still identified to the Ancient Woodland and wildlife within it and reasonably foreseeable and ongoing harmful additional impacts both to the woodland and the protected species identified above, it is considered that notwithstanding the proposed mitigation measures, the proposal will have a harmful impact on these interests.
- 6.44 It is not considered that the current application achieves the test of demonstrating “*wholly exceptional reasons*”. The example given in the new NPPF is a nationally significant infrastructure project or where the public benefit would clearly outweigh the loss or deterioration of habitat. Neither of these apply in this case and the applicant has not formally submitted a case in response to the revised NPPF.
- 6.45 Having said that, the NPPF footnote is an example and not a comprehensive list of what could constitute a “wholly exceptional reason”. Thus there is a judgement to be made as to the implications of this change in national policy. The NPPF 2018 is too new to have been tested at appeal or in the courts as to what this phrase means for decision makers. However, it is clearly intended to be both a very high bar and one that is much higher than the original NPPF on which the appeal decision was made.
- 6.46 On this basis, the application does not comply with the new NPPF. Whilst it could be argued that the extant appeal decision has weight, it is not considered that is substantial enough to outweigh the new NPPF in regard of avoiding the loss and deterioration of Ancient Woodland. The scheme remains contrary to policy DM3 which is now in an adopted Local Plan.

### **Environmental Sustainability**

- 6.47 Paragraph 8 of the NPPF details that achieving sustainable development means three overarching objectives, which are interdependent: economic, social and environmental.
- 6.48 The site lies close to the built up area of Medway. Lordswood offers a wide range of facilities and services including employment, shops, pubs, schools, library and primary care medical facilities. There is scope to cycle or walk to local facilities or to take public transport including bus connections to Chatham Train Station or commuter coaches that serve London.
- 6.49 This area was not designated in the adopted local Plan as appropriate as a strategic growth area in the Borough. However it is considered that in locational terms, being close to Lordswood, the development is relatively environmentally sustainable.

### **Design and Layout**

- 6.50 Policy DM 30 relates to design principles in the countryside and as this site is outside of the settlement boundaries, there is an expectation for high quality design in terms of the type, siting, materials and design, mass and scale of development.



- 6.51 The proposed indicative layout provides sufficient detail to demonstrate that the two housing parcels can be developed in a manner meeting the normal spacing, privacy, amenity space, parking and road layout standards. In addition the site will be developed at a density of 27 dph which is comparable to existing development fronting Gleamingwood Drive. It cannot meet the minimum recommended rural housing density in policy DM12 (30dph) due to the woodland buffer and the need for landscape screening on the perimeter and to respect the woodland setting.
- 6.52 It is therefore considered that the site has been well designed in terms of the style and layout to accommodate for this number of houses in an acceptable manner although the density is much greater than the extant planning permission. The houses fall within the same development envelope as the appeal scheme.
- 6.53 Regarding design, the details show contemporary two and 2.5 storey pitched roof (gabled/skillion/lean-to) housing which would be an attractive appearance with the use of materials of vernacular appearance eg extensive use of larch cladding. The slate grey colour to the roofs is relatively sensitive to the locality in terms of reducing long range visual impact of the roofscape.
- 6.54 The scheme layout has been revised since originally submitted. There are a number of dual aspect house designs in corner locations. Corner plots will have large glazed feature bays that will add visual interest and help to break up side aspect of the buildings. The highway will meander through a series of plot configurations which will create separate neighbourhoods, intended to have their own individuality. The public open spaces have also have landscaped and there is screened parking being further distanced from them. These new layouts will provide better passive surveillance and are intended to respond to concern expressed in the Kent Police representation in terms of being 'Secured-by-design'. The scheme was amended to take on board concerns of the Police and a safer layout has resulted in accordance with policy DM1.
- 6.55 The central amenity open space with a LEAP (Locally Equipped Area for Play) would ideally need to be a NEAP (Neighbourhood Equipped Area for Play) in order to meet needs for children up to the age of 14 for on site open space (policy DM19).It will assist in providing an attractive setting and outlook for the dwellings that front it. The majority of the dwellings will generally face outwards onto the perimeter trees. The layout and its landscaping attempt to ensure the Woodland punctuates through the development and there is an emphasis placed on the woodland setting.
- 6.56 Policy DM8 of the Local Plan refers to lighting. In terms of the potential for public and private artificial lighting to detract from the character of the area, it was stated by the Inspector that would not make a significant difference in the prevailing circumstances of the M2, traffic generally, residential areas, farm buildings and other semi-industrial and retail uses that exist in the area. It is difficult to argue that there has been a significant worsening of the scheme in this regard notwithstanding the increase in unit numbers.

## **Traffic and Highways**

- 6.57 Policy DM21 relates to the transport implications of development. Paragraph 109 of the new NPPF stated that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.58 The application has been accompanied by a detailed transport assessment (TA) which concludes that the site is within easy walking and cycling distance of nearby services and close to bus stops providing links to Chatham.
- 6.59 The site location is sustainable in terms of access to transport, schools, health services and shops. The number of vehicle journeys generated by this proposal would represent only a very small proportion of journeys on the local network; no objection in principle was raised by the Local Highway Authority.
- 6.60 The scheme proposes a priority junction onto Gleamingwood Drive including extending a footpath to provide safe walking route to nearby bus stop though no traffic calming measures are proposed.
- 6.61 A pedestrian link is also proposed at the northern end of the site with links to the footpath running to the east to enhance the non-vehicular permeability of the proposed development. This is a criterion within Policy DM1 of the MBLP.
- 6.62 The TA also concludes that though traffic flows along Gleamingwood Road would materially increase at peak hours but the existing and combined flows still fall well within the design capacity of the road while beyond Gleamingwood Road there would be very little impact overall from the development. However minor mitigation works have been offered in terms of queuing problems to slightly widen the carriageway on Lordswood Road opposite the junction with Gleamingwood Drive to allow more space for cars to pass any waiting to turn right.
- 6.63 KCC raise no objection on any aspect of the highway or parking elements detailed in the submission subject to various suggested conditions and the applicant entering into a Section 278 Agreement in connection with local road improvements ie splitter islands and white lining to Round Wood roundabout .
- 6.64 In the circumstances it is considered that there is no sustainable objection to the proposal on highway or parking grounds as the scheme complies with policies DM21 and DM23. Notwithstanding the appeal decision at nearby Gibraltar Farm, the s278 highways works that will be required means that there will not be a severe impact on highway safety as judged by KCC as Local Highway Authority, which is still the test in the revised NPPF.

## **Developer Contributions**

- 6.65 Policy ID1 relates to the need for development to provide the infrastructure needed to support growth. The Council's CIL policy comes into force on 1 October 2018 so up until that point, s106 agreements under the Town and Country Planning Act 1990 must be used where conditions cannot be imposed to secure the infrastructure.
- 6.66 The priority is Affordable housing. This is being met in full compliance with SP20 of the Local Plan. If Members were minded to permit the scheme, all other types of infrastructure can be secured either by condition or by requiring the developer to meet planning obligations within the s106 legal agreement.
- 6.67 Medway Council as an adjoining unitary authority seeks contributions for provision of open space locally plus Nursery, Primary and Secondary School Expansion given that the catchment area of the site falls mainly within Medway. Medway Council still need to confirm that requested open space funds are policy compliant. At this point in time, the Borough Council has no projects for outdoor sports and/or semi-natural space that would be adequately accessible to serve the development set against the criteria in policy DM19.
- 6.68 Medway CCG requests contributions to improve the Lordswood Healthy Living Centre, sought of £53814.25. The contributions satisfy the CIL tests as the scheme could serve the residents of the development and the CCG has provided up to date confirmation that it would not exceed the pooling limits.
- 6.69 In order to meet the requirements of the Affordable Housing policy, 40% of the development is affordable. The applicants are agreeable to full compliance with the policy SP20 of the MBLP: provision of 40% affordable housing and have submitted a tenure mix of that of 70% social rent and 30% shared ownership (32 social rent and 14 shared ownership). If planning permission were to be granted, the final detail of the sizes of units for each tenure type will need to be considered in more detail in liaison with the Housing Officers.
- 6.70 Boxley PC asked for a contribution towards its hall but that would not comply with the CIL Regulations in terms of being necessary or related to the development.

### **Other matters**

- 6.71 The Environmental Protection section advises that mitigation of Air Quality for existing residents could be dealt with by condition. Similarly the Public Art threshold is exceeded and in this site could accommodate on site public art in principle.
- 6.72 Concern has been raised by objectors that the proposal will affect the character and setting of the North Downs AONB. However given that the AONB is sited to the south of the M2 while the application site is sited just under 300 metres to the north of the M2 at its nearest point, it is not considered the proposal will have any material impact on the character or setting of the AONB with the landscape screening proposed.

- 6.73 The application has been accompanied by a site assessment which concludes that given the site history there is unlikely to be any significant contamination from past uses requiring any specific response.
- 6.74 Regarding water management, a SUDS system is proposed which is intended to attenuate water runoff, also enabling green spaces to be provided and improving natural habitats within the site. The site is not at risk of flooding and the EA raises no objection
- 6.75 Southern Water's concerns regarding inadequate sewer capacity in the local network are noted. It would be for the developer to investigate sewerage options to overcome that constraint.
- 6.76 Regarding air quality (policy DM6) and vehicle noise due to the proximity of the site to the M2 to the south (policy DM1), these do not amount to fundamental objections to the principle of housing in this location.
- 6.77 Some objectors refer to the loss of the biomass boiler in the new scheme (some support its removal and some do not). The Inspector supported the biomass boiler principally because it would give a market for the products of positive woodland management. The applicant has committed to the same woodland management so the overall objective would still be met.

## **7. CONCLUSION**

- 7.01 The NPPF requires in paragraph 9 that planning decisions should play an active role in guiding development towards sustainable solutions but should take local circumstances into account, to reflect the character, needs and opportunities of each area. Paragraph 11 states that permission should be granted where there are no relevant development plan policies, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development or unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 7.02 It is accepted that the site is in a relatively sustainable location in environmental terms and there are social and economic benefits of the new housing, eg the offer of affordable housing.. There is an extant planning permission granted on appeal for 89 houses which could be a fall back position if it were progressed by the submission of reserved matters application before 30 November 2018, but only if intended to be built out in compliance with the UU and the conditions imposed by Inspector and there is some doubt that would be the case especially as regards the biomass boiler which is a non viable element. The access road is narrower slightly allowing more of Ancient Woodland to be retained including more separation from 2 important trees. Policy SS1 (Maidstone Borough Spatial Strategy) refers to housing target being made through the granting of planning permissions in addition to allocations. The increase in number of units in this planning application within the same red line envelope as the appeal decision therefore adds to the "windfall" contribution from this site by 26 units.

- 7.03 However, set against the above is that the scheme is a more dense development than the appeal scheme and has an extra 26 units (partly in lieu of the biomass boiler) which has a significant impact on the key issues of the countryside location and the loss of Ancient Woodland. The extra units increase the population in the development and thus the impact on the Ancient Woodland being retained.
- 7.04 The elements where planning harm remains that cannot be mitigated are the impact on Ancient Woodland and the countryside location. The policy framework by which the impact is assessed differs greatly from the situation in 2015.
- 7.05 In term so Ancient Woodland, the new NPPF gives a greater degree of protection to Ancient Woodland from planning decisions on development. It is not considered that the current application achieves the test of demonstrating "*wholly exceptional reasons*". It is not a nationally significant infrastructure projects nor does it provide a public benefit would clearly outweigh the loss and deterioration of habitat. It is not considered that the extant permission on appeal is material consideration that is substantial enough to outweigh the consequent loss and deterioration of Ancient Woodland. The scheme remains contrary to policy DM3 which is now in an adopted Local Plan.
- 7.06 The adoption of the Local Plan and improved housing supply gives substantially more weight to Policy SP17 of the MBLP in the consideration of the scheme than was the case when the Inspector made his decision. The proposal breaches policy SP17 of the MBLP as it encroaches into the open countryside by reason of its location and the built development harms its character and appearance.
- 7.07 Policy SP17 of the MBLP has other criteria but due to the proposed screening, the medium to long term impact of the development on the gaps between settlements or on the landscape is not considered to warrant refusal whether viewed from the wider Countryside/setting of the AONB nor as seen from the existing development in Lordswood. As mentioned above, consideration of landscape harm needs to relate to their individual value (a policy stance which has not changed in the new NPPF).
- 7.08 The application was advertised as a Departure from the development plan. The recommendation is for refusal but if Members were to resolve the permit the application, it does not need referral to the National Planning Casework Unit under the criteria of the current (2009) Direction.

## **8. RECOMMENDATION**

REFUSE planning permission for the following reasons:

- 1) The proposal by reason of the loss and deterioration of Ancient Woodland is contrary to Maidstone Borough Local Plan policy DM3 and paragraph 175 of the National Planning Policy Framework. It is not

considered “wholly exceptional reasons” exist that would clearly outweigh the harm nor that the extant permission on appeal is a material consideration that is substantial enough to outweigh the harm identified.

- 2) The proposal breaches policy SP17 of the Maidstone Borough Local Plan by reason of its location as it encroaches into the open countryside and harms its character and appearance. It is not considered that the extant permission on appeal is a material consideration that is substantial enough to outweigh the harm identified.

Case Officer Marion Geary

50 m  
100 ft



**REFERENCE NO -** 18/501181/FULL

**APPLICATION PROPOSAL**

Proposal: s73 application: Variation of conditions 10, 16 and 17 of application 16/508659/FULL (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.) to amend condition 10 to refer to 'a maximum of 32 one-way HGV movements (equivalent to 16 HGVs entering and leaving the site) are permitted between hours of 2300hrs and 0700hr', condition 16 to refer to the Noise Mitigation Plan Ref: 403.06466.00004.001 version 5; condition 17 to refer to the Noise Mitigation Plan Ref: 403.06466.00004.001 version 5 and a rating level maintained no greater than 3dB above the existing measured ambient noise level LA90, T during the day time and night time periods.

**ADDRESS** Land South Of Redwall Lane Linton Kent

**SUMMARY OF REASONS FOR RECOMMENDATION**

The principle of the development is established by MA/16/508659/FULL.

Conditions needs to comply with the all the statutory 6 tests for a planning condition.

The Environmental Statement for MA/16/508659/FULL has been taken into account equally in the determination of this application. The information in it is considered to be adequate for the determination of significant environmental effects arising from the changes to the 3 conditions sought.

Altering condition 10 to refer to up to 32 one-way movements is an acceptable change for this type of business.

Version 5 of the Noise Management & Mitigation Plan needs to be referred to in condition 16 but otherwise the need to meet the Noise Rating Curve 30 externally remains.

Condition 17 can be amended to refer to Version 5 of the Noise Management & Mitigation Plan and the limitation be raised to +3dB above ambient as that would not be a perceptible increase and can be met by the scheme if the mitigation plan is followed in full.

Other conditions need to be updated to reflect that the development has commenced and that some other conditions have been discharged already in 17/505223/SUB and 18/501238/SUB.



**REASON FOR REFERRAL TO COMMITTEE**

The application was deferred from the Planning Committee of 26 July 2016 for the following reason: to enable further negotiations with the applicant regarding the redrafting of condition 10 (formerly 9) to specify a time limit in months when the up to 32 in or out movements is permitted (for example, 1 November to 31 May) with a lower threshold for the months outside this time frame.

The application was originally called into Committee by the Parish Councils of Linton and Hunton and the recommendation is contrary to the views of the Parish Councils of Linton, Hunton, Loose and Chart Sutton which all object to the application

<b>WARD</b> Coxheath And Hunton	<b>PARISH/TOWN COUNCIL</b> Linton	<b>APPLICANT</b> Alan Firmin Ltd <b>AGENT</b> Mr Tim Spicer
<b>TARGET DECISION DATE</b> 21/08/18		<b>PUBLICITY EXPIRY DATE</b> 17/07/18

**1. BACKGROUND**

- 1.01 The application was deferred from the Planning Committee of 26 July 2016 to enable further negotiations with the applicant regarding a seasonal time limit in months when the up to 32 in or out movements is permitted with a lower threshold for the months outside this time frame.
- 1.02 The original committee report and minutes are attached as an **Appendix A**. Please note that the National Planning Policy Framework has been revised and paragraph 32 is now paragraph 109 and paragraphs 203 and 206 are now paragraphs 54 and 55 respectively.

**2. RESPONSE OF THE APPLICANT**

- 2.01 The agent summarises that the intended occupant, Berry Gardens, have given very careful consideration to the prospect of accommodating a seasonal restriction on night-time HGV movements but it has not been possible for them to accommodate this request. The agent states that it is evident from the data logs for night time HGV movements presented to MBC whilst there is an overall seasonality to the business there is no identifiable pattern for night time HGV movements with fluctuations occurring from day to day, week to week and month to month: the data logs highlight the reactive nature of the business with regards to its supply chain and the genuine need for flexibility sought.
- 2.02 The agent understands the reasons for Members wishing to seek a seasonal restriction, given the nature of the business they do not believe that a condition in the format Members wish to impose would meet either the reasonableness or necessity tests set out in the NPPF particularly as the application is supported by technical assessments and the Council's

Environmental Health Department and other consultees offer no objection to the application. They trust Members will understand Berry Gardens' reasons for the need for flexibility in the format sought and why they are unable to accept a seasonality restriction.

2.03 Berry Gardens themselves states:

- Their business need to align to varied and expanding customer demands
- Market share is won and lost on supply chain performance.
- 24 hour and on-line shopping means orders have to be delivered on time and in full on a daily basis, ensuring pre-determined depot receipt times are adhered to
- a flexible and dynamic approach is needed for both HGV arrival and dispatch times
- events out of control would be a change in retailer depot receipt times, new business developments with new customers, road closures, traffic delays, a reduction in available UK haulier fleets, delays at the ports
- The busiest peak import period is December to May but the need for flexibility with regard to night time HGVs is not dependent on the seasonal changes
- data logs of night time HGV movements show that there is no real pattern or seasonality, reflective of the reactive nature of the business and Supply Chain Management.
- Analysis of a number of previous years HGV logs identifies no consistent pattern in night-time HGV movements

### **3. REPRESENTATIONS**

- 3.01 Reconsultations have been carried out on this additional information which expires on 5 September 2018. Any views and comments received will be reported in the urgent update papers.

### **4. ASSESSMENT**

- 4.01 Members are reminded of the 6 tests for planning conditions in the NPPF

"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations"

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

- 4.02 The NPPG advised on s73 applications:

*"Following the decision of a local planning authority to grant planning permission subject to conditions, a developer may consider taking the following actions if they do not wish to be subject to a condition....Some or all of the conditions could be removed or changed by making an application to the local planning authority under section 73 of the Town and Country Planning Act 1990.*

*In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question."*

4.03 In terms of the proposed increase in night-time HGV movements compared to the condition in the original planning permission, I would draw Members' attention to the following. Referring back to the applicant's noise study for 16/508659/FULL, footnote 6 on page 7-20 of the Environmental Statement to the parent planning permission assessed 1 HGV loading or unloading per hour in the night-time period, meaning 8 HGVs would enter and would leave ie 16 movements.

4.04 Paragraph 6.63 of the committee report for 16/508659/FULL explained and justified condition 10 as follows:

**"considered necessary to restrict the number of vehicles as proposed by the applicant, no more than 8 (1 per hour) during these hours and a condition to require the applicant to keep records of vehicle movements for review if necessary."**

4.05 The condition that was intended to reflect the assessment of 8 vehicles using the loading bays in the noise report, was unfortunately written in an ambiguous way by not referring to overall usage by 8 HGVs but to "entering or leaving". Essentially the condition as imposed on the planning permission did not correctly reflect the contents of the noise report, the representation of the Environmental Protection officer nor the committee report. Therefore an application to vary the condition to more accurately reflect the contents of the committee report and the application documents would be difficult to successfully resist.

4.06 This application is seeking the equivalent of 16 HGVs using the loading bays which is a doubling from what was assessed in the noise report to the parent planning permission.

4.07 An applicant has the prerogative to seek a variation of a planning condition at any time once it has been granted and that must be considered on its merits in the light of the 6 tests.

4.08 In response to the deferral, data logs from Berry Gardens that the agent refers to show that for 2017, the months of the maximum number of peak night-time HGVs was April, May, August and September. The maximum average night-time peaked in May and August. However, they have clarified that the variations on the HGV traffic are not related to seasonal

factors as such but to other operational matters which cannot be forecast and accordingly they are formally resisting any seasonal variation of the condition as sought by in the resolution of the last Planning Committee.

- 4.09 Members are advised that under a Section 73 application, it is not reasonable to impose conditions, that are more restrictive than the original planning permission. Any seasonal restriction HGVs that are permitted to enter or leave at night would have to be on the additional vehicles, which would result in a condition that fails the NNPF tests by being unreasonable, unenforceable and imprecise
- 4.10 I remain of the view that in the policy framework of s73 application and planning conditions as detailed above, the conditions can be amended as requested by the applicant as they remain reasonable in the light of the issues as were appraised.
- 4.11 In summary the key points in the main report with regard to HGV numbers remain:
- This s73 application does not intend to increase the numbers of HGVs overall each day but is intended to give flexibility to the times in which they can visit the site to unload or load. The trips generated to and from the development have no severe residual impacts simply based on them occurring at a different time within the 24 hour day.
  - for reasonableness and precision, it is necessary to factor in contingency for the worst case scenario to give flexibility to factor in either individually or in combination, matters such as peak seasons, the terms of contracts with suppliers and/or customers and any traffic circumstances beyond their control. The nature of the fruit products sold is that delays to loading or unloading need to be avoided as far as possible to minimise degradation.
  - Planning conditions cannot legally be imposed on the highway network outside the application site. There is a risk of a situation whereby any HGVs that would breach the existing night-time condition would need to wait on the public road until after 0700hrs to enter the site.
  - changes to the condition would not result in any significant harm to amenity to warrant refusal, bearing in mind the general prevalence of night-time HGV traffic in the locality and the unfettered hours of operation that exist at Berry Gardens' premises in Redwall Lane.

## **5. 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: DHA/11488/01 SITE LOCATION PLAN; DHA/11488/02 EXISTING SITE PLAN; DHA/11488/11 REV B ELEVATIONS; TEQ/1817-04D SITE LAYOUT/LEVELS; 3874DR001 rev H LANDSCAPE STRATEGY; 3874DR002 rev H LANDSCAPE MASTERPLAN; TEQ 1817-03D INDICATIVE SECTIONS; WM/512/P/12/rev2 ROOF PLAN; WM/511/P/15/ rev2 MEZZAINE FLOOR; WM/511/10/rev3 GROUND

FLOOR; DHA/11485/03A SITE LAYOUT; TRANSPORT ASSESSMENT AND APPENDICES; ENVIRONMENT ASSESSMENT AND ES TECHNICAL NOTES; FLOOD RISK ASSESSMENT; LANDSCAPE AND ECOLOGY MANAGEMENT PLAN MARCH 2017 and emails received from DHA dated 18 July 2018 and 20.08.18.

Reason: To clarify which plans have been approved.

- 2) The materials to be used in the development hereby approved shall be as indicated on the approved plans DHA/11488/11B unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

- 3) The development shall be completed in accordance with the hard landscaping approved as part of permission 18/501238/SUB before the first occupation of the building hereby permitted.

Reason: To ensure a satisfactory appearance to the development.

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

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

- 5) The approved details of the access points as shown on plan 11487-H-01 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 1m thereafter.

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

- 6) The development shall be completed in accordance with the fencing and boundary treatments approved as part of permission 17/505223/SUB and shall thereafter be installed and permanently retained.

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

- 7) No use of the development hereby permitted shall take place until the following off-site highways improvements have been completed.

(a) Extension of the existing 40mph speed limit to the south of the Redwall Lane junction with the A229.

(b) Creation of access points to site including installation of a Bollard to prevent westerly HGV travel on Redwall Lane from the north west access point

(c) Improvements to Redwall Lane and Junction of Redwall Lane and A229 as set out in the Transport Assessment

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

- 8) The development hereby permitted shall be carried out strictly in accordance with the slab level shown on the approved drawing TEQ1817-04D.

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

- 9) The development shall be carried out in accordance with the final site levels approved as part of permission 17/505223/SUB and retained as approved thereafter.

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

- 10) The control and monitoring of the movement of HGVs shall be in accordance with the scheme approved under 17/505223/SUB. This scheme should be implemented and operated at all times and shall be available for review by the Local Planning Authority. There shall be no more than 32 in or out movements to the site by HGVs between the hours of 2300hrs and 0700hrs.

Reason: In the interests of local amenity.

- 11) The development hereby approved shall be constructed in accordance with the approved construction method statement pursuant to permission 17/505223/SUB.

Reason: To protect the amenity and highway safety of the area during the construction phase.

- 12) The surface water drainage scheme for the site shall be implemented in accordance with approval 17/505223/SUB unless otherwise agreed in writing with the Local Planning Authority and shall be retained thereafter. The scheme shall be implemented prior to use of the building and thereafter managed and maintained in accordance with the details of a management and maintenance plan submitted for the approval of the Local Planning Authority which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure ongoing efficacy of the drainage provisions.

- 13) No storage of oils and fuels are to be stored on site within 10m of the river edge or any field drain, ditches (including field ditches) and other surface water system which are connected to the SSSI. Any other storage to take place within the site must be stored in a bunded tank or mobile container that complies with current regulations.

Reason: To protect the ecological interests of the River Beult SSSI

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

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

- 15) The proposed building shall achieve at least a BREEAM Very Good level. A final certificate should be issued within 6 months of first occupation of the building to confirm the Very Good BREEAM rating has been achieved.

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

- 16) The development shall be carried in with the mitigation measures in Noise Management & Mitigation Plan Ref: 403.06466.00004.001 Version 5 including the sound insulation of the building and all plant and Equipment to ensure that noise generated by plant and Equipment at the development shall not exceed Noise Rating Curve NR30 (as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers Environmental Design Guide 2006) at the boundary to any noise sensitive property. All plant and equipment shall be maintained in a condition such that it does not exceed NR30 as described above, whenever it is operating. No new plant or ducting system shall be used without the prior approval of the Local Planning Authority.

Reason: To protect the amenity of the area.

- 17) The development shall be carried in accordance with the approved Noise Management & Mitigation Plan Ref: 403.06466.00004.001 Version 5. The rating level of noise emitted shall be maintained at a level no greater than 3dB above the existing measured ambient noise level LA90,T during the day time and night time periods respectively. All activity on the site thereafter shall be carried out in accordance with this plan.

Reason: To protect the amenities of the surrounding area

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

Reason: To protect the amenities of the area

- 19) Before the first occupation of the building hereby permitted, the development shall be completed in accordance with permission 18/501238/SUB in terms of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved. All features shall be retained thereafter.

Reason: To ensure an energy efficient form of development

- 20) The building hereby permitted shall not be occupied until details of any lighting to be placed or erected within the site have been submitted to and approved 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 approved details.

Reason: In the interest of amenity.

- 21) Prior to the occupation of the building(s) hereby permitted, 18 parking spaces to be served by electric vehicle charging points shall be installed 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 National Planning Policy Framework.

- 22) The development hereby approved shall be completed in accordance with permission 18/501238/SUB in terms of cycle storage facilities on the site. The approved facilities shall be provided before the first occupation of the building and retained thereafter.

Reason: In the interest of amenity and sustainability.

#### Informative

- 1) The s106 legal agreement for 16/508659/FULL applies to this planning permission.

Case Officer Marion Geary



**REFERENCE NO -** 18/501181/FULL

**APPLICATION PROPOSAL**

Variation of conditions 10, 16 and 17 of application 16/508659/FULL (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.) to amend condition 10 to refer to 'a maximum of 32 one-way HGV movements (equivalent to 16 HGVs entering and leaving the site) are permitted between hours of 2300hrs and 0700hr', condition 16 to refer to the Noise Mitigation Plan Ref: 403.06466.00004.001 and a Noise Rating Curve NR30 measured externally to the boundary of any noise sensitive property; condition 17 to refer to the Noise Mitigation Plan Ref: 403.06466.00004.001 and a rating level maintained no greater than 5dB above the existing measured ambient noise level LA90, T during the day time and night time periods.

**ADDRESS** Land South Of Redwall Lane Linton Kent

**SUMMARY OF REASONS FOR RECOMMENDATION**

The principle of the development is established by MA/16/508659/FULL.

Conditions needs to comply with the all the statutory 6 tests for a planning condition.

The Environmental Statement for MA/16/508659/FULL has been taken into account equally in the determination of this application. The information in it is considered to be adequate for the determination of significant environmental effects arising from the changes to the 3 conditions sought.

Altering condition 10 to refer to up to 32 one-way movements is not an unacceptable change for this type of business.

Version 4 of the Noise Management & Mitigation Plan needs to be referred to in condition 16 but otherwise the need to meet the Noise Rating Curve 30 externally remains.

Condition 17 can be amended to refer to Version 4 of the Noise Management & Mitigation Plan and the limitation be raised to +3dB above ambient as that would not be a perceptible increase and can be met by the scheme if the mitigation plan is followed in full.

Other conditions need to be updated to reflect that the development has commenced and that some other conditions have been discharged already in 17/505223/SUB and 18/501238/SUB.

It is also necessary to add a new condition that the use be restricted to the fruit storage and packing operations as it is that type of product which has specific operational needs.

**REASON FOR REFERRAL TO COMMITTEE –**

- Called in by the Parish Councils of Linton and Hunton
- The recommendation is contrary to the views of Parish Councils Linton, Hunton, Loose and Chart Sutton which all object to the application

**WARD** Coxheath And Hunton

**PARISH/TOWN COUNCIL** Linton

**APPLICANT** Alan Firmin Ltd

**AGENT** Mr Tim Spicer

**DECISION DUE DATE**

21/06/18

**PUBLICITY EXPIRY DATE**

17/07/18

**Planning History**

16/508659/FULL

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.

Approved Decision Date: 03.10.2017

17/505223/SUB

Submission of Details to Discharge Condition 6 (Boundary Treatments) Condition 9 (Site Levels) Condition 10 (Control and Monitoring - HGV Movement) Condition 11 (Construction Method Statement) and Condition 12 Part i (Surface Water Drainage) Subject to 16/508659/FULL

Approved Decision Date: 16.11.2017

18/501238/SUB

Submission of details pursuant to Conditions 3: Details of hard landscaping, 19: Details of incorporation of decentralised & renewable or low-carbon sources of energy, & 22: Cycle storage facilities (original application ref: 16/508659/FULL).

Approved Decision Date: 04.05.2018

**MAIN REPORT**

**1. DESCRIPTION OF SITE**

1.01 The site extends to 14ha and lies 4.5km southwest of the Linton Crossroads (via Redwall Lane and A229) which represents the main approach to Maidstone Town Centre.

1.02 The site extends from Redwall Lane to the northern boundary to the River Beult which runs to the southern boundary. It is now under construction for a B8 warehouse building for storage and packing of soft and stone fruit for occupation by Berry Gardens.

- 1.03 The Wares Farm industrial estate lies to the north and contains a range of B Class uses including the existing Berry Gardens fruit storage and packing complex of approximately 9,000sqm. With the exception of the adjacent industrial areas, the area mainly consists of pasture and lies within a countryside location with farmsteads and sporadic residential development located along Redwall Lane which includes a residential property adjacent to the north-west boundary of the site.
- 1.04 To the north west of the site is a bungalow which is within the ownership of the applicant. An established bund delineates the eastern boundary with Wares Farm, which contains a further complex of large agricultural buildings as well as a large number of caravans which are used for accommodating seasonal workers.
- 1.05 In order to utilise this spoil within the site, land raising will take place within the landscape mitigation area which itself will wrap around the southern and western parts of the building.
- 1.06 The ground floor of the building is designed to allow the flow of produce through the building with a chilled intake area to the southern part of the building. The northern part of the building laid out for dispatch with 6 loading bays.
- 1.07 The site will also include two access points to the site and an internal road layout which will create one way system for HGVs which will link to the two loading areas to the north and south of the building and also two large car parks for staff and visitors which will provide a total of 232 spaces with HGV parking.
- 1.08 The application also proposes highway improvements to Redwall Lane and contributions to Linton Crossroad.
- 1.09 The application was supported by an Environmental Statement (ES) which assesses the application under the Environmental Impact Assessment Regulations 2017 which included assessments in relation to transport and noise impacts.

## **2. PROPOSAL**

- 2.01 The application relates to 3 conditions on the parent planning permission as follows:

*10) Prior to the commencement of the development a scheme for the control and monitoring of the movement of HGV shall be submitted to the Local Planning Authority. On approval of the scheme by the Local Planning Authority, this scheme should be implemented and operated at all times and shall be available for review by the Local Planning Authority. No more than 8 HGVs shall enter or leave the site during the hours or 2300hrs and 0700hrs.*

*Reasons: In the interests of Local amenity*

*16) Prior to the commencement of development beyond slab level, details of a Noise Mitigation Plan for the sound insulation of the building*

*and any plant and Equipment shall be submitted for approval by the Local Planning Authority. This should incorporate details regarding mitigation measures such as sound insulation of the building envelope, screening, louvers, direction of orientation, location, enclosures etc. The plan shall ensure that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR30 as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. In addition The equipment shall be maintained in a condition such that it does not exceed NR30 as described above, whenever it's operating. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority. The development shall be carried out and operated in accordance with the approved details.*

*Reason: to protect the amenity of the area*

*17) Prior to the commencement of development beyond slab level, a Noise Management Plan will be submitted for approval by the Local Planning Authority. This plan should describe the management of deliveries and activity on the site during both night time hours (2300-0700hrs) and day time hours (0700-2300hrs). The rating level of noise emitted shall be at least 5dB below the existing measured ambient noise level LA90, T during the day time and night time periods. The plan should set out any mitigation measures that are required. This plan will be prepared in consultation with the council's Environmental Protection Team. The objective should be to ensure that the plan meets the BS4142 and NR30 standards. The building shall not be used until the plan is approved and all activity on the site thereafter shall be carried out in accordance with this plan.*

*Reason: To protect the amenities of the surrounding area*

2.02 The changes requested are supported by a Noise Management & Mitigation Plan (which was revised in response to Environmental Protection comments) and clarifying traffic data and a statement as to the case of operational need :

- To alter condition 10 to refer to a maximum of 32 one way movements by HGVs during the night (ie a doubling of the figure in the condition)
- To alter condition 16 to refer to an approved Noise Management & Mitigation Plan and to change the point of noise measurement from the boundary to the inside of a noise sensitive property
- To alter condition 17 to refer an approved Noise Management & Mitigation Plan in regard to 5dB above ambient noise levels instead of 5bB below
- To update conditions if already discharged

2.03 The justification for the changes from the applicant's agents is summarised as follows:

- The Noise Assessment incorrectly stated that there would be 8 HGV movements in the hours 2300 and 0700. It assessed 1 HGV movement during every 15-minute reference period (in accordance with industry methodology) which is 32 as a maximum.
- 32 HGV movements are acceptable in noise impact and highway terms.
- There are strong business requirements that require flexibility regarding night time HGV movements including the projected growth of the business
- Condition 16 wrongly refers to the NR30 Curve limit being met at the boundary of properties whereas it should be internally
- HGV noise sources currently form part of the existing noise climate. As no noise complaints have been received by the applicant, a more appropriate rating level limit would be 5dB above the existing measured ambient noise level LA90.
- A rating level above the background gives no concerns if NR Curve 30 could be met internally, and a hand calculation was provided to verify the results of the noise modelling.
- Predicted to be a maximum of 45 HGVs (equals 90 movements as set out in the TA) per day. The proposed change of Condition 10 is not additional to the total number of HGVs i.e. there will still be an estimated maximum of 45 HGVs visiting the site per day but 16 of these will be permitted to access the site between the hours of 11pm and 7am. ie some of the lorries anticipated to arrive between 18:00 and 00:00 and 07:00 and 09:00 as set out in Table 5-6 may arrive later or earlier i.e. between 11pm and 7am. The timings of movements will vary and fluctuate, requiring a degree of flexibility for operational reasons.
- The applicants have submitted records of existing HGV figures from their current premises in 2017 to illustrate the variations in usage to their existing premises.

2.04 Following concerns about the originally submitted Noise Management & Mitigation Plan from the Borough Council's Environmental Protection officers, a revised Noise Management & Mitigation Plan (version 4) was submitted as follows:

- The application from 8 to 16 HGVs equates to 32 movements
- all loading and unloading of lorries would take place internally within the building once the lorry has docked and is sealed with the building.
- All forklifts will operate inside the building during the night-time
- Inbound carriers (HGVs) do not have any reversing beepers fitted and during the night-time beepers on the out-bound carriers are to be switched off.

- In regard of overlap of HGVs, a sensitivity exercise and re-modelling the on two movements taking place within the 15-minute reference period, a second HGV reversing into a dock, and a second airbrake. Without beepers, the predicted noise level would be the same and less than or equal to the background sound level.
- Regarding the internal noise levels, SLR appreciates that in rural areas ambient and background noise levels can be very low; SLR has measured the existing noise climate at the site.
- When considering the attenuation provided by an open window, internal levels are well above the 18dB internal level
- Whilst SLR can see the logic of applying NR Curve 30 outside to achieve an NR Curve 25 internally, as a residential receptor it is only necessary to achieve NR Curve 30 inside, in line with the recognised industry guidance.
- If reversing beepers are not operating there are now no exceedances in the limits stipulated in the NR30 Curve externally.
- Operations at the site would not cause a perceptible increase in the ambient noise level at the receptors assessed so a rating level of no more than 5dB(A) above the background sound level is acceptable.
- nearest noise-sensitive receptors are already subject to sound of an industrial nature including HGV movements, potential reversing beeper noise, and other plant noise from existing Berry Gardens site

2.05 The agent sought to clarify the need for the development in additional information:

- Greater flexibility is critical to the future operation and growth of the business, the basic premise for the original planning permission, for example, to accommodate lorries over and above the currently specified number in the night time during unusual events. These might include problems with the ferry service or at the place of origin, out of their control
- The condition as exists would not stop the movements still occurring on the local highway network. The result would therefore be lorries needing to find places to park locally until the condition time-period passes, or the business operating convoluted operations out of necessity, using premises on the north side of the road to accept the fruit and transport over to the application site on smaller non- HGV vehicles. Both scenarios are more impactful.
- The amendment of Condition 10 will have no material effect on the am or pm peak hours and will not increase total vehicle numbers. No consequential effect on highway safety or capacity is therefore envisaged and the original TA and accompanying ES chapter remains a valid worst case assessment in highway terms.
- With regard to the consequential effects of increasing permissible night-time HGV movements on the amenity of adjacent and nearby

residents, it does not materially change the degree of effect set out in the original EIA.

- There is no substantive change to the original ES and therefore the procedures set out in Regulation 25 of the EIA Regulations do not apply
- There is currently no restriction on night time movements associated with the existing facility, consistent with the approach adopted by the Council on numerous other fruit packing facilities across the Greensand Ridge.
- The condition does not meet the NPPF tests as the current restriction places unreasonable restrictions on operations and does not allow for occasional events outside the applicant's control.

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

Maidstone Borough Local Plan 2017: DM1; DM23  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Environmental Impact Assessment Regulations 2017

### **4. LOCAL REPRESENTATIONS**

- 4.01 The application was advertised by site notice and press advertisement and was subject to an initial consultation following validation of the application and a further round of consultation following the submission of additional information in respect of the application.
- 4.02 Maidstone CPRE: object strongly: increase in noise by night time traffic by 4 times; needs proper managerial control number of vehicle movements. No operational experience in the new building so no evidence basis.

#### **Local Residents:**

- 4.03 34 objections received from local residents, on the following (summarised) issues
- This quadruples the night-time HGV numbers
  - disturbances need to be monitored by the council's own Environmental Health department
  - original application was pushed through, disregarding very strong local opposition, totally out of place in a rural location.
  - they have benefited from a cheaper land cost by placing the site in this rural setting, the flexibility they seek could have been provided in an industrial area or alternative logistics area near the motorway
  - this business does not serve local residents
  - there are no restrictions applying to the existing site but the two sites are not comparable in size

- original transport information was too vague- question if the planning committee's decision on this application can be considered legally valid
- flagrant, deliberate attempt to push these variations through by the backdoor
- Noise management and mitigation plan only relates to noise around the site itself: it does not consider nor offer any mitigation regarding the proposed HGV route
- Already too many HGVs which drive through Hunton and other local villages including at excess speed, danger to life of life as pedestrians, cyclists and horse riderspot
- the majority of the workforce will not be local, but travelling in from further afield,
- Already noise from reversing beepers up to 3 miles away, noise is more noticeable in a rural area.
- Damage to property, including listed buildings and conservation areas on the HGV routes
- traffic chaos because cars, buses or vans cannot pass each other on narrow lanes
- noise of an HGV vehicle every 15 minutes throughout the night is unacceptable
- 11pm is not daytime
- HGVs at night more likely to take short cuts or get lost, chance of one of them getting stuck or having major difficulties manoeuvring round the corner in the middle of the night, with the resulting light and noise disturbance to residents.
- HGVs who have been to the Redwall Lane also have to go to Fruition which is off East Street so will make a shortcut
- HGVs causing extreme damage to the lanes, breaking water mains, creating huge pot holes, damaging private verges, power lines and overhanging trees
- More young people drive these lanes at night- one recent teenage fatality in Redwall Lane
- The lanes in the locality are likely to become overnight lorry parks with litter produced.
- Increases vibration, air pollution and exhaust fumes
- Noise from the forklift trucks loading and unloading
- Harmful to physical and mental health
- the opening hours suggested by environmental health were not imposed



- The number of loading bays and HGV parking spaces indicate intention for 18 HGVs onsite at any one time. do not allow changes after the event
- the building should not have commenced if the conditions attached to the approval were not acceptable
- Need to stick to NR 30 at the boundary: External noise in e.g. gardens of adjoining properties is most relevant in the daytime.
- 10dB change would roughly double the perceived noise level
- Incorrect to say there have been no noise complaints: there are no contact details for the site manager
- Noise from an intrusive refrigeration type noise for a couple of hours at a time.
- NR curves not appropriate for intermittent noise
- Technical Errors in the noise report and assumptions made seem questionable
- Noise needs to be modelled on the HGV route as well as at the site and factor overlapping vehicles.
- If approved, mitigation measures are needed eg triple glazing.
- They will not be satisfied until unlimited numbers of HGVs entering and leaving the site 24 hours a day, and unrestricted noise levels; more applications will be submitted.
- The HGV drivers are ignoring the routing plans- has been reported to the applicant.
- Inadequate time for consultation/notification in a holiday period
- No assessment of the extra staff vehicles or LGVs during the night-time
- A persistent absence of traffic statistics in applications in the Borough
- Need to recognise the severe cumulative impacts on traffic and environment
- Politicians, MP Helen Grant, planners and local councillors need to serve local people. not profit first business

## **5. CONSULTATIONS**

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

### **5.01 Linton Parish Council objection:**

- The decision notice should be clear and unequivocal in how many movements in total are permitted
- No amendment until after some operational experience
- the consideration of local amenity should cover all of Maidstone Borough along routes used: an HGV every fifteen minutes throughout the night, will seriously affect local amenity over a wide area eg Linton Hill
- Worsens pollution
- conditions 16 and 17 of the planning decision notice are too complex and technical
- A change in permitted noise levels from 5dB below ambient to 5dB above means in practical terms a doubling in the amount of noise produced.
- conditions amended before construction means that the original decisions were based have been significantly undermined
- Concern at lack of monitoring committees and other stipulations such as a written routing agreement and appropriate signage need to be properly monitored and enforced.

Objections remain following the additional information

- The TA has confusing data: the conditions should reflect it with three time zones: daytime, evening and night
- The access route (Redwall Lane and Linton Hill) has back ground noise that noticeably reduces after the evening rush-hour and further reduces after 10pm.
- The are not positioned in a realistic setting: the Linton landscape gradient runs north/south yet the sensors were placed east / west.
- Noise sensors needed by homes in Redwall Lane and the junction with Linton Hill.
- A Lorry produces over 90Db when in high revs and low gears, manoeuvring, pulling away traversing hills either up or down, and negotiating bends.
- Beepers should be off during daylight too.
- No beepers makes it dangerous for cyclists
- Linton as an inappropriate location for a HGV logistics operation: the market for this building is not local suppliers.
- HGVs / LGVs Berry Gardens are one entity and MBC should treat it so.
- The applicant should withdraw the application, agree to amend the conditions PC suggests and then assess matters when the site is up and running.

- a Lorry Watch should have been done before the original application and post application dealing with HGVs and noise levels along Redwall Lane

5.02 Hunton Parish Council objection:

- to quadruple the number of HGVs is intolerable to local residents
- unacceptable to seek substantial change to conditions so soon
- local roads are totally unsuitable
- HGVs are already travelling through Hunton from the site
- To increase the noise level from 5dB below existing measured ambient noise levels to 5dB above will harm local amenity.

5.03 Loose Parish Council objection:

- Houses in Linton Road already suffer from vibrations when vehicles pass
- an increase in noise level for the residents of A229 through the night
- Between Linton Crossroads and the viaduct on the A229 there have been several serious accidents, some of them fatal.
- KCC recommended no further development on the south side of Maidstone due to excess pollution and lack of infrastructure
- Increased pollution at night, particularly in the Wheatsheaf area of the A229
- Inspectors have expressed his concern about the volume of traffic that would increase through Loose.

5.04 Chart Sutton Parish Council objection:

- proposed 'doubling' of night-time HGV movements under this application
- no lorries should use the B2163/Willington Street as a route back to the motorway\_
- extra information does not alter the objections

5.05 Marden Parish Council: No objection providing none of the increased number of lorries at night-time would be directed via the B2079 through Marden.

5.06 KCC (Highways and Transportation)- no objection

5.07 Environment Agency: no comments

5.08 Health and Safety Executive: no objections

5.09 Natural England- no comment

5.10 KCC (Drainage)- no comment

5.11 Kent Police: no comments

5.12 Southern Water: no comments

5.13 MBC Environmental Protection (initial comments):

- The original assessment of noise was based on one vehicle movement in the 15 minute BS4142 assessment period. Overlap becomes much more likely during any 15 minute period. 2 vehicles arriving together would add 5dB to the assessment and 3 would add 5dB.
- not specific about which L90 value has been used. The assessment should use a representative case - so 7pm to 11pm with a median or modal value for that period might be acceptable.
- we are not in a position to verify that there would not be unacceptable impact.
- Floating barriers in isolation would not be sufficiently effective in controlling noise from plant. However combined with the screening effect of the building itself this is satisfactory.
- preferable to have a seal to the rear of the vehicles meaning that body of the truck (assuming they are hard backed) will provide some attenuation and the forklifts would operate inside the building.
- if beepers need to be used at night they should be white noise beepers at the very least and preferably not be used at all (with an alternative safe system of operation). Any HGV that uses traditional beepers should be prohibited from night time deliveries. Bleepers should attract a 6dB penalty as they are both intermittent and impulsive.
- Page 19 - the report has misunderstood our requirement - NR30 is designed as an outside measurement to allow for a level of around NR20 inside. This is a fair level for rural areas. Low frequency noise of HGV is more penetrating
- While we may consider relaxing the requirement for noise to be 5dB below background in very quiet areas this would be only as far as to be equal with background not to above background.
- The NR curve specified is required outside not inside

5.14 MBC Environmental Protection (comments on amended Noise Management & Mitigation Plan):

- While there remain some technical errors and misinterpretation, the reduction in impact gained by the non-use of reversing beepers and the other physical and management measures are now demonstrating low impact.
- The assessment of the possibility of two vehicles arriving together is satisfactory.
- The ground absorption factor is a standard method and the derivation of 0.5 for a bit of hard and a bit of soft ground is satisfactory.

- Using line source gives a better built in margin of error.
- BS4142 is a fair and valid assessment with penalties for tonal, impulsive and intermittent noises.
- The plant is located at the rear of the factory and heavily screened so it easily meets both BS4142 and NR curve requirements.

## **6. APPRAISAL**

- 6.01 It is clear from the representations that there is ongoing local concern about the principle of the B8 building that is under construction and also issues that have arisen from the existing Berry Gardens business or from the construction of the new building. However, the consideration of this s73 application needs to focus on the impact of the specific changes to conditions requested and has to be considered on its individual merits.
- 6.02 There is also concern from some objectors that conditions imposed on a planning permission should not be revisited and that should not be before the building is in use. The points made on this are appreciated but it is clear in national planning legislation (s73 of the Town and County Planning Act) that a right exists to an applicant have conditions varied or removed at any point once the planning permission has been granted.
- 6.03 In considering conditions, paragraph 203 of the NPPF states “Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”. Paragraph 206 states “Planning conditions should only be imposed where they are: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. These are the “6 tests” of a planning condition and all have to be met.
- 6.04 The main issues are:
- Environmental Impact Assessment
  - Highways Impact
  - Noise Impact at the site
  - Amenity Impacts in the locality

### **Environmental Impact Assessment**

- 6.05 The original planning application, by reason of its use, scale and location, was subject to Environmental Impact Assessment (EIA) and an Environmental Statement (ES) was submitted that covered a number of matters including ones that relate to this application in terms of traffic, transport, noise, vibration and air quality.
- 6.06 In this case, the ES for MA/16/508659/FULL has been taken into account equally in the determination of this application. The information in it was considered to be adequate for the determination of significant environmental effects of the development arising from the changes to the 3 conditions sought.

### **Highways Impact**

- 6.07 The existing condition 10 on the parent planning permission limits the number of HGVs that can enter or leave the site between 2300hrs and 0700hrs to 8 in number. This effectively means 16 one-way movements as 8 HGVs could both enter **and** leave in that time period without technically breaching the condition. It was imposed in the interests of amenity.
- 6.08 This s73 application does not intend to increase the numbers of HGVs overall each day but is intended to give flexibility to the times in which they can visit the site to unload or load. The applicant is asking for up to 32 one-way movements which is a doubling of the maximum limitation in the condition. Many of the objections refer to a "quadrupling" of the number but that is not a correct interpretation in my view.
- 6.09 Based on the submission of the agent on behalf of the applicant, it is not intended that there be 32 in or out movements at night-time on a frequent or regular basis throughout the year. The 8 HGV figure in the existing condition was based on an average expected figure but in a planning condition, for reasonableness and precision, it is necessary to factor in contingency for the worst case scenario.
- 6.10 The figure of 32 in or out movements represents a maximum scenario and is requested to give flexibility to factor in either individually or in combination, matters such as peak seasons, the terms of contracts with suppliers and/or customers and any traffic circumstances beyond their control. The nature of the fruit products sold is that delays to loading or unloading need to be avoided as far as possible to minimise degradation.
- 6.11 The reference to HGVs in or out movements rather than vehicle numbers is more precise and enforceable and more reasonable in terms of allowing for the need to spend time unloading and loading. In terms of the requested change in the time of day when the vehicles arrive or depart, KCC as the Local Highway Authority does not consider that there can be objections sustained in the context of national NPPF paragraph 32 "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are **severe**".
- 6.12 Similarly, there is considered to be no breach of Policy DM21 of the MBLP which relates to assessing the transport impacts of development because the trips generated to and from the development have no severe residual impacts simply based on them occurring at a different time within the 24 hour day.
- 6.13 I am satisfied that the condition also can be amended to make it more precise and enforceable and that it would be reasonable to allow up to 32 one way movements, bearing in mind the flexibility needed by the applicant to operate this particular business.
- 6.14 I concur with the point made by the agent that to retain the condition based on average figures and not allow for maximum figures could lead to a perverse situation whereby, for example, any HGVs that would breach the existing night-time condition would need to wait on the public road until after 0700hrs to enter the site.

#### **Noise Impact at the Site**

- 6.15 Conditions 16 and 17 were imposed in the interests of amenity.
- 6.16 Condition 16 (and therefore the NR30 Noise Rating curve measurement) refers to noise from plant and equipment. The Council's Environmental Protection Officer is of the view that the measurement of noise from these sources should be an external one at the boundary of any dwelling as that is more easily measurable and thus enforceable. In terms of noise nuisance to local residents, I am satisfied that the position of any plant and equipment that is likely to be noisy would be in acceptably screened positions and that there is mitigation proposed such that there will not be a breach of the relevant acoustic standards. The condition is therefore reasonable as originally imposed but can be updated to refer to the most recent Noise Management & Mitigation Plan submitted by the applicant.
- 6.17 Condition 17 relates to noise from sources other than plant and equipment, e.g. the loading and unloading processes etc. In this regard, clarification has been submitted that the loading doorways are sealed and that there will be internalised use of fork lift trucks at night. The main intrusive noise source would have been the use of reversing beepers. The applicant has agreed that these will **not** be used at night. They would need to use alternatives such as banksman or radio controlled communication.
- 6.18 The revised Noise Management & Mitigation Plan also states that in the daytime, the operatives will be encouraged to use or convert to broadband or white noise alarm models which are much less acoustically intrusive over the distances relevant in this rural locality.
- 6.19 In terms of the noise limits in condition 17, whilst it is desirable for a -5dB below ambient, in terms of the "reasonableness" test of planning conditions, a +3dB limit above ambient is acceptable. This is the amount of noise that is hardly perceptible as a change by the human ear whereas the request for +5dB can be "adverse depending on the context". The Noise Management & Mitigation Plan submitted indicated that +2dB is the most increase anticipated. Therefore +5dB above ambient has not been evidenced as necessary by the applicant.
- 6.20 I am therefore satisfied that it would not cause any harm to amenity to amend the condition to +3 dB above ambient and to update it to refer to the revised Noise Management & Mitigation Plan.
- 6.21 The methodology as to assessing daytime and night-time 2 periods with night-time being 2300 to 0700 is standard practice and there is no requirement for a third period of "evening".

### **Amenity Impacts in the Locality**

- 6.22 Many of the objectors refer to the traffic noise, disturbance, air pollution etc to a wider area than the application site environs.
- 6.23 As detailed above, the changes in the condition 10 in terms of traffic numbers do not increase overall compared to the permitted scheme being constructed. Hence it would not be reasonable to refuse the application on wider traffic grounds other than in relation to any specific impacts arising from potentially more night-time traffic on occasion.

- 6.24 As the number of HGVs overall is not affected by the s73 application, I do not consider that air pollution is changed to be relevant to the determination of this application.
- 6.25 Environmental Protection is not able to assess operational traffic of this kind on roads as a “nuisance” so noise and disturbance beyond the site in the wider locality of can only be considered as a subjective amenity matter.
- 6.26 On the basis that the change requested is a maximum of an extra 8 HGVs (and utilising the original ES traffic counts to set the context of the prevailing situation) I conclude that the changes to condition 10 requested would not result in any significant harm to amenity to warrant refusal. That is bearing in mind the general prevalence of night-time HGV traffic in the locality and the unfettered hours of operation that exist at Berry Gardens’ premises in Redwall Lane.

### **Other Matters**

- 6.27 I have considered all other matters raised by consultees and local residents and conclude that they are not material to the conditions being sought to be altered.

## **7. CONCLUSION**

- 7.01 In conclusion, the principle of the development is established and this application is not able to be determined on concerns about that, or on problems encountered during construction or that the conditions are being amended before the building is operational.
- 7.02 The Environmental Statement for the parent planning permission (MA/16/508659/FULL) has been taken into account equally in the determination of this application. The information in it was considered to be adequate to allow a determination if there were any significant environmental effects of the development arising from the changes to the 3 conditions sought.
- 7.03 I conclude that altering condition 10 to refer to up to 32 one-way movements is a doubling of the restriction in the condition but that in itself in the local context is not an unacceptable change for this type of business and can be amended in a way that complies with the all the statutory 6 tests for a planning condition.
- 7.04 Version 4 of the Noise Management & Mitigation Plan needs to be referred to in condition 16 but otherwise the need to meet the Noise Rating Curve 30 externally should be retained.
- 7.05 Condition 17 can be amended to refer to Version 4 of the Noise Management & Mitigation Plan and the limitation be raised to +3dB above ambient as that would not be a perceptible increase and can be met by the scheme if the mitigation plan is followed in full. That would ensure the condition meets the “reasonable” test for a planning condition.
- 7.06 Other conditions need to be updated to reflect that construction has commenced and that some other conditions have been discharged already in 17/505223/SUB and 18/501238/SUB.



- 7.07 It is also necessary in my view to add a new condition that the use be restricted to the fruit storage and packing operations as it is that type of product which has specific operational needs over a 24 hour period that have generated this request from Berry Gardens to vary condition 10.
- 7.08 The obligations in the legal agreement for the parent planning permission would not need to be carried forward into this new planning permission as it relates equally to any s73 applications.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

The development hereby permitted shall be carried out in accordance with the following approved plans: DHA/11488/01 SITE LOCATION PLAN; DHA/11488/02 EXISTING SITE PLAN; DHA/11488/11 REV B ELEVATIONS; TEQ/1817-04D SITE LAYOUT/LEVELS; 3874DR001 rev H LANDSCAPE STRATEGY; 3874DR002 rev H LANDSCAPE MASTERPLAN; TEQ 1817-03D INDICATIVE SECTIONS; WM/512/P/12 / rev2 ROOF PLAN; WM/511/P/15/ rev2 MEZZAINE FLOOR; WM/511/10 / rev3 GROUND FLOOR ; DHA/11485/03A SITE LAYOUT; TRANSPORT ASSESSMENT AND APPENDICES; ENVIRONMENT ASSESSMENT AND ES TECHNICAL NOTES ;FLOOD RISK ASSESSMENT; LANDSCAPE AND ECOLOGY MANAGEMENT PLAN MARCH 2017 and email received from DHA dated 18 July 2018.

Reason: To clarify which plans have been approved.

- 1) The materials to be used in the development hereby approved shall be as indicated on the approved plans DHA/11488/11B unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

- 2) The development shall be completed in accordance with the hard landscaping approved as part of permission 18/501238/SUB before the first occupation of the building hereby permitted.

Reason: To ensure a satisfactory appearance to the development.

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

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

- 4) The approved details of the access points as shown on plan 11487-H-01 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 1m thereafter.

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

- 5) The development shall be completed in accordance with the fencing and boundary treatments approved as part of permission 17/505223/SUB and shall thereafter be installed and permanently retained.

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

- 6) No use of the development hereby permitted shall take place until the following off-site highways improvements have been completed.

(a) Extension of the existing 40mph speed limit to the south of the Redwall Lane junction with the A229.

(b) Creation of access points to site including installation of a Bollard to prevent westerly HGV travel on Redwall Lane from the north west access point

(c) Improvements to Redwall Lane and Junction of Redwall Lane and A229 as set out in the Transport Assessment

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

- 7) The development hereby permitted shall be carried out strictly in accordance with the slab level shown on the approved drawing TEQ1817-04D.

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

- 8) The development shall be carried out in accordance with the final site levels approved as part of permission 17/505223/SUB and retained as approved thereafter.

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

- 9) The control and monitoring of the movement of HGVs shall be in accordance with the scheme approved under 17/505223/SUB. This scheme should be implemented and operated at all times and shall be available for review by the Local Planning Authority. There shall be no more than 32 in or out movements to the site by HGVs between the hours of 2300hrs and 0700hrs.

Reason: In the interests of local amenity.

- 10) The development hereby approved shall be constructed in accordance with the approved construction method statement pursuant to permission 17/505223/SUB.

Reason: To protect the amenity and highway safety of the area during the construction phase.

- 11) The surface water drainage scheme for the site shall be implemented in accordance with approval 17/505223/SUB and retained thereafter. The scheme shall be implemented prior to use of the building and thereafter managed and maintained in accordance with the details of a management and maintenance plan submitted for the approval of the Local Planning Authority which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure ongoing efficacy of the drainage provisions.

- 12) No storage of oils and fuels are to be stored on site within 10m of the river edge or any field drain, ditches (including field ditches) and other surface water system which are connected to the SSSI. Any other storage to take place within the site must be stored in a bunded tank or mobile container that complies with current regulations.

Reason: To protect the ecological interests of the River Beult SSSI

- 13) The approved landscaping details shall be carried out during the first planting season (October to February) following first occupation of the building. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the 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

- 14) The proposed building shall achieve at least a BREEAM Very Good level. A final certificate should be issued within 6 months of first occupation of the building to confirm the Very Good BREEAM rating has been achieved.

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

- 15) The development shall be carried in with the mitigation measures in Noise Management & Mitigation Plan Ref: 403.06466.00004.001 Version 4 including the sound insulation of the building and all plant and Equipment to ensure that noise generated by plant and Equipment at the development shall not exceed Noise Rating Curve NR30 (as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers Environmental Design Guide 2006) at the boundary to any noise sensitive property. All plant and equipment shall be maintained in a condition such that it does not exceed NR30 as described above, whenever it is operating. No new plant or ducting system shall be used without the prior approval of the Local Planning Authority.

Reason: To protect the amenity of the area.

- 16) The development shall be carried in accordance with the approved Noise Management & Mitigation Plan Ref: 403.06466.00004.001 Version 4. The rating level of noise emitted shall be maintained at a level no greater than 3dB above the existing measured ambient noise level LA90,T during the day time and night time periods respectively. All activity on the site thereafter shall be carried out in accordance with this plan.

Reason: To protect the amenities of the surrounding area

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

Reason: To protect the amenities of the area

- 18) Before the first occupation of the building hereby permitted, the development shall be completed in accordance with permission 18/501238/SUB in terms of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved. All features shall be retained thereafter.

Reason: To ensure an energy efficient form of development

- 19) The building hereby permitted shall not be occupied until details of any lighting to be placed or erected within the site have been submitted to and approved 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 approved details.

Reason: In the interest of amenity.

20) Prior to the occupation of the building(s) hereby permitted, 18 parking spaces to be served by electric vehicle charging points shall be installed 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 National Planning Policy Framework.

21) The development hereby approved shall be completed in accordance with permission 18/501238/SUB in terms of cycle storage facilities on the site. The approved facilities shall be provided before the first occupation of the building and retained thereafter.

Reason: In the interest of amenity and sustainability.

#### Informative

- 1) The s106 legal agreement for 16/508659/FULL applies to this planning permission.

Case Officer Marion Geary

**Ref: 18/501181/FULL**

**Additional representations:**

**Environmental Protection:** Agree that the noise report demonstrates low impact.

**Loose PC:** original objections remain

**Maidstone CPRE:**

1. The committee report does not address what is acceptable in HGV terms to the local community and amenity. The ES for the original approval is NOT adequate to allow determination of the effects
2. There is no note of the four most affected Parish Councils and numerous residents. 16 or more vehicles over the period 23.00 to 7.00am is actually a higher number than the daytime average rate: need to reduce the rate of arrival at the site of HGV traffic over the night-time period.
3. In paragraph 2.04 there is a mistake – it is a fourfold increase, NOT doubling.
4. That inbound carriers do not have reversing beepers fitted cannot possibly be true, and would probably be illegal.
5. The NPPF tests need to be identified.

**Local Residents**

- continue to strongly object for same reasons
- recommendation by council's Environmental Health Officer needs to be upheld
- need some respite throughout the night from the HGV traffic.
- Mitigation needed such as triple glazing, quiet road surfaces or recompense for properties damaged HGV vibration.
- original restrictions on movements should be factored into the business plan
- makes rural part of Kent into an industrial area
- grade 2 listed buildings subject to violent tremors
- needs a route to the M20 not through the villages.
- This is a pursuit of capitalist ideas
- If no restriction on HGV movements, unlikely that approval would have been given originally
- important information was withheld in order to gain approval, a tactic that should not be tolerated.
- planning process has failed the people of Linton and surrounding areas.
- Enormous development viewed from the Greensand Way
- what is the point in applying conditions if these are to be changed so readily.
- DHA and Berry Gardens appear to have chosen not to disclose the increase in staff numbers and the resultant number of projected increases in car journeys which will be made during the night time period.

- Berry Gardens have not provided enough information about the names, staff numbers, trading capacity and permitted trading hours of competing companies
- would result in the reduction in trade or the demise of the smaller companies, leading to the loss of jobs overall
- 85% of their produce for processing is imported the HGVs will have easy access to M20 lorry parks if Tunnel delays
- reversing beepers needed to comply with the requirements of the HSE.

### **Additional Information:**

Version 5 of the Noise Management and Mitigation Plan has been submitted.

The Agent has written as follows: The first bullet point of paragraph 5.14 referring to "some technical errors and misinterpretation" in the noise assessment is no longer valid given the further version 5 of the Noise Plan. The EP officer is satisfied that this has resolved all the EP issues that were flagged up. There is now an agreement to apply NR30 externally to residential properties and the reduction in the noise level sought relative to the background from 5dB to 3dB ensures that misinterpretation no longer exists.

Whilst the committee report removes the condition restricting the use of the building there are still two references to it being required in the body of the text. However, these comments are now superseded by virtue of further comfort provided by the applicant with regard to the commercial terms of the lease with Berry Gardens.

Condition 12 needs minor wording change if the drainage layout may need to be redesigned.

The agent has also provided some information requested by Linton PC:

- details of the domestic and international supply network (mainly to Tesco and Marks and Spencer plus via the hauliers Fowler Welch);
- there are no restrictions on Staplehurst Transits (whereby HGVs route north and south via Linton Hill) or Rumwood Green Farm in Langley.
- The Noise Management and Mitigation Plan methodology employed, the monitoring locations chosen and the receptors reflect the discussions with Environmental Health Officers. Noise has been measured immediately adjacent to the entrance/exit of the existing Berry Gardens Facility. This represents a worst case location in terms noise (i.e. HGVs along Redwall Lane, HGVs accessing and leaving the site and operational noise).

### **Discussion:**

In terms of the Maidstone CPRE objection:

1. The committee report addresses HGV noise and disturbance on local community and amenity in paragraphs 6.25 and 6.26. It is a subjective view at officer level that there is no significant harm to amenity from the variations to the conditions to warrant refusal.

2. 16 or more vehicles over the period 23.00 to 7.00am may be higher than daytime average rate, but it is intended to be an occasional worse case scenario when flexibility is needed from a logistical point of view.
3. Paragraph 6.07 explains why it is a two-fold not fourfold increase in HGVs in the nighttime period.
4. That inbound carriers do not have reversing beepers fitted is a statement in the applicant's Noise Management and Mitigation Plan. As detailed in para 6.17 of the committee report, banksman or radio controlled communication gives adequate safe practice as an alternative to beepers.
5. The NPPF tests for a planning condition are detailed in paragraph 6.03 of the report: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, reasonable in all other respects.

The plans list needs to be condition 1 and conditions thereafter renumbered accordingly.

The committee report in the final bullet of the "SUMMARY OF REASONS FOR RECOMMENDATION" and paragraph 7.07 that mention the need to condition the use of the building are superseded by the email received on 18 July 2018 which gives the details of the lease arrangement with Berry Gardens and this is included in the plans condition which is adequate to deal with the matter.

Version 5 of the Noise Management and Mitigation Plan has now been submitted which overcomes the technical and methodological concerns of the environmental protection officers referred to in the agenda report. ie concurs that the NR30 is measured externally and it also proposes a 3dB above ambient not 5dB. It therefore now correlates with the recommended conditions which would now need to refer to this Version 5.

I have no objections to the agent's suggestion for a minor change to condition 12. Any amended details of the SUDS scheme will be fully considered with the advice of KCC drainage and other relevant consultees.

**Recommendation remains unchanged**

Subject to renumbering and minor rewording of conditions as outlined above.



18/501181 - VARIATION OF CONDITIONS 10, 16 AND 17 OF APPLICATION 16/508659/FULL (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 a further letter of objection had been received, the main points being:

- Questioning the conclusion that the principle of the development was established as the Committee had made its decision on the basis of original condition 10 which it was now proposed to amend;
- Expressing concern that the report did not refer to improvements required to increase capacity at Linton Crossroads and that no reference was made to the cumulative impact on traffic due to the recent grant of planning permission for a new medical centre in Heath Road; and
- Commenting that the report contained no traffic statistics and there was a failure to recognise the impact of the development beyond the immediate locality.

Councillor Cresswell of Linton Parish Council, Mr Allen, for the applicant, and Councillor Fermor (Visiting Member) addressed the meeting. During the discussion, it was proposed and seconded that permission be granted subject to the conditions and informative set out in the report, as amended by the urgent update report, with the amendment of the noise conditions to require compliance with BS4142 at all times, and that Kent County Council be asked to be a signatory (by way of a Deed of Variation) to the HGV routing requirements of the S106 agreement for application 16/508659, which would apply to this permission, as this is not enforceable by the Local Planning Authority. It was also suggested that priority should be given to signage in regard to any mitigation from the Traffic Displacement Contribution (section 5 of Schedule 2 to the S106). An amendment was moved, seconded and carried that consideration of this application be deferred to enable further negotiations with the applicant regarding the redrafting of condition 10 (formerly 9) to specify a time limit in months when the up to 32 in or out movements is permitted (for example, 1 November to 31 May) with a lower threshold for the months outside this time frame.

**RESOLVED:** That consideration of this application be deferred to enable further negotiations with the applicant regarding the redrafting of condition 10 (formerly 9) to specify a time limit in months when the up to 32 in or out movements is permitted (for example, 1 November to 31 May) with a lower threshold for the months outside this time frame.

Voting: 6 – For 5 – Against 1 – Abstention

# Agenda Item 17



18/501312/FULL Swanton Farm

Scale: 1:2500

Printed on: 29/8/2018 at 12:10 PM by SummerF

<b>REFERENCE NO -</b> 18/501312/FULL
<b>APPLICATION PROPOSAL</b> <p>Provision of a Controlled Atmosphere Store, concrete hardstanding, irrigation lagoon and associated engineering operations (including land raising/earthworks) and the upgrading of an existing track and access.</p>
<b>ADDRESS</b> Swanton Farm Bicknor Road Bicknor ME9 8AT
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>The proposal by reason of its size and bulk would harm the character and appearance of the countryside and would have a significant impact on the Kent Downs AONB and so the Borough Council needs to be satisfied that there are material considerations demonstrated to outweigh the harm.</p> <p>The proposal is clearly necessary for agriculture. The building is clustered with other built form and the use of land for workers caravans rather than being ad hoc sporadic development.</p> <p>The scheme includes significant engineering works to give topographical changes for screening purposes that are designed to be as natural in appearance as possible.</p> <p>KCC Highways and Transportation advise that the application would not have a material impact upon the safety and operation of the adjoining highway network and that there is no unacceptable impact on highway safety, nor are the residual cumulative impacts on the road network severe.</p> <p>The distance of the local residents from the proposed development combined with the imposition of conditions relating to noise and lighting mitigation means that any impact on residential amenity is not considered harmful enough to warrant refusal of the scheme.</p> <p>The provision of the reservoir benefits the functional need of the business to have access to irrigation water and to manage surface water run-off and provide biodiversity enhancements. These multi functional purposes of the reservoir are supported.</p> <p>The proposed building is large but the demands of modern fruit farming to support traditional orchards are such that it is justified. The need for efficiencies and economies of scale dictate a building of this form and scale.</p> <p>There is a strong economic case and national importance of an expanding agricultural enterprise at the forefront of technological and horticultural advances and which are endorsed by Government departments aiming to meet objectives to improve self sufficiency in food.</p> <p>Overall, it is considered that this proposal represents an exceptional form of development in the AONB and therefore planning permission should be granted.</p>
<b>REASON FOR REFERRAL TO COMMITTEE</b> <p>Contrary to the views of Hollingbourne PC and Bicknor Parish Meeting.</p>

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

### **Relevant Planning History**

18/500202/LAWPRO

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

Approved Decision Date: 08.03.2018

17/505779/AGRIC

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

Prior Approval Not Required Decision Date: 01.12.2017

13/1682

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

Approved Decision date: 16.10.2013

13/1055

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

Approved Decision date: 19.09.2013

### **MAIN REPORT**

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

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

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

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

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

## **2. PROPOSAL**

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

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

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

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



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

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

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

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

Landscape Character Assessment Guidelines and Maidstone Landscape Character Study

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

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4.01 11 letters of support from local fruit farms

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

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

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

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

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#### 4.03 CONSULTATIONS

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

#### 4.04 Bicknor Parish Meeting–

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

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

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

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

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

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

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



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

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

## **5. APPRAISAL**

### **Main Issues**

- 5.01 The key issues for consideration relate to:

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

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

- 5.02 Strategic Policy SS1 states that protection will be given to the rural character of the borough and to the Kent Downs Area of Outstanding Natural Beauty and its setting.
- 5.03 Policy SP17 defines the countryside as land outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages defined on the policies map. It says that development proposals in the countryside will not be permitted unless they accord with other policies in this plan, they will not result in harm to the character and appearance of the area nor have significant adverse impact on the setting of the Kent Downs AONB. Policy SP17 recognises that agricultural proposals will be supported which facilitate the efficient use of the borough's significant agricultural land and soil resource provided any adverse impacts on the appearance and character of the landscape can be appropriately mitigated.
- 5.04 The preamble to the policy advises that countryside has an intrinsic character and beauty that should be conserved and protected for its own sake, whilst also maintaining a level of flexibility to support farming and the various aspects of the countryside economy. The importance of agriculture is considered: "Agriculture remains an important influence, fulfilling a number of important and varied roles in the countryside, contributing to the local economy, and managing and maintaining much of the valued landscape...However, in line with other businesses, agriculture needs to be able to react to new and changing markets and developments in technology. Agriculture in general is having to respond to the demand for produce to be available on a year-round basis and this has the potential for adverse impacts from intensive uses to be felt on the wider landscape and in terms of ecology and resources.
- 5.05 The use of modern CAS is a technological advancement in the top fruit industry to reduce the reliance on imported produce by significantly extending the shelf life of produce, making the market more stable.

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

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

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

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

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

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

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

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

### **Landscape and Ecology**

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

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



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5.38 The suggested enhancements are:

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

#### **Highways**

- 5.39 Policy DM21 relates to assessing transport impacts. The application is supported by a Transport Assessment (TA).
- 5.40 The use of the new road and improved access will take vehicle movements further away from the nearest residents in Bicknor and closer toward Swanton Street.
- 5.41 KCC Highways have reviewed the car parking and proposed HGV movements on and off site and have no objections to the application, assessing that it would not have a material impact upon the safety and operation of the adjoining highway network. This is based on the conclusions of the TA that the HGV number increase from greater fruit yields is something that would happen in any event due to the change in agricultural practices and species. The CAS allows the HGVs to move off site as full vehicles which are more efficient practice rather than half full and it allows the HGV traffic to be spread over a longer period of time rather than peaking at harvest time.
- 5.42 KCC advise that there is no unacceptable impact on highway safety, nor are the residual cumulative impacts on the road network severe, hence it does not warrant refusal as per the national policy in the NPPF paragraph 109. The use of the junction of Bicknor Road and Swanton Street is an existing situation. KCC has negotiated with the applicant to formalise of a number of passing bays to Bicknor Lane to the east of the site where there has been verge damage from current operations. These are off site works that would be the subject of a s278 agreement so would be secured by a Grampian style condition.

#### **Drainage**

- 5.43 The scheme is also supported by Sustainable Drainage System (SuDS) which have been reviewed by KCC as Lead Local Flood Authority who consider the strategy is acceptable in principle.
- 5.44 The provision of the reservoir benefits the functional need of the business to have access to irrigation water and to manage surface water run-off and provide biodiversity enhancements. These multi functional purposes of the reservoir are supported.
- 5.45 The SuDS scheme needs to demonstrate that it deals with the surface water from the development for which planning permission is sought. Current flooding issues

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

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

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

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

#### **Other Matters**

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

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

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

## **6. CONCLUSION**

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

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

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

## **7. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

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

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

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

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

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

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

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

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Reason: In the interests of avoidance of light pollution.

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

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

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

☐ A description of the drainage system and its key components ☐ An as-built general arrangement plan with the location of drainage measures and critical features clearly marked

☐ An approximate timetable for the implementation of the drainage system

☐ Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities

☐ Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

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

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

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

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

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

Reason: To ensure a satisfactory appearance to the development.

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

Reason: To ensure a satisfactory appearance to the development.

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

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

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

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

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

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

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

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

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

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

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

Reason: In the interests of local amenity

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

Reason: In the interests of highway safety.

- 17) The details of landscaping shall be submitted for approval by the Local Planning Authority shall provide for the following indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development, and a programme of maintenance. The proposal shall include a woodland area on site to enhance biodiversity. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding season following commencement of the development (or such other period as may be agreed by the Local Planning Authority) and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscape scheme shall specifically address the need to provide native species only.

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

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

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

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

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

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

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

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

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

Reason: to protect the amenities of the area

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

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);



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

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

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

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

Reason: To clarify which plans have been approved.

## INFORMATIVES

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

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

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

Case Officer Marion Geary



**18/501928 - Holman House**

Scale: 1:1250

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**REPORT SUMMARY**  
**6<sup>th</sup> September 2018**

<b>REFERENCE NO - 18/501928/FULL</b>			
<b>APPLICATION PROPOSAL –</b> Conversion of existing commercial and residential building together with single storey side extension, single storey rear extensions with a terrace above, to provide 7no. residential apartments.			
<b>ADDRESS - Holman House, Station Road Staplehurst TN12 0QQ</b>			
<b>RECOMMENDATION - GRANT PLANNING PERMISSION</b> subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION -</b> The proposal is acceptable in terms of design and no material harm will be caused to the character of the application property or the appearance, layout and character of the vicinity of the site. The proposal does not result in any material harm to the outlook or amenity of neighbouring occupiers or any significant highways safety concerns. It accords with all relevant policies of the development plan (Maidstone Borough Local Plan 2017) and the NPPF and will contribute towards the provision of smaller housing units within the village of Staplehurst.			
<b>REASON FOR REFERRAL TO COMMITTEE –</b> Staplehurst Parish Council have requested that the application is reported to the Planning Committee if Officers are minded to recommend approval.			
<b>WARD</b> Staplehurst		<b>PARISH/TOWN COUNCIL</b> Staplehurst	
		<b>APPLICANT</b> Arrant Land Ltd <b>AGENT</b> Blink Architecture	
<b>DECISION DUE DATE</b> 18/06/18		<b>PUBLICITY EXPIRY DATE</b> 12/07/18	
		<b>OFFICER SITE VISIT DATE</b> 27/04/17	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/506369/FULL	Conversion of existing commercial/residential building together with single storey side extension, single storey rear extension with storage above, changes to fenestration and addition to second floor extension to provide 7 residential apartments.	WDN	30.01.18
17/504258/FULL	Change of use and conversion of vacant business premises (offices B1) to residential (dwellinghouse C3)	PERMITTED	7.11.17
05/0519	Erection of a rear conservatory as shown on site location plan, roof plan and block plan.	PERMITTED	04.05.05
96/0704	Single storey rear extension	PERMITTED	08.07.96
97/1552	Change of use of the building from a mixed use for the purposes of retailing (A1) and residential uses to a mixed use for the purposes of office (B1) and residential uses together with the erection of a two and single storey rear extension to provide additional accommodation for the new use	PERMITTED	06.02.98

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 The application site lies on the east side of Station Road (A229) and is occupied by a large detached property set back approximately 11 metres from the road. The property is located within the defined boundaries of the Rural Service Centre of Staplehurst as designated in the adopted Maidstone Local Plan (2017).
- 1.02 The vacant building on the application site provides a six bedroom house with part of the ground floor (79.5 square metres) in office use (Use Class B1)). The property has a large rear garden part of which is covered in an expanse of hardstanding and currently used for vehicle parking in connection with the B1 use. There is a row of single storey disused garages along the eastern boundary of the site.
- 1.04 Abutting the site to the north is a row of semi-detached two storey residential properties. To the south is the premises of Staplehurst Free Church that is occupied by a large detached building set back from Station Road and from the side boundary with the application site.
- 1.05 The general streetscene is fairly uniform comprising mainly of fairly large and medium sized detached and semi-detached properties. Front boundary treatments are generally formed of low well maintained hedges interspersed by some low level brick walls. The site has a 1.8 metre close boarded fence to the north and south boundary of the site. .
- 1.06 Access to the site is gained via an existing side access from Station Road (A229). A service lane runs outside the rear boundary of the site. Ground levels within the application site are generally flat.

### **2.0 PROPOSAL**

- 2.01 The proposal includes erection of a single storey side extension and a single storey rear extension with terrace above.
- 2.02 A single-storey side extension is proposed to the south facing flank of the application building to replace the existing small extension on that elevation. It would extend 9 metre across the south facing elevation and would have a width of 2.7 metres and set back by 0.2 metres from the front elevation. The height of this extension would be just under 4 metres from the ground level to the highest part of the mono-pitched roof which would be set down from the side of the building.
- 2.03 The application proposes to replace the existing single storey rear extension and conservatory with a slightly larger rear extension. This element is split in two parts, with the smaller flat roofed extension being of a similar scale to the existing rear projection. It would extend 4.5 metres from the rear elevation of the building and 6 metres across the width of the building. The terrace area provided above this rear projection has been removed in the amended scheme.
- 2.04 The larger rear single storey extension would have a width extending approximately 7 metres across the rear elevation with depths of 12.8 metres. It would have a height of 4.8 metres above ground level with eaves at 2.5 metres. This element would be covered in pitched tiled roof.

- 2.05 The ground floor would accommodate 2no. two bedroom apartments and 2no. one bedroom apartments. The two bedroom apartments would occupy a combined floor area of 145 square metres and would each have living room/kitchen and shower room. The one bedroom ground floor apartments would occupy a floor area of 105 square metres, with each accommodating a kitchen/living area and bathroom.
- 2.06 There would be three one bedroom apartments at first floor level each accommodating a living area/kitchen, bathroom, and bedroom with integral wardrobes.
- 2.07 The development would utilise the existing access which leads eastwards from Station Road (A229) to the rear part of the site. The plans indicates the provision of 9 car parking spaces and 7 cycle parking spaces for the development, with a grass create turning area provided for service vehicles to the front of the site.
- 2.08 The submission indicates removal of the existing chimney stack. The existing north facing first floor windows openings are to be glazed in obscure glass and the lower sash fixed shut. An acoustic panel fence with bamboo planted in front would be provided along the northern boundary to reduce the impact on the neighbouring property to the north of the site.
- 2.09 The proposal is a resubmission of planning application with reference number 17/506369/FULL which is for conversion of the existing commercial/residential building into 7 residential apartments which was withdrawn by the applicant. The previous application was withdrawn on the Council's advice to enable the applicant addressed design and amenity concerns. There has been further amendments to the current scheme is considered to overcome the Council's previous objections as discussed in more detail in the appraisal section of the report.

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

- 3.01 The National Planning Policy Framework (NPPF): Para 124, 128 and 130 of the NPPF National Planning Practice Guidance (NPPG):  
Development Plan: Policy SS1, SP10, DM1, DM9 and DM23 of the adopted Maidstone Borough Local Plan (2017).

### **4.0 LOCAL REPRESENTATIONS**

- 4.01 **Local Residents:** 11 representations received from local residents and Staplehurst Free Church raising the following (summarised) issues:
- Adverse impact from over intensification of development at the site
  - Deliberate omission of the rear part of the site from the proposed scheme
  - Loss of privacy for neighbours
  - Inadequate parking provision
  - Access unsuitable for large vehicles
  - Division of application building not in keeping with neighbouring properties.
  - Inadequate amenity space for future residents
  - Adverse amenity impacts from the creation of rear access for the site.

- 4.02 Staplehurst Parish Council have raised objections to the application and requested that the application is reported to the Planning Committee if officers minded to recommend approval.

## **5.0 CONSULTATIONS**

- 5.01 **KCC Highways and Transport:** No objections subject the submission of a construction management plan and permanent retention of vehicle and cycle parking spaces.
- 5.02 **Environmental Health Team:** No objections

## **6.0 APPRAISAL**

### **Main Issues**

- 6.01 The proposal relates to the extension and conversion of the building into 7 self contained 1 and 2 bed apartments. Therefore, the main issues for consideration are:
- Principle of development
  - Visual impact
  - Residential amenity
  - Parking and Highway Safety
- 6.02 Policy SS1 of the adopted local plan directs new development to the most sustainable areas of the borough where employment, key services and facilities together with a range of transport choices are available. As a defined rural service centre Staplehurst is second in the sustainable hierarchy behind only Maidstone urban area as set out in policy SS1 of the adopted local plan.. Policy SP10 of the adopted local plans sets out the strategic vision for sustainable growth within the village of Staplehurst.
- 6.03 Staplehurst as a rural service centre benefits from a number of facilities including a direct bus service to Maidstone Town Centre, a railway station, primary school, a parade of shops, petrol filling station, library and a public house. The application site is in a highly sustainable location with good access to public transport and where goods, services, facilities can be easily accessed without the use of a private motor vehicle, and as a result the principle of increased residential density in this location is fully supported by the NPPF and the adopted Maidstone Borough Local Plan.
- 6.04 Moreover, the application site lies within the settlement boundary of Staplehurst where residential extensions and conversion of existing building into flats are permissible subject to requirements set out in policy DM1, DM9 and DM23 of the adopted Maidstone Borough Local Plan (2017) being met. The outlined policies seek to ensure that all residential extensions and conversion provides acceptable residential environment and respects the amenities of neighbouring residents.
- 6.05 Taking the relevant provision of the policies set out above in turns, policy DM1 of the adopted local plan emphasises the Council's objectives of achieving high quality design throughout the borough. The policy also requires that proposals respect the amenities of occupiers of neighbouring properties and uses whilst providing adequate residential amenities for future occupiers. The submitted scheme is considered to comply with the relevant provisions of policy DM1 and is considered acceptable as a consequence.

- 6.06 Policy DM9 of the adopted local plan states that proposals for the conversion or redevelopment of dwellings into self contained flats would be permitted if 'the intensified use of the building and its curtilage would not significantly harm the appearance of the building or the character and amenity of the surrounding area'. As discussed in more detail in the appraisal section of this report, the scale and design of the extensions proposed to the application property are acceptable and there would be no material harm to the general character of the street scene or amenities of the surrounding area.
- 6.07 Having regards to the relevant provision in the adopted Local Plan and government guidance in paragraph 124 and 128 of the National Planning Policy Framework – NPPF, it is considered that this application involving the redevelopment of the application building into 7no. self contained flats is acceptable in principle and there are no overriding policy considerations to indicate a refusal of planning permission.

**Visual Impact:**

- 6.08 Policy DM1 of the adopted local plan states that residential extensions should respect the form, proportions, symmetry and detail of the original building without compromising the character and appearance of the surrounding area.
- 6.09 The proposed single storey addition to the southern (side) building elevation and adjacent to Staplehurst Free Church of the building is of appropriate scale and design, it would not appear over dominant or visually harmful and seen as a sensitive addition to the application property. No overriding planning objections would be raised to this aspect of the application.
- 6.10 The flat roofed element of the rear extension would replace the existing rear projection. The larger rear projection would retain a separating distance of approximately 2 metres with the common boundary of premises of Staplehurst Free Church, which is to the south of the site. These elements of the application would have restricted views from within Station Road and whilst an angled view of the larger rear extension can be gained from the grounds of Staplehurst Free Church, it would not appear over dominant or visually harmful within its surroundings.
- 6.11 The issues raised in the Council's objection to the previous application mainly relates to the design and proportions of additions proposed and their visual impact on the character of the area and amenity of neighbouring occupiers. The additions in the current proposal are considerably modest in relation to the previous scheme in terms of their design and scale and considered acceptable.
- 6.12 In summary the proposed additions to the property are of a modest scale and appropriately designed. As such they would not appear of excessive bulk and massing and are a sensitive addition to the existing property. The proposal satisfies all the relevant requirements of policy DM1 and DM9 of the adopted local plan, and the NPPF.

**Residential Amenity:**

- 6.13 Policy DM1 of the adopted local plan (2017) requires that proposals are assessed in terms of the level of amenity they provide for future occupants and the occupiers of neighbouring residential properties.
- 6.14 The apartments would provide acceptable internal floor space compliant with national space standards for future occupants. Similarly, the outdoor amenity space although



small is of useable proportions when considering that the apartments are unlikely to provide family housing due to their sizes and therefore unlikely to be occupied by large families.

- 6.15 A north facing window opening is shown on the submitted plan with reference number P03 to be obscure glazed with the lower sash fixed shut. This is an existing window opening and the obscure glazing proposed would ensure the amenities of occupiers of the neighbouring property to the north of the site are protected.
- 6.16 The proposed first floor terrace area above the rear projection has been removed in design amendments submitted to the Council, therefore, there are no unacceptable impacts on amenities of occupiers of the neighbouring dwelling to the north of the site in terms of overlooking or loss of privacy.
- 6.17 The distance between this proposed extension and the Staplehurst Free Church building would be just over four metres. After considering the location, scale and design of the extension, it is found that there would be no unacceptable impact on this building in terms of overshadowing, overlooking, loss of light or outlook.
- 6.18 The Environmental Health Team has confirmed that after considering the proposal they have no objection in relation to vehicle movements along the access road in terms of disturbance to either existing neighbours or future occupants. Any potential nuisance would be mitigated by the proposed acoustic fencing. The development is acceptable in relation to residential amenity.

#### **Parking and Highway Safety:**

- 6.19 The submitted plans indicate provision of nine car parking spaces and 7 cycle parking spaces for the proposed development which is compliant with the requirements set out in policy DM23 of the adopted Maidstone Borough Local Plan (2017).
- 6.20 Paragraph 109 of the National Planning Policy Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe. It is proposed to use the existing access onto the A229 (Station Road) which has good sightlines in both directions.
- 6.21 The existing B1 use of the application premises is estimated to generate trips significantly above the levels expected from the currently proposed residential use of the building. The local road network is capable of accommodating the level of vehicle trips generated from the proposed development.
- 6.22 KCC Highways have confirmed the anticipated amount of traffic that would be generated by the development is not considered to be severe. Therefore, no overriding planning objection can be raised on highways safety grounds.

#### **Biodiversity:**

- 6.23 There are opportunities to incorporate biodiversity enhancements within this development in line with requirements of the development plan, and the NPPF. It is noted that the submitted plans do not indicate any design features to provide roosting and nesting opportunities for wildlife. It is considered necessary to append a condition requiring incorporation of biodiversity measures like swift bricks within the scheme.

#### **Other Matters**

- 6.24 It is recommended that a condition requiring submission of details of renewable or low-carbon sources of energy for the development is appended to the grant of planning permission.
- 6.25 Comments have been received objecting to the application on the grounds that the rear part of the site have been deliberately omitted and would likely be used in future for further residential development. This concern is addressed in design amendments. Any future development at the site would require the submission of a further application for planning permission which would be assessed against relevant provisions of the development plan and the NPPF.
- 6.26 Further comments state that the applicant is intending to create a rear access for the site onto the service lane running along the rear boundary of the site. There is no indication of a rear access being created for the rear part of the site as part of this current scheme. Any future application to create a rear access would be subject to an assessment in consultation with KCC Highways

## **7.0 CONCLUSION**

- 7.01 Having assessed the application against the relevant provisions of the development plan (Maidstone Borough Local Plan, 2017), and the NPPF, I conclude that there are no significant adverse impacts on the character, appearance and visual amenity of the locality generally resulting from the proposed development. The extensions and conversion of the building do not result in any significant adverse impacts upon the amenities of the occupiers of neighbouring residential properties.
- 7.02 Due consideration has been given to the likely impacts of the development upon the occupiers of the neighbouring dwelling to the north of the site and I am satisfied that there are no impacts so detrimental as to indicate a refusal of planning permission. The proposals are not considered to raise any overriding parking or highway safety issues. In the circumstances, I recommend that this application is approved subject to appropriate conditions.

## **8.0 RECOMMENDATION**

GRANT planning permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans/drawings  
P02 and P03 received on 09.04.2018; and  
P04 Rev B received on 15.05.2018

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

3. The materials to be used in the construction of the external work to the building hereby permitted shall match those used in the existing building and include swift bricks and sparrow boxes incorporated into the development ;

Reason: To ensure a satisfactory appearance to the development and in the interest of biodiversity.

4. Before the development hereby permitted is first occupied, the first floor windows opening on the northern elevation of the existing building (as shown on drawing number P03) shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such:

Reason: To safeguard the privacy of existing and prospective occupiers.

5. 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.

6. The approved details of the parking/turning areas shall be completed before the commencement of the use of apartments 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.

7. The development hereby approved shall not commence above slab level until details of a minimum of 2 publicly accessible electric vehicle charging points, including a programme for their installation, maintenance and management, shall be submitted to and approved in writing by the local planning authority. The electric vehicle charging points as approved shall be installed prior to occupation of the building hereby permitted and shall thereafter be retained and maintained in accordance with the approved details.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 35 of the NPPF.

8. The development shall not be occupied until details of hard landscape works which shall include the use of permeable paving upon the access and hardstanding parking areas indicated on the approved plans, 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 first occupation of the apartment;

Reason: To ensure satisfactory appearance to the development and in the interest of sustainable water drainage.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), any development that falls within Schedule 2, Part 1, Class A, or any erection of outbuildings, boundary treatments or laying of hardstanding 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 prospective occupiers.

10. No development shall take place until details of on site parking and turning for all construction traffic have been submitted to and approved in writing by the local planning authority. The details shall be implemented before construction commences and retained until the completion of the construction.

Reason: To ensure adequate on site parking and turning provision is made for construction traffic in the interest of highway safety and the free flow of traffic.

11. Prior to the occupation of the apartments, details of acoustic fencing along the northern boundary of the site to protect the neighbouring site against transmission of both airborne and impact sound shall be submitted to and approved in writing by the local planning authority and the approved scheme shall be completed before first occupation of any dwelling and shall be maintained thereafter.

Reason: To mitigate the effects of potential noise nuisance.

12. No external lighting shall be installed at the site without details having been first submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason: To protect the night-time rural environment in the interest of visual amenity.

13. Before the development hereby approved commences a detailed landscaping scheme for the outdoor amenity areas indicated on the submitted plans shall be submitted for prior approval in writing by the Local Planning Authority. It shall include details of native species planting to complement any existing landscaping within the site. The approved landscaping shall be planted in the first available planting season. Any part of the approved native planting becoming dead, dying or diseased within 5 years of planting shall be replaced with a similar species of a size to be agreed in writing with the Local Planning Authority and shall be retained at all times in accordance with the terms of this condition.

Reason: In the interests of visual amenity.

#### INFORMATIVES

1. The applicant is advised that in order to avoid nuisance to neighbours they should seek to only use plant and machinery used for demolition and construction between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

2. The applicant is advised that in order to avoid nuisance to neighbours they should seek to allow vehicles to arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Case Officer: Francis Amekor

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 19



18/502732/FULL 1 Marsham Street

Scale: 1:1250

Printed on: 29/8/2018 at 11:55 AM by SummerF

## REPORT SUMMARY

<b>REFERENCE NO - 18/502732/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of a new building comprising of 4 apartments with associated amenity space and bins and cycle storage.			
<b>ADDRESS</b> 1 Marsham Street Maidstone Kent ME14 1EW			
<b>RECOMMENDATION</b> Grant permission subject to planning conditions			
<b>SUMMARY REASONS FOR RECOMMENDATION:</b> The proposal will provide an acceptable living environment, is in scale and character with its surroundings, is acceptable in design terms while safeguarding the character and setting of the conservation area and nearby listed buildings, will not result in any material harm to the outlook or amenity or properties overlooking or abutting the site while making a valuable windfall housing contribution towards meeting the Councils 5 year housing land supply figures.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Cllr English advises this is a sensitive location adjoining the conservation area with potential impact on the residents of 2 Marsham Street.			
<b>WARD</b> High Street	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Mr Nick Redman <b>AGENT</b> Designscape Consultancy Limited	
<b>DECISION DUE DATE</b> 17/07/18	<b>PUBLICITY EXPIRY DATE</b> 28/06/18	<b>OFFICER SITE VISIT DATE</b> 07/06/18	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/504548	Erection of an apartment block of 6 apartments with associated garden amenity space, cycle storage, and bins storage.  Refused on the following grounds: - Design of elevation fronting the conservation area appeared as a secondary elevation therefore unacceptable in design terms. - Proposed flats too small resulting in unduly cramped living accommodation.  Delegated report is Appendix 1	Refused	14/12/2017
16/506030	Erection of an apartment block of 9 apartments.  Appeal decision attached as Appendix 2	Refused	17.10.2016
16/507469	Two bedroom dwelling on eastern side of the application site expiring 21 <sup>st</sup>	Granted	21.12.2016

	December 2019.		
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## **MAIN REPORT**

### **1.0 SITE DESCRIPTION**

- 1.1 The application site comprises a rectangular shaped area of open land currently in use as a car park to the rear of 1 Marsham Street, a three storey end of terrace Grade II Listed Building and formerly used as a doctors surgery but now converted into flats. The houses in the adjoining terrace abutting 1 Marsham Street to the east are all Grade II listed buildings of Georgian character, each three storeys with a basement.
- 1.2 Abutting the site to the west is the Holy Trinity Church and the former Holy Trinity Churchyard now in use as a public open space with Tree Preservation Order trees running along the western boundary of the application site.
- 1.3 Abutting the application site to the east is the rear garden of 2 Marsham Street and the flank elevation of 37 Wyatt Street a modern two storey dwelling while immediately abutting the application site to the north is an area of parking and turning serving the 7 storey block of flats known as Shipley Court.
- 1.4 In a wider context the application site and much of the area to the west and south lies within the Holy Trinity Conservation Area (CA) with Maidstone Town Centre sited a short walking distance to the west.

### **2.0 PROPOSAL**

- 2.1 The proposal has been submitted to address the reasons for refusal in connection with application ref: 17/504548 that are set out above. The current proposal is a single block of 4 no: 1 bedroom self contained studio flats each flat having its own access.
- 2.2 Two flats are shown as having enclosed ground patio areas with the rest of the area to the rear of the flats providing communal amenity space.
- 2.3 At the front of the block, two enclosures are proposed to provide secure cycle parking and waste storage. No on site parking is proposed.
- 2.4 The application is also accompanied by an arboricultural assessment and heritage statement.

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

The National Planning Policy Framework (NPPF) July 2018  
National Planning Practice Guidance (NPPG)  
Development Plan: SP18, DM1, DM4



#### **4.0 LOCAL REPRESENTATION**

4.1 8 objections have been received to the proposal, which are summarised as follows:

- Concerns regarding anti social behaviour at 1 Marsham Street.
- Will result in loss of sunlight to adjoining properties and loss of natural light to 2 and 3 Marsham Street.
- Loss of outlook onto conservation area.
- Result in loss of privacy to adjoining houses.
- Concerns regarding waste storage and access for refuse disposal vehicles.
- Lack of parking will cause problems.
- Already sufficient affordable housing within the locality.
- Represents overdevelopment of the harmful to the character of the area and character and setting of nearby listed buildings and the conservation area.
- Will affect stability of adjoining development.
- Access by construction vehicles will cause harm.

#### **5.0 CONSULTATIONS**

5.1 **Kent Highways:** Does not trigger response under current consultation protocol.

5.2 **EHO:** No objection. Use of the land as a car park may have resulted in some site contamination. However subject to imposition of a contamination condition.

5.3 **MBC Landscape:** No objection subject to a condition requiring compliance with the Arboricultural Method Statement 163MAS/AIA03 and Tree Protection Plan 163MAS/TPP03 dated August 2018.

#### **6.0 APPRAISAL**

6.1 A comparison of the current proposal with the proposal refused under ref:17/504548 shows that the width of the block has increased from 10 metres to just over 11 metres; while the block depth increased from just over 8 metres to just over 9.5 metres. The ridge height remains the same at just over 7 metres though the eaves height increases from just over 5 metres to just over 5.5 metres. Given that the siting of the block remains substantially the same it is considered that the individual and cumulative impact of these changes is marginal not adding materially to the impact of proposal on surrounding development.

6.2 Concern has been raised that the proposal will result in loss of daylight, sunlight and privacy to adjoining houses along with a loss of outlook. However as only marginal increases in the size of the development is proposed compared to that previously refused, objection on these grounds cannot be sustained. It is considered the key issues in this case are whether the proposal can be seen to materially address the reasons for

refusal in connection with application ref: 17/504548 being the design and cramped nature of the proposed flats.

**Design Considerations:**

- 6.3 The development refused under application ref: 17/504548 showed what was essentially a 'blind' elevation to the site frontage. The only articulation was an external staircase giving access to a door at first floor level. The appearance of this elevation was therefore very much that of a secondary elevation. Given the prominent location of this elevation fronting the CA it materially failed to meet the design threshold required for such a prominent heritage location.
- 6.4 The revised proposal shows this elevation completely redesigned. The revised proposal now appearing as a modest pair of cottages better reflecting the scale and detailing of development already permitted on the eastern half of the application site under extant planning permission ref: 16/507469. It is considered that these design changes (not only to the front elevation but to the building in general) mean the building now represents an acceptable form of development in keeping with the character and setting of the CA and listed buildings abutting the site to the south and west. The proposal is therefore considered to comply with policies DM1 and DM4 of the Local Plan.

**Flat sizes:**

- 6.5 The local plan does not specify minimum flat sizes and in the absence of adopted standards for planning purposes the national standards are a material consideration. The DCLG publication, Technical Housing Space Standards - nationally described space standard - dated March 2015 recommends a minimum gross internal floor areas of 39 square metres for a 1 bedroom flat.
- 6.6 The proposal refused under ref: 17/504548 show flat sizes ranging from 18.5 to 22 square metres. Given the flats were intended to provide self contained permanent accommodation they represented unacceptably cramped and poor quality accommodation which could not be approved, notwithstanding the demand for all types of housing within the Borough.
- 6.7 The proposed flats now range in floor area from just over 37 square metres to just under 45 square metres. All the flats have separate entrances, with both ground floor flats having small private enclosed patio areas. Whilst it is acknowledged that 2 proposed flats fall slightly the 39 square metres minimum recommended floor area, it is highlighted that the DCLG standards are only recommendations. Given the proposed flats all provide usable and well-proportioned accommodation overall, a marginal failure to comply with these standards is not considered significant grounds to refuse permission.

- 6.8 The proposed flats will provide an acceptable level of amenity in accordance with the provisions of policy DM1 of the local plan.

### **Amenity**

- 6.9 Concerns have been raised regarding loss of outlook across the site to the CA from adjoining properties. However this was not raised as an objection to the proposal refused under ref: 17/504548 and given the marginal size increase of the current proposal no material additional impact is identified.
- 6.10 It should also be noted that there is no right to a view as such and maintenance of the character and setting of the CA is safeguarded in the wider public interest. As such loss of individual views across the site CA cannot be taken into account in the determination of this application.
- 6.11 Regarding any impact on the house abutting the site to the east this house has first floor flank windows overlooking the site. However all windows on the east elevation of the proposed dwelling are 'blind' while the west elevation will have a screened outlook onto the public areas of Trinity Park and the former church.

### **Highways**

- 6.12 The application site is in a highly sustainable location close to the town centre and as a result the lack of parking on site is acceptable. Subject to a condition requiring provision of the secure cycle parking as proposed, the proposal is considered acceptable in relation to highway impacts.

### **Trees**

- 6.13 It was concluded in connection with the application refused under ref: 17/504548 that the proposed building was sited outside the canopy of all trees on the western site boundary apart from a small incursion beneath the canopy of a London Plane tree. Though some minor remedial work was proposed no root protection areas appeared to be affected while the orientation of the development away from the boundary trees minimised the likelihood for any future tree felling or significant remediation work.
- 6.14 As such it was considered the impact of the development on nearby protected trees is within acceptable limits. Though the site coverage has slightly increased this does not increase the risk to these trees now or in the future.

### **Wildlife**

- 6.15 The site is currently a vacant parking area with limited planting and tree cover along its western boundary with the church. As such the site is considered to have little wildlife potential.
- 6.16 Though there is a requirement to make additional provision for wildlife as part of the development process this has to reflect site conditions. In this case given the retention of existing trees and subject to a requirement to

provide nest boxes, it is considered the interests of wildlife will be safeguarded while enabling the development of the site to proceed.

### **Other matters**

- 6.17 On sustainability grounds and in order to minimise the possibility of flooding a SUDS (Sustainable Urban Drainage) condition should be imposed.
- 6.18 The concerns regarding changes to the character of the area as a result of permitting additional flats are noted. However it is considered the proposal will not result in material harm to the area for the reasons amplified above.

## **8.0 Conclusions**

- 8.1 The proposal is in scale and character with its surroundings, is acceptable in design terms while safeguarding the character and setting of the CA and nearby listed buildings, will not result in any material harm to the outlook or amenity or properties overlooking or abutting the site while providing an acceptable living environment.
- 8.2 As a further consideration policy SS1 of the local plan relating to housing land supply makes clear the significant contribution windfall sites will make in meeting Council's rolling 5 year housing land supply figures representing a material factor in the consideration of this proposal.
- 8.3 The proposal represents a balanced approach to unlocking the development potential of this constrained site and it is recommended planning permission be granted as a consequence.

## **9.0 RECOMMENDATION – GRANT PLANNING PERMISSION** Subject to the following conditions;

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

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

- 2. Prior to the development hereby approved reaching damp proof course details of all external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of amenity.

- 3. Prior to any part of the development reaching damp proof course a scheme for the disposal surface water (which shall in the form of a SUDS

scheme) shall be submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure satisfactory drainage in the interests of flood prevention.

4. Following first occupation of any of the flats hereby permitted the size, design and siting of two house sparrow boxes and two open fronted bird boxes shall be submitted to approved in writing by the Local Planning Authority. The boxes shall be installed within 3 months of the approval date and retained as such at all times thereafter.

Reason: To ensure that adequate provision is made for wildlife in accordance with the provisions of the NPPF.

5. Prior to any part of the development hereby approved reaching damp proof course details of the means of enclosure to the allocated amenity spaces shown on drawing no: 341/201 shall be submitted to and approved in writing by the Local Planning Authority. The approved details that shall include gaps for the passage of wildlife shall be in place before first occupation of the flats to which they relate and shall be retained as such at all times thereafter.

Reason: In the interests of amenity.

6. Prior to any part of the development hereby approved reaching damp proof course details of the size and design of the cycle and waste storage enclosures shown on drawing no: 341/201 shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be in place before first occupation of any of the flats and retained as such at all times thereafter.

Reason: In the interests of visual amenity to make provision for sustainable transport.

7. The development hereby permitted shall not commence until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:

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

- 2) 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.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of health and safety.

8. A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out point 3 of the preceding condition. 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 health and safety.

9. The development shall proceed in accordance with the requirements of the submitted Arboricultural Method Statement 163MAS/AIA03 and Tree Protection Plan 163MAS/TPP03 dated August 2018.

Reason: in order to ensure the retention and long term health of trees.

10. The development hereby permitted shall be carried out in accordance with the following drawing no's: 341/75, 76, 200, 201, 202, 203 and 1:1250 site location plan.

Reason: In the interests of amenity.

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.

NOTES FOR TECH		
<b>APPLICATION PROPOSAL</b>		<b>Ref No 17/504548/FULL</b>
Erection of an apartment block comprising 6 no. apartments with associated garden amenity space, cycle storage, and bins storage.		
<b>ADDRESS</b> 1 Marsham Street Maidstone Kent ME14 1EW		
<b>RECOMMENDATION</b> - Application Refused		
<b>WARD</b> High Street	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr Stephen Naish <b>AGENT</b> Designscape Consultancy Limited
<b>DECISION DUE DATE</b> 15/12/17	<b>PUBLICITY EXPIRY DATE</b> 13/10/17	

**OFFICER SITE VISIT DATE : 13/9/17**

EIA Screening

EIA Development	No
Comments	Not schedule 2 dev and not in AONB

The application site comprises a rectangular shaped area of open land currently in use as a car park to the rear of 1 Marsham Street, a three storey end of terrace Grade II Listed Building and formerly used as a doctors surgery. The adjoining terrace abutting 1 Marsham Street to the east are all Grade II listed buildings of Georgian character each three storeys with a basement.

Abutting the site to the west is the Holy Trinity Church and the former Holy Trinity Churchyard now in use as a public open space with TPO trees running along the western boundary of the application site.

Abutting the application site to the east is the rear garden of 2 Marsham Street and the flank elevation of 37 Watt Street a modern two storey dwelling while immediately abutting the application site to the north is an area of parking and turning serving the 7 storey block of flats known as Shipley Court. In a wider context the application site and much of the area to the west and south lies within the Holy Trinity CA with Maidstone Town Centre sited a short walking distance to the west.

<b>RELEVANT PLANNING HISTORY (inc. relevant history on adjoining site):</b>	
<b>App No</b>	<b>Summary</b>
16/507469	Erection of 1 dwelling with parking space
16/506030	Erection of an apartment block comprising 9 no. apartments – Refused – APPEAL DISMISSED
13/1630	Construction of new dwelling – Approved
1 Marsham Street	
15/510554	Change of use from doctors surgery to house of multiple occupation, comprising 8 bedrooms, communal kitchen/sitting

	room and storage within basement area. Internal alterations – Approved
15/51055	Listed Building Consent for change of use from doctors surgery to house of multiple occupation, comprising 8 bedrooms, communal kitchen/sitting room and storage within basement area. Internal alterations – Approved
13/1544	Listed building consent for internal alterations to facilitate the change of use of existing doctor's surgery to two residential units – Approved
13/1543	An application for conversion and change of use of existing doctor's surgery into two residential units - Approved

## **PROPOSAL**

This revised proposal attempt to resolve concerns identified in connection with the development of the site for 9 flats ref: 16/506030and dismissed at appeal.

The proposal is for six dwellings which will all be privately rented and are described by the applicant as "pocket-apartments" also known as "micro-flats". The flats have floor areas ranging between 18.5 and 22 sqr metres and will have access to a rectangular communal amenity space having dimension of 15x8 metres.

The front (north) facing elevation will be 'blind' apart from the installation of a wooden staircase giving access to a door at 1<sup>st</sup> floor level giving access to the three first floor flats. Access to the ground floor flats will be obtained from the rear of the building via folding patio doors.

Materials have been specified as yellow facing bricks and a natural slate roof.

## **POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF):  
National Planning Practice Guidance (NPPG):  
Development Plan: SP18, DM1, DM2, DM3, DM4, DM9

## **LOCAL REPRESENTATIONS**

97 neighbouring properties consulted – 2 objections received which are summarised below:

- Will result in loss of privacy to neighbouring properties
- Appears as overdevelopment while the design with the exposed staircase also looks incongruous.
- Already an oversupply of bedsits within the area.
- Proposal lacks parking in an area where parking conflict is already evident.

## **CONSULTATION RESPONSES**

**Kent Highways:** No objection subject to conditions to secure the following:

- Provision of construction vehicle loading/unloading and turning facilities prior to



- commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

**NHS:** Will not be seeking contributions

**UK Power Networks:** No objection

**Southern Water:** No objection

**EHO:** No objection subject to imposition of a site contamination condition

## **APPRAISAL**

There is an extant planning permission to develop part of the application site for one house under ref: 16/507469. The proposal for 9 flats dismissed on appeal was development in depth having an adverse effect on the outlook and amenity of adjoining properties, leaving little remaining space around the development while being orientated in such a way as to lock in the probability of inappropriate works/loss to trees abutting the western site boundary. Given the substantially reduced scale and revised design and siting of the current proposal, it is entirely different in its impact to the proposal dismissed at appeal. As such it is appropriate to carry out an entirely fresh assessment of its impact rather than a 'compare and contrast' exercise with the proposal dismissed at appeal.

Given that planning permission has already been granted to develop part of the application site for housing and urban location of the site bringing with it a presumption in favour of development (unless material considerations dictate otherwise) the key issues are (a) Impact on the character and layout of the locality (b) amenity (c) trees (d) heritage (e) highways and (f) wildlife.

### **Impact on the character and layout of the locality**

Paragraph 58 of the NPPF states, amongst other things, LPA's should aim to ensure that new development should amongst other things:

- 1.function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- 2.establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- 3.respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- 4.are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 64 of the NPPF requires that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policy DM1 of the Local Plan requires, amongst other things, that development should

Respond positively to, and where possible enhance, the local, natural or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage incorporating a high quality, modern design approach and making use of vernacular materials where appropriate.

Provide a high quality design which responds to areas of heritage townscape...

Policy DM9 of the Local Plan requires, amongst things that:

5. The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context;
6. The traditional boundary treatment of an area would be retained

Though the site is subject of a dismissed appeal this does not rule out development better reflecting the grain and character of the area while ensuring that existing trees are not threatened.

The size, profile, scale and orientation of the proposed development now better reflects development abutting the site to the east and dwelling permitted under ref:16/507469) while permitting the area to the rear to be retained as open space.

However the design of the development leaves something to be desired. The north elevation of the building will effectively form part of a street scene and therefore needs to be seen to make its own contribution to the character of the area. However the north elevation is essentially 'blind', the only articulation being an external staircase giving access to a door at first floor level. The appearance is therefore very much that of a secondary elevation and as such materially fails to meet the design threshold required for such a prominent heritage location.

Based on the above it is considered the proposal fails to meet the provisions of the NPPF and policies DM1 and DM9 of the local plan.

### **Amenity**

There are two aspects to this being (a) the impact on residents overlooking and abutting the site and (b) the amenity of future residents of the development.

(a) The 'flank to flank' relationship with development abutting the site to the east reflects that already permitted in connection with the extant planning permission for one house. In addition 'back to back' distances and overlooking from 1<sup>st</sup> floor windows is also similar. As such the proposal does not result in any

materially greater impact on adjoining properties compared to what has already been permitted for the site.

(b) Dealing first with the external environment, the size and shape of the communal amenity space is acceptable and in the absence of other objections to the development is acceptable.

Moving onto detailed amenity considerations, the layout of the ground floor flats only enables access to be from rear via concertina doors opening directly onto the rear amenity space. No front door or intervening hall/lobby area is shown. Irrespective of any other considerations, such an arrangement is extremely poor in energy conservation terms while lack of any internal walls enables the whole of the flat interiors to be open to view.

There is also flat size. Neither policy DM1 or DM9 of the local plan specifically address this. In the absence of any adopted standards it is considered appropriate to apply Government advice on such matters. The DCLG publication, Technical Housing Space Standards - nationally described space standard - dated March 2015 recommends the following minimum gross internal floor areas with 39 sqm for a 1 bed flat. Flat sizes range from 18.5 to 22 sqm.

Given the flats are intended to provide self contained accommodation for long term accommodation they represent unacceptably cramped and poor quality accommodation that cannot be countenanced notwithstanding the demand for all types of housing within the Borough.

It must be remembered that unless the Council is prepared to 'hold the line', spiralling down to smaller poorer quality accommodation will be an inevitable market response to meeting the demand for accommodation particularly the lower end.

As such the proposed flats due to their restricted floor area would result in unduly cramped accommodation falling well below the floorspace recommendations set out in the DCLG publication, Technical Housing Space Standards - nationally described space standard - dated March 2015 resulting in an unacceptable living environment contrary to the provisions of policy DM1 of the Local Plan.

### **Trees:**

The proposed building is shown sited outside the canopy of all trees on the western site boundary part from a small incursion beneath the canopy of London Plane tree. Though some minor remedial work is proposed no RPAs appear affected while the orientation of the development away from the boundary trees no longer lock in the need for any tree felling or significant remediation work.

In the circumstances it is considered the impact of the development on nearby protected trees falls within acceptable limits.

### **Heritage**

It is considered that in siting and design terms the proposal now reflects the grain and character of the area while retaining space at the rear of the building. As such the proposal is considered pays sufficient regard in layout terms to maintaining the character and setting of the CA. However given the design objections set out above, it fails to meet the quality threshold necessary to satisfy the provisions of paragraph 132 of the NPPF and policy DM4 of the local plan.

## **Highways**

Though no parking is to be provided given the proximity of the site to the Town Centre it represents a highly sustainable location. As such in the absence of objection from Kent Highways the proposal is considered acceptable in its highway impacts.

## **Other matters:**

Were the proposal to be otherwise acceptable the following matters would need to be addressed.

Wildlife considerations: The location of the site and likely character and layout of any development likely to prove acceptable offers little opportunity for wildlife enhancement measures. However there appears no reason why nest boxes cannot be secured by condition as proportionate response wildlife interests according with the provisions of the NPPF and DM3 of the local plan.

Renewable or low-carbon sources of energy within new development is considered intrinsic to high design standards and sustainable development in accordance with the provisions of the NPPF and policy DM1 of the local plan. A condition should therefore be appended to secure this as part of any proposal.

There is also a requirement that surface water drainage be dealt with via a SUDS in order to attenuate water run off on sustainability and flood prevention grounds and is a matter that can also be dealt with by condition.

## **Conclusions:**

The key conclusions are as follows:

7. The proposal is acceptable in principle while the site coverage and layout reflects the grain and character of the area.

The proposal is nevertheless unacceptable for the following reasons:

8. The north facing elevation of the building occupying a prominent position in the Holy Trinity Conservation Area will be seen as a principal elevation. However apart from the external staircase, the north elevation lacks design articulation giving it the appearance of a secondary elevation. The proposal therefore materially fails to meet the design threshold required for acceptable development particularly given the prominent heritage location of the site.

9. The proposal fails to establish a strong sense of place or take the opportunities available for improving the character and quality of an area and the way it functions while harming the character and setting of the Holy Trinity Conservation Area. It therefore fails to meet the provisions of paragraphs 58, 64 and 132 of the NPPF and policies DM1, DM4, and DM9 of the Maidstone Borough Local Plan – Adopted October 2017.
10. The proposed flats due to their restricted floor area would result in unduly cramped accommodation falling well below the floorspace recommendations set out in the DCLG publication, Technical Housing Space Standards - nationally described space standard - dated March 2015 resulting in an unacceptable living environment contrary to the provisions of policy DM1 Maidstone Borough Local Plan – Adopted October 2017.

It is therefore recommended that planning permission is refused.

RECOMMENDATION – Application Refused subject to the following conditions/reasons:

(1) The north facing elevation of the building occupying a prominent position in the Holy Trinity Conservation Area will be seen as a principal elevation. However apart from the external staircase it lacks design articulation giving it the appearance of a secondary elevation. The proposal therefore materially fails to meet the design threshold required for acceptable development particularly given the prominent heritage location of the site.

The proposal therefore fails to establish a strong sense of place or take the opportunities available for improving the character and quality of an area and the way it functions while harming the character and setting of the Holy Trinity Conservation Area. It therefore fails to meet the provisions of paragraphs 58, 64 and 132 of the NPPF and policies DM1, DM4, and DM9 of the Maidstone Borough Local Plan - Adopted October 2017.

(2) The proposed flats due to their restricted floor area would result in unduly cramped accommodation falling well below the floorspace recommendations set out in the DCLG publication, Technical Housing Space Standards - nationally described space standard - dated March 2015 resulting in an unacceptable living environment contrary to the provisions of policy DM1 Maidstone Borough Local Plan - Adopted October 2017.

The Council's approach to this application

Note to applicant

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 a pre-application advice service.

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 considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and there were not considered to be any solutions to resolve this conflict.

Case Officer Graham Parkinson

Case Officer Sign	Date
Graham Parkinson	14.12.2017

## Appeal Decision

Site visit made on 7 February 2017

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

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

**Decision date: 21 February 2017**

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**Appeal Ref: APP/U2235/W/16/3163017**

**1 Marsham Street, Maidstone ME14 1EW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Lall Bray (Mr Naish) against the decision of Maidstone Borough Council.
  - The application Ref 16/506030/FULL, dated 22 July 2016, was refused by notice dated 17 October 2016.
  - The development proposed is erection of apartment block comprising 9no. apartments.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effects of the proposal on:
  - the character and appearance of the Holy Trinity Conservation Area and the settings of the listed buildings at Holy Trinity Church and 1-9 Marsham Street;
  - the living conditions of the occupiers of 1 and 2 Marsham Street with particular regard to outlook.
  - the long term future of protected trees close the western boundary of the site.

### Reasons

#### *Character and Appearance*

3. The appeal site was formerly the rear garden of 1 Marsham Terrace. That property has recently been converted to residential use. It forms part of a Grade II listed three storey Georgian terrace whose elegant and formal design makes a strong contribution to the character of the area. Nos 1 to 4 are somewhat larger and more ornate than the other properties in the terrace and had bigger back gardens. The garden of No 1 is the largest and the Council has referred to documentary evidence which suggests that its spaciousness was considered important in the original layout of the area. The atypically large size of the garden is also apparent in the historical maps appended to the appellant's Heritage Statement. The appeal site is currently hardsurfaced and used for car parking. Whilst this use is less attractive than the former garden use, it maintains the essential openness of the area and the car parking is not prominent in public views.

4. The classically influenced and imposing Grade II listed former Holy Trinity Church is located to the west of the appeal site. Its original church yard is currently used as a public garden and offers views of the appeal site and the rear of the terrace. These listed buildings and associated spaces are important features which individually, and as a group contribute, to the heritage significance of the Conservation Area.
5. The proposed building would extend to almost the full length of the appeal site and would be some 4m from the extension to the rear of No 1. It would be positioned very close to the eastern site boundary and, whilst it would be set back from the western boundary, the building would take up a large proportion of the site area. A gable projection at one end of the west elevation would give the building some articulation, although there would be little relief in the massing of the other elevations. In particular, the lack of articulation and absence of windows in the east elevation would give the building a monolithic appearance in views from Wyatt Street. In this respect it can be distinguished from the more modest recent building to the rear of No 2.
6. Notwithstanding that the walls of the building would be essentially two storeys in height, the eaves level would be raised above the first floor window heads and there would be large dormers in both of the main roof slopes. The effective height of the building would, therefore, be approaching that of a three storey building and the lack of the relief in the elevations would not break up its considerable bulk. Consequently, it would compete in scale with the Marsham Street terrace and would significantly close down the space which contributes positively to the settings of both listed buildings. These impacts would be apparent in views from the public gardens and from Marsham Street through the gap between No 1 and the church. They would outweigh the minor visual harm resulting from the existing car park use of the site.
7. The external materials proposed would be appropriate, there is some symmetry in the fenestration of the western elevation and the sub-division of the windows shows the influence of Georgian architecture. However, the overall form of the building, the size and proportions of the windows and the use of dormers prevent it from being convincingly neo-Georgian in appearance. The appellant's statement considers that the proposal would give 'definition' to the Conservation Area by addressing the church and the Heritage Statement argues that it would 'knit together' the urban fabric of historic buildings. I recognise that the new building would be positioned on the eastern part of the appeal site furthest from the church. Nevertheless, I am not persuaded that its bulk, form or angled alignment would relate well to the church or that the adjoining buildings require further cohesion. Whilst the new building would screen views of the tall Shipley Court block in a narrow range of public views, that building sits outside the Conservation Area and is a reasonable distance from the listed buildings. Therefore, I consider that the claimed benefit would be limited.
8. Planning permission was previously granted for a detached dwelling on the appeal site<sup>1</sup>. I understand that the permission has expired. Moreover, the scale and height of that dwelling was very considerably smaller than the current proposal. It would have been sited further from both listed buildings and a larger proportion of the site would have remained open. As such, I consider

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<sup>1</sup> Application ref MA/13/1630



that the previous permission does not provide a robust justification for the appeal proposal.

9. Paragraph 17 of the Framework encourages the effective use of previously developed land and weighs in support of the proposal. Nevertheless, it goes on to guard against the use of land of high environmental value. This requirement pulls against the proposal by virtue of the site's contribution to the significance of the heritage assets. The appellant has referred to the density of the proposal compared with other schemes approved in Maidstone town centre. However, I have not been provided with the circumstances of those approvals and, in any event, numerical comparisons are often of less value in relatively small schemes than site specific considerations such as these set out above.
10. Consequently I find that the proposal would have a harmful effect on the character and appearance of the Conservation Area and the setting of the listed church and 1-9 Marsham Street. As such, it would conflict with National Planning Policy Framework (the Framework) paragraph 60 which seeks to promote or reinforce local distinctiveness; paragraph 64 which presumes against poor design that fails to take the opportunities available for improving the character and quality of the area; and paragraph 131 which requires the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness to be taken into account.
11. Nor would the proposal meet the requirements of sections 72(1) or 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require the special interest of Conservation Areas and the settings of listed buildings to be preserved or enhanced. The proposal would also conflict with Policies DM1 and DM3 of the emerging Maidstone Borough Local Plan Development Management Policies (LP) insofar as they require development to respond positively to the historic character of the area, with particular regard to its scale, height, bulk and articulation.

#### *Living Conditions*

12. The north-facing wall of the single storey extension to No 1 includes a number of windows which appear to serve rooms likely to be used for significant periods of the day. The southern elevation of the proposed building would be located some 4m from these windows. It would be more than 9m long and 6m high to eaves level, with a gable above. As a result of its size and proximity, the proposed building would have an oppressive effect on the outlook from the windows in the northern elevation of No 1.
13. The eastern elevation of the proposed building would be located close to the common boundary with No 2. The elevation would be around 6m high and run most of the length of the rear garden of the neighbouring property. Having regard also to the presence of the existing two storey building at the northern end of this garden, I consider that the proposed building would have an unduly enclosing effect on the outlook of those using the garden.
14. Consequently, I find that the proposal would have a detrimental effect on the living conditions of the occupiers of 1 and 2 Marsham Street by reason of loss of outlook. As such, it would conflict with paragraph 17 of the Framework insofar as it requires development to secure a good standard of amenity for existing occupants of buildings and LP Policy DM1 which has similar aims.

### *Trees*

15. The trees close to the western boundary of the site fall within the Conservation Area and are, therefore, afforded protection. They are prominent view views from the public gardens and contribute positively to the character of the Conservation Area and the setting of the listed church. The proposal is supported by an Arboricultural Implications Appraisal (AIA)<sup>2</sup>. Whilst the Council notes that that proposed building would encroach into the root protection area of tree references T2 (London plane) and T5 (small leaved lime), the appellant's tree consultant considers them to be resilient species in an urban setting. The Council's main concern is that the proximity of the building to these trees would lead to undue pressure from future occupiers to have the trees lopped or felled. In this respect, I share the Council's view that the crown spread of tree T2 in particular extends further across the site than is depicted in the AIA.
16. The primary outlook from the proposed flats would be west towards the affected trees. Tree T2 would feature very prominently in views from the bedroom and lounge windows of flats 1 and 4. Although this tree is mature, the AIA finds that it has up to a further 20 years of life and the Council's landscape officer judges that its life may be longer still. It is, therefore, foreseeable that future occupiers of these flats would be concerned about the effect of the tree on the light reaching these rooms and the risks to safety and damage in high winds. In these circumstances, the Council would find it difficult to resist calls for works to the tree which could reduce its contribution to the character of the Conservation Area and the setting of the church. Such an outcome would be contrary to Framework paragraph 131 and LP Policies DM1 and DM3.

### **Planning Balance and Conclusion**

17. Framework paragraphs 7 and 8 require the three roles of sustainability to be considered together. The construction of the development would bring minor, short term, economic benefits and future occupiers would contribute to the Council tax base and support local facilities. The provision of nine dwellings would also make a positive contribution to the social dimension of sustainability. In accordance with Framework paragraph 47, therefore, it merits a measure of support for the proposal.
18. However, I have found that the proposal would be harmful to statutorily designated heritage assets, the character and appearance of the area and the living conditions of neighbouring occupiers. Therefore, whilst the proposal would make a modest contribution to the economic role, it would perform poorly with regard to the social and environmental roles. As such, it would not amount to sustainable development for the purposes of Framework paragraph 14. In terms of the assessment required by Framework paragraph 134 therefore, although the harm to the heritage assets would be less than substantial, the public benefit of the proposal would not be sufficient to outweigh it.
19. For the reasons set out above, the appeal should be dismissed.

*Simon Warder*

INSPECTOR

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<sup>2</sup> Arborvitae ref: 163MAS/AIA01

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 6<sup>th</sup> September 2018**

### **APPEAL DECISIONS:**

**1.** 17/500915

Log cabin for use as a dwelling by the Fishery Manager (Retrospective)

**APPEAL:** Dismissed

**Monk Lakes Fisheries, Staplehurst Road,  
MARDEN, TN12 9BS**

(Delegated Report)

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**2.** 17/503634

Erection of single dwelling to replace that permitted under reference MA/14/500806 to provide ancillary accommodation for the operators of the White Hart Restaurant, Letting rooms and associated activities.

**APPEAL:** Dismissed

**White Hart Public House, Claygate, Marden,  
Kent, TN12 9PL**

(Delegated Report)

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**3.** 17/501869

Retrospective application for the erection of a fenced and caged area to be used to grow fruit and vegetables and insertion of stairs from ground to first floor rear elevation.

**APPEAL:** Dismissed

**18 Forge Meadows, Headcorn, ASHFORD,  
Kent, TN27 9QW**

(Delegated Report)

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