

*Assessment dated 24.11.2006, Report NOISE IMPACT dated 24.11.2006,
Drawing 0648/06/6 C dated 23.02.2007, Contaminated Land Assessment dated
23.02.2007.*

Contact: Robin Gilbert

SUPPLEMENTARY REPORTS**AREA 3 PLANNING COMMITTEE****DATED 5 July 2007**

**Aylesford
Aylesford****TM/06/03825/OA****Outline Application for 18 apartments, access, parking and associated open space at Bunyards Farm London Road Allington Maidstone Kent for Mr J Clarke + Mr A Cheale**

Maidstone BC: No objections

DPTL: The Council has received some confidential financial information regarding the development. Whilst the Council's Financial Consultants have raised some issues regarding the figures there does appear to be some flexibility to provide affordable housing. The principal requirement with this application though is to enable the development to go ahead so as to remove the non-conforming use and its associated environmental issues.

The application is therefore considered to be acceptable.

AMENDED RECOMMENDATION:**Additional condition:**

19. Development shall not begin until a scheme for the provision of affordable housing has been submitted to and approved in writing by the Local Planning Authority: for the purposes of this condition such a scheme is one which:

a) ensures the provision, or a contribution towards the provision, of dwellings as affordable for rent and/or shared ownership and these dwellings shall be occupied by persons in need as defined in the affordable housing scheme: and

b) ensures that Tonbridge and Malling Borough Council enjoys nomination rights to the affordable housing.

The affordable housing shall not be used other than for the provision of housing accommodation which meets the objectives of the Registered Social Landlord unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to ensure sufficient affordable housing is provided to meet the identified needs of the Borough.

3. Planning History:

- 3.1 There have been numerous applications in the vicinity of the site for a golf course but the following relate specifically to the application site.

TM/79/11102/FUL Grant with Conditions 19 March 1979

Increase in retail display area at Kent Garden Centre.

TM/80/10011/OUT Refuse 29 September 1980

Outline application for residential development of 74 acres of land.

TM/82/10087/FUL Grant with Conditions 13 October 1982

Erection of storage building, creation of 35 car parking spaces and use of land for the storage of materials and display of fencing together with area for landscaping.

TM/82/10857/FUL Application Withdrawn 22 January 1982

Use of land as retail sale display area for camping equipment and erection of sectional wooden sales building with ancillary car parking.

TM/84/10374/FUL Grant with Conditions 21 December 1984

Detached farm manager's house with detached double garage and cesspool drainage.

TM/84/11300/OUT Refuse 13 July 1984

Outline application for superstore with associated car park and access.

TM/87/11166/OUT Application Withdrawn 21 May 1987

O/A erection of football stadium to accommodate 10,000 spectators, 30000 sq.ft. sports hall car parking new access arrangements five acres of p.o.s. footpath link to Barming Station and ancillary facilities.

TM/88/10853/FUL Grant with Conditions 16 March 1988

Renewal of permission TM/85/651 for the erection of a storage building, creation of 35 car parking spaces and use of land for the storage of materials and display of fencing etc.

TM/91/10585/FUL Grant with Conditions 27 March 1991

Change of use of existing buildings to B1.

TM/98/00038/FL Application Withdrawn 1 May 1998

25m lattice tower with six antennas and 3 x 600mm link transmission dishes with ID cabin within a fenced compound.

TM/98/00040/FL Application Withdrawn 1 May 1998

25m lattice tower with six antennas and 3 x 600mm link transmission dishes with ID cabin within a fenced compound.

TM/03/02150/LDCE Certifies 27 February 2004

Lawful Development Certificate Existing: Use of land for the parking of five lorries.

TM/06/00835/OA Application Withdrawn 29 September 2006

Outline Application for 25 no. apartments, access, parking and associated open space.

TM/06/01227/A10 Application Withdrawn 25 May 2006

Article 10 Consultation by Maidstone Borough Council: Outline application for the creation of 20 no. apartments with access, parking and associated open space. Siting, means of access, design and external appearance to be considered at this stage and landscaping reserved for future consideration.

4. Consultees:

- 4.1 PC: No objection to original or amended plans subject to the site being screened adequately from London Road.
- 4.2 KCC (Highways): No objection to original or amended plans subject to conditions.
- 4.3 KCC: (Estates) Developer contributions required for Library facilities, Adult Education facilities and Youth and Community facilities.
- 4.4 DHH: (comments on amended details):
 - Site is within Noise Exposure Category (NEC) B as set out in Tonbridge and Malling Borough Local Plan Policy P3/17. Any approval should be subject to a condition requiring the provision of acoustic protection.
 - No objections in principle to position of refuse storage provision.

- No objections in principle to desktop contamination report and findings are acceptable subject to condition.

4.5 MBC: No objections in principle.

4.6 Private Reps: 24/0X/3R/0S + Art8 + Press (Departure).

3 letters of objection received on the following grounds:

- Development is within the Strategic Gap and would set a precedent for potential future housing development on the adjacent land that currently has permission for a golf course.
- Proposed access is at a hazardous point adding to the potential accident risk.
- Increase in traffic will make congestion worse.
- Access would be too steep and would be too close to existing houses. The development should utilise the existing site access which is less steep.
- The access road, car park and flats would also be in line of sight of the houses on Beaver Road which face the farm land.
- Noise survey questionable due to time of day.
- Whilst there are environmental improvements in removing the transport yard there would be little tangible effect as very few lorries are parked and enter the site.
- Development would be on Green Belt land between TMBC and MBC that has been used for grazing livestock for the last 7-8 years.
- Land should be used for equestrian uses in view of the need for such facilities in the run up to the 2012 Olympics.

Two additional letters received on amended plans raising the following points in addition to those above:

- Building design is out of keeping with the surroundings.
- Revisions do not address the previously addressed concerns.

5. Determining Issues:

5.1 The principal considerations relating to this application are the principle of development proposed within the Strategic Gap and the layout, access and scale of the works.

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- 5.2 The site is within the Strategic Gap and also outside any settlement confines as defined in the TMBLP 1998. Policy P2/16 states that development outside the built confines will not be permitted unless acceptable under the terms of other policies in the plan, or otherwise exceptionally justified. Policy P2/18 states that development will not be permitted which significantly extends the built confines of existing areas reserved for development. This view is brought forward in the LDF: Core Strategy that states in Policy CP5 that development will not be proposed the Strategic Gap that would harm its function as a physical break to maintain the separation and separate identities of the built-up areas of Maidstone, Medway Towns and the Medway Gap.
- 5.3 Although, on a prima facie basis, this proposal is contrary to policy, there is a need to consider other material planning considerations. The lawful existing use of the site is a transport yard that consists of areas of hardstanding, numerous buildings, storage containers and a secure compound. Planning Policy Statement 3 (PPS3): Housing states that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. This land can be vacant or derelict as well as land that is currently in use but which has potential for redevelopment. Given the fact that the site is in use, it is considered to be previously developed land and as such its redevelopment for housing need not be inconsistent with national planning objectives, notwithstanding its location outside the defined urban area.
- 5.4 Given the existing use of the site as a transport yard the application would remove a non-conforming use from a countryside site. The size of the development would not extend the built confines of any existing settlement and, given the existing built development and open air uses on the site, would not harm the function of the Strategic Gap in providing a physical break in the built up areas. The nature of the development proposed is therefore considered to be acceptable in principle.
- 5.5 With regard to the more detailed aspects of the development, the application is submitted in outline form but with the landscaping and appearance reserved for future consideration. This application is therefore concerned with the layout, access and scale of the development proposed.
- 5.6 The application proposes the development of 18 apartments in a single building within a landscaped 'parkland' setting. The building indicated has a lower bulk and volume than the existing buildings on the site (excluding the storage containers) and is proposed to be accessed via a new access opposite the southern end of the park and ride site. The existing tree screening to the boundary of the site is proposed to be enhanced with additional planting proposed to the north, south and eastern boundaries.
- 5.7 The site is within a hollow set lower than the road and for this reason does not feature in distant views across the Strategic Gap. Given the siting of the building at a low level it is considered that the layout would be acceptable and the parkland

setting would also enhance the character and openness of the Strategic Gap compared to the existing use.

- 5.8 Concerns have been expressed about the siting of the building and the potential impact on the existing residential properties in Beaver Road. The layout indicates the building to be sited to the north east of the other residential properties in the area and also at a significantly lower level. The building and the access are proposed to be screened by new planting and the building itself is indicated as having a maximum height of 6.5m. It is therefore considered that the works would not have an impact on the surrounding properties due to the size of the development and its siting.
- 5.9 The access proposed is indicated to be positioned immediately to the north of 1 Beaver Road. Concerns have been raised regarding the position of this new access however it is considered that given the size of the development the traffic generation would not be detrimental to highway safety or residential amenity of the nearby properties. The access is indicated to have a shallow gradient, rather than follow the existing land levels, with planting to the proposed banks. This access is therefore considered to be acceptable. The plans indicate 27 parking spaces with a ratio of 1.5 spaces per unit. This provision is in full compliance with KCCVPS and is considered appropriate. The site is easily accessible by public transport via bus services along London Road which is a short walk from the application site.
- 5.10 Refuse storage provision is indicated adjacent to the access. This provision is sited in a position that enables suitable turning facilities for a refuse freighter to operate. The siting of this is therefore considered to be appropriate.
- 5.11 A desktop contamination report has been submitted. The report indicates that there is the likelihood of contamination on the site given the existing use. The nature of the contamination would not preclude the site from being suitable for residential use subject to appropriate decontamination measures which can be controlled by condition. The noise survey submitted indicates that the site is within NEC category B as set out in Policy P3/17 of the TMBLP 1998 and as such the site is suitable for the development proposed.
- 5.12 The development is proposed to be built in a parkland setting. The open land surrounding the building would provide suitable open space provision for the development and subject to a condition restricting its development would be considered to be acceptable. The indicative landscaping shown would be suitable for the site in principle and would also ensure that, in conjunction with the fall of the land and the existing vegetation, the development would not have a greater impact on the character and openness of the countryside and strategic gap than the existing buildings.
- 5.13 KCC (Estates) have requested that developer contributions be sought for Library facilities, Adult Education facilities and Youth and Community facilities. They have indicated that the contributions would go towards Maidstone District Public Library

Floorspace, Youth and Community projects within a three mile radius and Adult education provision in Maidstone District. I understand that there are specific projects identified towards which any contributions could be put. The applicants have indicated a willingness to make such contributions. Given the specific location of the site it is likely that new residents of the units would primarily use the facilities in Maidstone and it is therefore considered appropriate to request the required contributions.

5.14 With regard to the other issues raised through the consultation process, the site is not Green Belt land and is also not agricultural land that is currently being grazed. The land would therefore not be suitable for any equestrian use.

5.15 Overall, whilst the proposal is departure from planning policy it is considered that the development has the potential to enhance the character of the Strategic Gap and open countryside in general and would remove a non-conforming use from the area. On this basis the proposal is considered to be acceptable. In light of this analysis, and particularly the status of the site as previously developed land, I do not consider that the departure from Development Plan policies is so significant as to warrant the application being referred to the Secretary of State.

6. Recommendation:

6.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 04.12.2006, Letter dated 24.11.2006, Letter dated 24.11.2006, Site Plan dated 24.11.2006, Design and Access Statement dated 24.11.2006, Report VISUAL SURVEY dated 24.11.2006, Drawing 0648/05/2 F dated 24.11.2006, Floor Plan dated 04.12.2006, Drawing 0648/06/1 B dated 24.11.2006, Elevations dated 04.12.2006, Transport Assessment dated 24.11.2006, Report NOISE IMPACT dated 24.11.2006, Drawing 0648/06/6 C dated 23.02.2007, Contaminated Land Assessment dated 23.02.2007, subject to compliance with the following conditions:

1 Approval of the details of the landscaping of the site and appearance of the building(s) (hereinafter called the “reserved matters” shall be obtained from the Local Planning Authority.

Reason: No such approval is given

2 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. (Z004)

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

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- 3 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later. (Z053)

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 4 The details submitted in pursuance of condition 1 shall indicate a building of a maximum size of 52 metres in length, 13 metres in width and 6.5 metres in height.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to ensure compliance with the outline approval.

- 5 No development shall take place until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details. (D001)

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 6 No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans. (H009)

Reason: To ensure the safe and free flow of traffic.

- 7 The access drive shall be constructed no steeper than 1 in 14.3 for the first 4.5 metres from the edge of the highway and no steeper than 1 in 8 on any other part. (H011)

Reason: To ensure the safe and free flow of traffic.

- 8 The use of the access shall not be commenced until turning facilities have been provided within the curtilage of the site and these facilities shall be retained thereafter free from any obstruction. (H012)

Reason: In order that a vehicle may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

- 9 The access shall not be used until vision splays of 2m x 2m x 45° between the driveway and the back of the footway have been provided. The area of land within these vision splays shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter. (H017)

Reason: In the interests of highway safety.

- 10 The building shall not be occupied nor the use commenced until the area shown as parking space on the approved plans has been drained and surfaced and that area shall not thereafter be used for any purpose other than the parking of vehicles. (P005)

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

- 11 The details submitted in pursuance of condition 1 shall be accompanied by a scheme of landscaping and boundary treatment which shall include a tree survey specifying the position, height, spread and species of all trees on the site, provision for the retention and protection of existing trees and shrubs and a date for completion of any new planting and boundary treatment. The scheme as approved by the Authority shall be implemented by the approved date or such other date as may be agreed in writing by the Authority. Any trees or plants which within 10 years of planting 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 Authority gives written consent to any variation. (L001)

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 12 No development shall be commenced until full details of a scheme of acoustic protection of habitable rooms having windows that will be exposed to a predicted level of road traffic or railway noise in Noise Exposure Category B, as set out in Policy P3/17 of the Tonbridge and Malling Borough Local Plan have been submitted to and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than 30 L_{Aeq} dB in bedrooms and 40 L_{Aeq} dB in living rooms with windows closed. If, with one window open in any room, predicted noise levels exceed L_{Aeq} 48dB in living rooms during the day, or L_{Aeq} 40dB in bedrooms during the night, additional ventilation will be required. The additional means of ventilation shall be sufficient to maintain comfortable conditions in summer, without the need to open windows. Additional ventilation shall also be provided to bedrooms having openings into facades that will be exposed to a predicted level of road traffic or railway noise in excess of 78 L_{Amax} (Slow) time weighting. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

Reason: To safeguard the aural amenity of the occupiers of the dwelling(s) hereby approved.

- 13 No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter. (R004)

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 14 The area shown on the approved plan as private open space shall be laid out and made available for use within three months of the completion of the development and be permanently retained thereafter. (E004)

Reason: To ensure the availability of private open space for the recreational needs of the residents.

- 15 No development shall be commenced until:

(a) a site investigation has been undertaken to determine the nature and extent of any contamination, and

(b) the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted

(c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and

(d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity and public safety. (N015)

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- 16 No development shall take place until details of the slab levels of the building and section drawings through the site have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance or visual amenity of the locality.

- 17 Prior to the commencement of the development hereby approved the existing commercial use of the site shall cease with no commercial uses or operations being undertaken from any part of the site in perpetuity.

Reason: To avoid an overintensive use of the site and to protect and enhance the locality.

- 18 No development shall commence until an arrangement has been submitted to and approved in writing by the Local Planning Authority relating to the provision of library, youth and community facilities and Adult Education facilities in accordance with Kent County Council requirements for developer contributions. The development shall not be carried out other than in accordance with the approved arrangement.

Reason: To ensure a satisfactory standard of development.

Informatives:

- 1 With regard to the construction of the pavement crossing, the applicant is asked to consult The Highway Manager, Kent Highways, Joynes House, New Road, Gravesend, Kent, DA11 0AT. Tel: 08458 247 800.
- 2 Surface water disposal to be dealt with on site
- 3 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate number(s) to the new property/ies. To discuss the allocation of numbers you are asked to write to the Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or telephone Trevor Bowen, Principal Legal Officer, on 01732 876039. To avoid difficulties, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation. (Q050)
- 4 To reduce the severity of domestic property fires and the number of injuries resulting the Fire Officer recommends that consideration should be given to the installation of a sprinkler system in all new properties. (Q053).

- 5 The applicant is encouraged, through the design of the development, to minimise the future energy consumption of the proposal. Where practicable, consideration should be given to measures including the installation of photovoltaic cells and the appropriate use of Sustainable Urban Drainage Systems (SUDS).

- 6 The applicant is also advised to take particular account of the climate the development is likely to experience over its expected lifetime and consider the scope for maximising cooling and avoiding solar gain in the summer through, for example the layout and orientation of the buildings and landscaping. The applicant is urged to have regard to the Government's 'Code for Sustainable Homes' and Kent County Council's 'Kent Design Guide' for further details on the range of measures that could be considered.

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