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**TONBRIDGE & MALLING**  
**BOROUGH COUNCIL**

**EXECUTIVE SERVICES**

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**Chief Executive**

Julie Beilby BSc (Hons) MBA

Gibson Building  
Gibson Drive  
Kings Hill, West Malling  
Kent ME19 4LZ  
West Malling (01732) 844522

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**NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.**

Contact: Janet Shenton  
(01732) 876025  
committee.services@tmbc.gov.uk

28th January 2014

To: MEMBERS OF THE AREA 3 PLANNING COMMITTEE  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 3 Planning Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Thursday, 6th February, 2014 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

**A G E N D A**

**PART 1 - PUBLIC**

1. Apologies for Absence
2. Declarations of Interest
3. Minutes

5 - 8

To confirm as a correct record the Minutes of the meeting of Area 3 Planning Committee held on Thursday, 9 January 2014

**Decisions to be taken by the Committee**

4. Development Control 9 - 12  
Introduction and Glossary
5. TM/12/03326/FL - Blacklands, Mill Street, East Malling 13 - 42
6. TM/13/00551/FL - Ivy House Farm, 42 Chapel Street, East Malling 43 - 56
7. 13/00305/WORKM - Holtwood Farm Shop, 365 London Road, Aylesford 57 - 62

8. **Urgent Items**

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

**Matters for consideration in Private**

9. Exclusion of Press and Public

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**PART 2 - PRIVATE**

10. **Urgent Items**

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

## **MEMBERSHIP**

Cllr A K Sullivan (Chairman)  
Cllr R W Dalton (Vice-Chairman)

Cllr J Atkins  
Cllr J A L Balcombe  
Cllr Mrs J M Bellamy  
Cllr T Bishop  
Cllr Mrs B A Brown  
Cllr D A S Davis  
Cllr Mrs C M Gale  
Cllr P J Homewood  
Cllr D Keeley

Cllr S M King  
Cllr Miss A Moloney  
Cllr Mrs A S Oakley  
Cllr M Parry-Waller  
Cllr Mrs E A Simpson  
Cllr D W Smith  
Cllr R Taylor  
Cllr Mrs Woodger

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 3 PLANNING COMMITTEE

Thursday, 9th January, 2014

**Present:** Cllr A K Sullivan (Chairman), Cllr R W Dalton (Vice-Chairman), Cllr J Atkins, Cllr J A L Balcombe, Cllr Mrs J M Bellamy, Cllr T Bishop, Cllr Mrs B A Brown, Cllr D A S Davis, Cllr Mrs C M Gale, Cllr P J Homewood, Cllr D Keeley, Cllr S M King, Cllr Miss A Moloney, Cllr Mrs A S Oakley, Cllr M Parry-Waller, Cllr Mrs E A Simpson, Cllr R Taylor and Cllr Mrs C J Woodger.

An apology for absence was received from Councillor D Smith.

### PART 1 - PUBLIC

#### **AP3 14/001      DECLARATIONS OF INTEREST**

The Chairman, Councillor Sullivan, declared an Other Significant Interest in application TM/13/03354/FL in that he lived within the neighbourhood and was acquainted with the applicant. He withdrew from the meeting during consideration of this item. Councillor Dalton, the Vice-Chairman, took the chair for this item.

#### **AP3 14/002      MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 3 Planning Committee held on 21 November 2013 be approved as a correct record and signed by the Chairman.

### DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

#### **AP3 14/003      DEVELOPMENT CONTROL**

Decisions were taken on the following applications subject to the pre-requisites, informatives, conditions or reasons for refusal set out in the report of the Director of Planning, Housing and Environmental Health or in the variations indicated below. Any supplementary reports were tabled at the meeting.

Members of the public addressed the meeting where the required notice had been given and their comments were taken into account by the Committee when determining the application. Speakers are listed under the relevant planning application shown below.

**AP3  
14/004**      **TM/13/03356/AT - HOLTWOOD FARM SHOP, 365 LONDON ROAD,  
AYLESFORD**

Advertisement consent for 3 no. fascia signs at Holtwood Farm Shop, 365 London Road, Aylesford.

**RESOLVED:** That the application be

REFUSED for the reasons set out in the report of the Director of Planning, Housing and Environmental Health.

**AP3  
14/005**      **TM/13/03354/FL - LAND ADJACENT TO 84 COLLINGWOOD ROAD,  
AYLESFORD**

Change of use of land for the siting of 2 x shepherds huts and 2 x tents and the construction of a shower block for use for tourist purposes at Land adjacent to 84 Collingwood Road, Aylesford.

**RESOLVED:** That the application be

APPROVED in accordance with the submitted details, conditions and informatives set out in the report and supplementary report of the Director of Planning, Housing and Environmental Health subject to

(1) the amendment of conditions 5 and 8 to read:

5. (i) the units of tourist accommodation shall not be occupied as a person's sole, or main place of residence;  
(ii) An up to date register shall be kept, in legible English, of the main or home address of each of the occupants of the portable buildings as shown on the approved block plan and shall make the register available for inspection by the Local Planning Authority at an address notified in writing to the Local Planning Authority at 48 hours notice.

Reason: To ensure that the tourist accommodation (shepherd huts and tents) hereby approved are not used for permanent residential occupation which would constitute an inappropriate land use within the countryside and be contrary to Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007, Policy DC5 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010, paragraph 55 of the National Planning Policy Framework 2012.

8. Prior to the commencement of development a campsite management plan including details of where the accommodation would be positioned on the site, method for the disposal of waste, security measures for occupants and storage of tents and shepherds huts when not in use shall be submitted to and approved in writing by the Local Planning Authority. The campsite shall be operated in accordance with the approved management plan, unless agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

and (2) the addition of condition

11. The site shall only operate between 1 April and 30 September in the same year.

Reason: In the interests of site sustainability to ensure that the vegetation on the site has an opportunity to regenerate outside the periods of occupation.

[Speaker - Mr M Culver, Applicant]

**AP3  
14/006**

**TM/12/03326/FL - BLACKLANDS, MILL STREET, EAST MALLING**

Demolition of existing industrial buildings and construction of 10 houses with associated garages, parking, roadways and landscaping at Blacklands, Mill Street, East Malling.

**RESOLVED:** That the application be

DEFERRED so that Officers can enter into discussions with the Applicant to seek the rebuilding and repair of the ragstone boundary wall on the boundary of the site adjacent to Bone Alley and for further investigations to be carried out into the relative heights and bulk of the buildings and the relationship with the properties in Middle Mill Road and clarification of the employment implications resulting from the loss of the existing uses on the site.

[Speakers: Mrs H Dale and Miss S Smith - local residents; and Mr Manlock - Agent to the applicant]

**MATTERS FOR CONSIDERATION IN PRIVATE**

**AP3  
14/007**

**EXCLUSION OF PRESS AND PUBLIC**

No matters were considered in private.

The meeting ended at 2055 hours

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### AREA PLANNING COMMITTEES

#### Report of the Director of Planning, Housing & Environmental Health

#### Part I – Public

#### Section A – For Decision

#### DEVELOPMENT CONTROL

In accordance with the Local Government Access to Information Act 1985 and the Local Government Act 1972 (as amended), copies of background papers, including representations in respect of applications to be determined at the meeting, are available for inspection at Planning Services, Gibson Building, Gibson Drive, Kings Hill from 08.30 hrs until 17.00 hrs on the five working days which precede the date of this meeting.

Members are invited to inspect the full text of representations received prior to the commencement of the meeting.

Local residents' consultations and responses are set out in an abbreviated format meaning: *(number of letters despatched/number raising no objection (X)/raising objection (R)/in support (S))*.

All applications may be determined by this Committee unless (a) the decision would be in fundamental conflict with the plans and strategies which together comprise the Development Plan; or (b) in order to comply with Rule 15.24 of the Council and Committee Procedure Rules.

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#### GLOSSARY of Abbreviations and Application types

#### used in reports to Area Planning Committees as at 16 August 2013

AAP	Area of Archaeological Potential
AODN	Above Ordnance Datum, Newlyn
AONB	Area of Outstanding Natural Beauty
APC1	Area 1 Planning Committee
APC2	Area 2 Planning Committee
APC3	Area 3 Planning Committee
ASC	Area of Special Character
BPN	Building Preservation Notice
BRE	Building Research Establishment
CA	Conservation Area
CBCO	Chief Building Control Officer
CEHO	Chief Environmental Health Officer

CHO	Chief Housing Officer
CPRE	Council for the Protection of Rural England
DEFRA	Department for the Environment, Food and Rural Affairs
DETR	Department of the Environment, Transport & the Regions
DCLG	Department for Communities and Local Government
DCMS	Department for Culture, the Media and Sport
DLADPD	Development Land Allocations Development Plan Document (part of the emerging LDF)
DMPO	Development Management Procedure Order
DPD	Development Plan Document (part of emerging LDF)
DPHEH	Director of Planning, Housing & Environmental Health
DSSL	Director of Street Scene & Leisure
EA	Environment Agency
EH	English Heritage
EMCG	East Malling Conservation Group
FRA	Flood Risk Assessment
GDPO	Town & Country Planning (General Development Procedure) Order 1995
GPDO	Town & Country Planning (General Permitted Development) Order 1995
HA	Highways Agency
HSE	Health and Safety Executive
HMU	Highways Management Unit
KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards
KDD	Kent Design (KCC) (a document dealing with housing/road design)
KWT	Kent Wildlife Trust - formerly KTNC
LB	Listed Building (Grade I, II* or II)
LDF	Local Development Framework
LMIDB	Lower Medway Internal Drainage Board
LPA	Local Planning Authority
LWS	Local Wildlife Site
MAFF	Ministry of Agriculture, Fisheries and Food
MBC	Maidstone Borough Council
MC	Medway Council (Medway Towns Unitary Authority)
MCA	Mineral Consultation Area
MDEDPD	Managing Development and the Environment Development Plan Document
MGB	Metropolitan Green Belt
MKWC	Mid Kent Water Company
MLP	Minerals Local Plan
MPG	Minerals Planning Guidance Notes
NE	Natural England
NPPF	National Planning Policy Framework
ODPM	Office of the Deputy Prime Minister

PC	Parish Council
PD	Permitted Development
POS	Public Open Space
PPG	Planning Policy Guidance Note
PPS	Planning Policy Statement (issued by ODPM/DCLG)
PROW	Public Right Of Way
RH	Russet Homes
RPG	Regional Planning Guidance
SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (prepared as background to the LDF)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document (a statutory policy document supplementary to the LDF)
SPN	Form of Statutory Public Notice
SSSI	Site of Special Scientific Interest
SWS	Southern Water Services
TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan
TCG	Tonbridge Conservation Group
TCS	Tonbridge Civic Society
TMBC	Tonbridge & Malling Borough Council
TMBCS	Tonbridge & Malling Borough Core Strategy (part of the Local Development Framework)
TMBLP	Tonbridge & Malling Borough Local Plan
TWBC	Tunbridge Wells Borough Council
UCO	Town and Country Planning Use Classes Order 1987
UMIDB	Upper Medway Internal Drainage Board
WLP	Waste Local Plan (KCC)
AGPN/AGN	Prior Notification: Agriculture
AT	Advertisement
CA	Conservation Area Consent (determined by Secretary of State if made by KCC or TMBC)
CAX	Conservation Area Consent: Extension of Time
CNA	Consultation by Neighbouring Authority
CR3	County Regulation 3 (KCC determined)
CR4	County Regulation 4
DEPN	Prior Notification: Demolition
DR3	District Regulation 3
DR4	District Regulation 4
EL	Electricity
ELB	Ecclesiastical Exemption Consultation (Listed Building)
ELEX	Overhead Lines (Exemptions)

FC	Felling Licence
FL	Full Application
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Assessment
FOPN	Prior Notification: Forestry
GOV	Consultation on Government Development
HN	Hedgerow Removal Notice
HSC	Hazardous Substances Consent
LB	Listed Building Consent (determined by Secretary of State if made by KCC or TMBC)
LBX	Listed Building Consent: Extension of Time
LCA	Land Compensation Act - Certificate of Appropriate Alternative Development
LDE	Lawful Development Certificate: Existing Use or Development
LDP	Lawful Development Certificate: Proposed Use or Development
LRD	Listed Building Consent Reserved Details
MIN	Mineral Planning Application (KCC determined)
NMA	Non Material Amendment
OA	Outline Application
OAEA	Outline Application with Environment Assessment
OAX	Outline Application: Extension of Time
ORM	Other Related Matter
RD	Reserved Details
RM	Reserved Matters (redefined by Regulation from August 2006)
TEPN56/TEN	Prior Notification: Telecoms
TNCA	Notification: Trees in Conservation Areas
TPOC	Trees subject to TPO
TRD	Tree Consent Reserved Details
TWA	Transport & Works Act 1992 (determined by Secretary of State)
WAS	Waste Disposal Planning Application (KCC determined)
WG	Woodland Grant Scheme Application

**East Malling &  
Larkfield**  
East Malling

**569677 157344 17 June 2013**

**TM/12/03326/FL**

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Proposal: Demolition of existing industrial buildings and construction of 10 houses with associated garages, parking, roadways and landscaping  
Location: Blacklands Mill Street East Malling West Malling Kent  
Applicant: Ms Annette Barnes

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## **1. Introduction:**

- 1.1 Members will recall that this application was deferred from the meeting of Area 3 Planning Committee on 9 January 2014 so that further investigation could be carried out into several matters. Firstly, officers were requested to enter into discussions with the applicant to seek the re-building and repair of the ragstone wall that runs along the boundary of the site adjacent to Bone Alley. Secondly, Members sought further investigation into the relative heights and bulk of the proposed buildings and the relationship with the existing properties in Middle Mill Road. Lastly, clarification was sought of the employment implications resulting from the loss of the existing uses on the site.
- 1.2 Subsequently, the applicants have submitted some revised plans and additional details in response to those matters, and these are discussed in detail in paragraphs 3.1 to 3.8 of this report.
- 1.3 Copies of my report to the 9 January 2014 meeting and the supplementary report are attached as an annex for ease of reference.

## **2. Consultees (subsequent to the previous report):**

- 2.1 Consultations have been carried out in relation to the drawings and additional information received on 16 January. Any further representations received will be included in the supplementary report.
- 2.2 EMCG: The Group is pleased that the missing stretch of ragstone wall is to be rebuilt, provided it is built to match the existing walls and that no brick piers are incorporated. The use of half round coping bricks to cap the wall is considered to represent a compromise and the group has suggested that rounded saddleback bricks are used to cap the wall instead of half round coping bricks. The Group would like to see a note added to ensure that the existing parts of the boundary wall will be repaired as necessary.

**3. Determining Issues:**

- 3.1 The principal issues regarding this application are covered in the body of my previous report, attached as an annex, and it is not proposed to outline these again. It is appropriate, however, to give detailed consideration to the matters identified for further investigation at the previous meeting.
- 3.2 The applicant's agent has confirmed that his clients are amenable to the provision of a wall incorporating ragstone along the boundary of the application site with Bone Alley. The proposal has been amended to include the reinstatement of the missing section of wall, about 40.5m long. As Members will be aware, it is proposed to demolish buildings on the site that are, in part, built of ragstone. The applicants comment that it is not possible to quantify the amount of usable stone that the demolition will generate, but it will not be sufficient to reinstate the missing section of wall entirely in ragstone and make repairs to the damaged sections of wall. It is therefore proposed that the wall be repaired where necessary and re-built with ragstone on the side facing Bone Alley and with red brick on the side facing the new development. The cavity between the brick wall and the ragstone will be filled with concrete. The ragstone wall will be built using lime mortar and traditional joints slightly recessed. The wall will be capped with red brick saddle copings. A detailed section has been provided, showing the wall to be 1.68m high relative to the surface of Bone Alley.
- 3.3 The reinstatement of the missing section of wall is very much to be welcomed as this will result in a significant enhancement to the interface between the proposed development and the public right of way and, indeed, the visual amenity for those using Bone Alley itself. In terms of the detailed design of the wall, the comments of the EMCG about the finish to the top of the wall are noted, but in this instance the half round coping bricks are considered to be satisfactory in visual terms, given the location away from a site frontage and also the detail of the existing ragstone walls on this site. The proposed details will provide an acceptable external appearance to the Bone Alley elevation and will also look satisfactory from within the developed site. It is therefore considered that this arrangement is an appropriate compromise and is acceptable.
- 3.4 An additional sectional plan has been received indicating the slab levels and ridge heights of the existing houses in Middle Mill Road and those of the new development. The section shows the detailed arrangements in relation to the proposed Unit 7, which is the unit closest to the houses in Middle Mill Road. This plan indicates that the new houses would have a slab level of around 0.4m lower than those of Middle Mill Road and a slightly lower roof ridge level. Due to this relationship, the height and bulk of the proposed houses should not have an overbearing effect on the amenities of the occupiers of the houses in Middle Mill Road.

- 3.5 The applicant's agent has also carried out an assessment based on the advice contained in BRE Digest 209: Site Layout Planning for Daylight and Sunlight, which says that there will be negligible impact upon diffused skylight enjoyed by existing buildings if the angle from the middle of a window to the ridge of the proposed development is less than 25 degrees. In this case the angle is less than 16 degrees.
- 3.6 As mentioned in my original report, there is considered to be sufficient separation between the existing and proposed houses such as to avoid direct overlooking and any undue loss of privacy.
- 3.7 With regard to the concern over potential loss of employment opportunities, the applicant advises that this site is currently operating at very much less than full capacity as the main occupier, Wenham Transport, went out of business approximately two years ago. There are currently two operational buildings at the site with around six employees. It is understood that the leases for all the buildings expired in 2013 and that tenants are continuing on new leases with a 3 month break clause on either side. This will allow the tenants time to seek alternative premises so that they can relocate their businesses.
- 3.8 It should be remembered that the proposed development of the site is in accordance with adopted policies CP13 and H4 and the proposals represent a suitable form of residential redevelopment. The scheme will include the removal of non-conforming historical industrial uses which, in itself, should be of benefit to the amenities of the locality.
- 3.9 In the light of the additional information and amendments submitted since the previous Committee meeting, it is concluded that there should be no undue harm to the amenities of the occupants in Middle Mill Road, nor will there be any significant overall impact on employment. The construction of a ragstone faced wall to Bone Alley will enhance the visual appearance of the area. It is therefore recommended that planning permission can now be granted.

#### **4. Recommendation:**

- 4.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 09.11.2012, Validation Checklist dated 05.11.2012, Design and Access Statement dated 05.11.2012, Ecological Assessment dated 05.11.2012, Validation Checklist dated 05.11.2012, Viability Assessment dated 05.11.2012, Site Survey M840 1 dated 05.11.2012, Tree Plan dated 05.11.2012, Survey of trees dated 05.11.2012, Arboricultural Survey dated 05.11.2012, Plan M840 1 Arboricultural dated 05.11.2012, Tree Protection Plan M840 1 dated 05.11.2012, Photographs dated 05.11.2012, Transport Statement dated 05.11.2012, Environmental Assessment dated 05.11.2012, Flood Risk Assessment dated 05.11.2012, Proposed Plans and Elevations 3669-GA04B dated 11.11.2013, Letter dated 17.06.2013, Block Plan 3669-GA00 C C dated 17.06.2013, Site Layout 3669-GA01 D D dated 17.06.2013, Proposed Plans and

Elevations 3669-GA02 A A dated 17.06.2013, Proposed Plans and Elevations 3669-GA03 A A dated 17.06.2013, Proposed Plans and Elevations 3669-GA04 A B dated 11.11.2013, Proposed Plans and Elevations 3669-GA05 A A dated 17.06.2013, Proposed Plans and Elevations 3669-GA06 A A dated 17.06.2013, Site Plan 3669-GA07 B B dated 17.06.2013, Site Plan 3669-GA08 B B dated 17.06.2013, Elevations 3669-GA09 A A dated 17.06.2013, Elevations 3669-GA10 dated 17.06.2013, Elevations 3669-GA11 A dated 17.06.2013, Planning Layout 3669-GA12 C C dated 17.06.2013, Block Plan 3669-BL01 dated 17.06.2013, Block Plan 3669-BL02 dated 17.06.2013, Location Plan 3669-SLP01 dated 05.11.2013, Drawing 3669-D01 wall detail dated 16.01.2014, Email dated 16.01.2014, Supporting Statement dated 16.01.2014, Drawing 3669-GA13 dated 16.01.2014, Block Plan 3669-GA00D dated 16.01.2014, subject to:

### **Conditions / Reasons**

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. 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.

Reason: To ensure that the development does not harm the character and appearance or the visual amenity of the locality and in accordance with paragraphs 17, 57, 58 and 61 of the National Planning Policy Framework 2012.

3. Prior to the development hereby approved commencing, details of the slab levels of the proposed houses shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.

Reason: In order to ensure a satisfactory standard of development.

4. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in any side elevation(s) of any of the buildings other than as hereby approved, without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining property.



5. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the roof of any of the buildings hereby approved, without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining property.

6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate. The submitted scheme shall include the provision of the ragstone wall to the boundary with Bone Alley, and shown on drawings 3669-GA00D and 3669-D01.

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.

7. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
- (a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
  - (b) No fires shall be lit within the spread of the branches of the trees.
  - (c) No materials or equipment shall be stored within the spread of the branches of the trees.
  - (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
  - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
  - (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

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

8. 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.

9. 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.

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

10. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

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

11. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Sevenoaks Environmental Consultancy Ltd, June 2012 and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1 in 100 year +30% critical storm so that it will not exceed the run -off from the undeveloped site and not increase the risk of flooding off-site.
2. Finished floor levels for living and sleeping accommodation to be set at a minimum of +300 and +600mm respectively above the immediate surrounding ground levels of the properties (relative to Ordnance Datum Newlyn maODN).

Reason:

1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
2. To reduce the risk of flooding to the proposed development and future occupants.

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

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

13. The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

14. The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles.

Reason: Development without the provision of adequate vehicle parking space is likely to lead to hazardous on-street parking.

15. No building shall be occupied until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

16. Prior to the development hereby approved commencing, details of the refurbishment and buttressing of the wall to be retained to form the southern boundary of numbers 14-20 Blacklands shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.

Reason: In the interests of the residential and visual amenities of the area.

17. Prior to the development hereby approved commencing, details of the siting and type of external lighting for the site shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with development.

Reason: In the interests of visual and residential amenities of the area.

18. No development shall take place until a panel of walling has been constructed on the site and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved stone panel.

Reason: To ensure that the development does not harm the character and appearance of the Conservation Area, Listed Building and the visual amenity of the locality in general.

### **Informatives**

1. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
2. A formal application for connection to the public sewerage system is required in order to service this development. Please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester SO23 9EH (tel 01962 858688) or [www.southernwater.co.uk](http://www.southernwater.co.uk)
3. You are reminded of the need to comply with all the requirements of the letter from Southern Water dated 11.01.2013.

4. During the demolition and construction phase the hours of working (including deliveries) shall be restricted to Monday to Friday 0800 hours-1800 hours, Saturdays 0800-1300 hours with no work on Sundays or Public Holidays.
5. The use of bonfires for the disposal of waste could lead to justified complaints from local residents and would also be contrary to Waste Management Legislation. It is therefore recommended that bonfires are not held at the site.
6. The granting of this planning permission does not purport to give permission for the diversion of any Public Right of Way through the site. No Public Right of Way shall be impeded until such time as a relevant diversion Order has been confirmed under the appropriate legislation.
7. Your attention is drawn to the need to comply with the requirements of the letter from the Environment Agency dated 18.12.2012.
8. You are reminded of the need to comply with the requirements of the letter from the West Kent Public Rights of Way Officer dated 3.12.2012.
9. In the event that any protected species are found at the site during the course of the approved development, you are advised to contact Natural England and ensure the necessary mitigation measures are implemented.
10. The Borough Council will need to create new street name (s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, ME19 4LZ or to email to [addresses@tmbc.gov.uk](mailto:addresses@tmbc.gov.uk). To avoid difficulties, for first occupiers, 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. To respect the history of the site it is considered that the name Godden should be proposed for the development.

Contact: Hilary Johnson

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**Report of 9 January 2014**

**East Malling & Larkfield**      **569703 157483**      **17 June 2013**      **TM/12/03326/FL**  
East Malling

Proposal:                                      Demolition of existing industrial buildings and construction of 10 houses with associated garages, parking, roadways and landscaping  
Location:                                      Blacklands Mill Street East Malling West Malling Kent  
Applicant:                                      Ms Annette Barnes

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**1. Description:**

- 1.1 It is proposed to demolish all the existing buildings and redevelop the site to provide 10 dwellings with a mix of garages and parking places. A mix of 3, 4 and 5 bedroom houses would be provided in two and two and a half storey detached and semi-detached buildings with on site and detached visitor parking. The houses have been designed to fit the narrow linear shape of the site and would be of traditional design with pitched and hipped roofs.
- 1.2 A new residential roadway would be created to provide direct frontage access, leading to a turning area at the southern end. The existing section of Blacklands between Clare Lane and number 20 would be re-surfaced. The applicants' agent has indicated that notice has been served on those who may own land near the site entrance.

**2. Reason for reporting to Committee:**

- 2.1 Due to the level of local interest.

**3. The Site:**

- 3.1 The application relates to a long narrow site with vehicle access via Blacklands, past several residential properties. The site falls within the rural settlement confines of East Malling and is currently occupied by several small scale industrial businesses operating from a variety of buildings. The site itself falls outside the Conservation Area but the immediately adjacent properties (nos 14-20 Blacklands) lie within the Conservation Area.
- 3.2 To the north of the application site are numbers 1-5 Blacklands Barn, a converted rural building, whilst to the west are the more recent residential properties of the Middle Mill Road development. The application site is separated from Middle Mill Road by Bone Alley, a PROW running north-south adjacent to the western boundary. A second right of way continues from Blacklands north to Chapman Way, as an unsurfaced track. To the east of the application site is the Malling School, reached via New Road whilst further to the north is Clare House Park and lake.

- 3.3 The site rises up slightly from north to south and incorporates a number of mature sycamore, ash and cypress trees. Part of the site falls within a Flood Risk Area associated with a stream flowing close to the junction of Blacklands with Clare Lane.
- 3.4 The uses currently permitted at the site include light industry, steel fabrication and transport depot within classes B1, B2 and B8. These uses have operated in an unrestricted way over many years.
- 3.5 The current buildings on the site have been developed on an ad hoc basis and have a floor area of approximately 938 square metres. The overall site area is 0.43 hectares.

#### 4. Planning History:

TM/59/10626/OLD grant with conditions 30 October 1959

Change of use and new building.

TM/60/10348/OLD grant with conditions 2 November 1960

A timber store and concrete moulding shed.

TM/65/10409/OLD grant with conditions 13 May 1965

A timber workshop.

TM/69/10374/OLD grant with conditions 23 October 1969

Change of use from light industry to storage depot for heating plumbing and ventilating engineers.

TM/72/11530/OLD grant with conditions 25 January 1972

Removal of existing building and replacement with steel framed building.

TM/73/10652/OLD grant with conditions 25 June 1973

Vehicle repair workshop as amended by letter received on the 25th May 1973.

TM/73/11000/OLD grant with conditions 29 November 1973

Extension (as amended by the plan received 25th October) - D. V. Godden Engineering



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TM/75/11322/OLD	Refuse	25 March 1975
Erection of single storey office.		
TM/76/10809/FUL	grant with conditions	1 April 1976
Extension to existing vehicle repair shop. Light Industrial Site		
TM/77/10446/FUL	grant with conditions	14 October 1977
Erection of office/canteen/first aid room.		
TM/77/10570/FUL	grant with conditions	11 May 1977
Erection of workshop and store.		
TM/80/11146/FUL	grant with conditions	31 March 1980
Extension to engineering workshop.		
TM/84/11009/FUL	grant with conditions	24 February 1984
Retention of portakabin for use as offices for a period of 7 years - D.V. Godden Engineering Limited		
TM/86/10683/FUL	grant with conditions	12 November 1986
Use of land as skip hire depot.		
TM/88/11541/FUL	grant with conditions	30 December 1988
Continued use of yard as a skip hire depot.		
TM/90/11254/FUL	grant with conditions	12 February 1990
Continuation of use of site as a skip hire depot.		
TM/95/00144/LDCE	lawful development certifies	21 July 1995
Lawful Development Certificate For Existing: Use of land as a haulage yard		

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**5. Consultees:**

- 5.1 PC: Comments made that the density of development is too high, there may be conflict between parking and access to Blacklands Barn, two non-listed buildings should be retained and the need for a watching brief in case protected species are found at the site. Reference has been made to the need to keep the public footpath free of obstruction, land ownership and contamination issues, tree protection and removal and lighting within the site. The Parish Council considers that the name "Godden" should be included in the name of the development
- 5.2 EMCG: Consider the scheme represents overdevelopment and notes the application includes land not under the applicants ownership. They would like the Old Dairy building incorporated into the scheme rather than it being demolished. The absence of garages for some plots could lead to some front gardens being converted to parking places and ragstone walls should be incorporated into the scheme and the trees should be retained. Consideration should be given to low level street lighting and the developer should contribute to some minor works at the junction of Clare Lane/Mill Street to improve sight lines.
- 5.3 Southern Water: Note that no development or tree planting should take place within 3m of the centre line of the public sewer and all existing infrastructure should be protected during the construction works. No new soakaways should be located within 5m of a public sewer. Any sewer found during construction works will need to be investigated. It is recommended that an informative is added to cover these matters.
- 5.4 EA: No objections subject to conditions covering contamination, infiltration of surface water drainage and flood proofing measures.
- 5.5 Natural England: Notes the proposal does not appear to affect any statutory protected species or landscape. Bats, reptiles and great crested newts might be present and appropriate mitigation measures should be taken where necessary. This matter could be covered by an informative.
- 5.6 KCC Public Rights of Way: A byway runs inside the northern boundary of the site and a footpath runs along the western boundary. The PROW should not be obstructed or diverted or the surface disturbed and there should be no encroachment on the current width. This can be covered by an informative.
- 5.7 KCC (Highways): Notes the proposal is likely to generate 54 two way vehicle trips per day with 6 two way trips in each of the peak hours. This would not lead to any increase in vehicle movements over and above that generated by the previous industrial use. Tracking diagrams have been provided which indicate that the refuse vehicle is able to turn within the site and leave in a forward gear. Confirmation has been received that the new road will not be adopted. Parking within the site is considered to be acceptable. The use of loose gravel would not

be suitable and tarmacadam or block paving would be required. The existing access off Blacklands would need to be adopted and would require reconstruction of the road and possible culvert works.

5.8 KCC Archaeology: No comments.

5.9 Mouchel (on behalf of KCC): Consider the proposal will have an additional impact on the delivery of KCC services and has requested a total contribution of approximately £23,000 towards the expansion of the primary school, libraries and community learning.

5.10 Private Reps: 55/OX/18R/0S. The following issues are raised:

- Scheme represents overdevelopment.
- Conflict between vehicles using narrow access road, pedestrians and associated highway problems.
- Three storey houses will be out of keeping, intrusive and result in overlooking and loss of privacy.
- Loss of trees and effect on wildlife.
- Loss of business units and rented garages.
- Management of drainage and sewage.
- Water pressure.
- Overshadowing and loss of light.
- Access via a narrow road.
- Loss of some buildings of local heritage interest.
- Loss of a peaceful area.
- Street lighting needs to be addressed.
- Reference has been made to Human Rights Act and that a person has a right to the peaceful enjoyment of their home and respect for private and family life.
- Increased traffic construction.

## **6. Determining Issues:**

6.1 A number of Local Development Framework policies are relevant to this application. These include Core Strategy policies CP1 (Sustainable Development), CP10 (Flood Protection), CP13 (development within the settlement confines),

CP17 (Affordable Housing) and CP24 (Achieving a High Quality Environment). MDE DPD policy H4h identifies the site as being potentially suitable for housing subject to meeting certain criteria. These include the provision of Affordable Housing, remediation of contamination, respecting the character of the adjacent Conservation Area, mitigation of any local flooding and archaeological issues. Reference has been made to the possible provision of access via Middle Mill Road and a pedestrian link to local schools. Another relevant MDE DPD policy of relevance is SQ1 which states that proposals will be required to reflect the local distinctiveness of the area, including any historical/architectural interests.

- 6.2 In addition to local policies, the application is considered in relation to the National Planning Policy Framework which in general terms is in favour of sustainable development, encouraging the effective re-use of previously developed land, delivering a choice of high quality housing whilst having regard to the historic environment and any flooding issues.
- 6.3 The main issues associated with this proposal are whether the principle of re-developing this site is acceptable having regard to visual and residential amenities, highway, flooding, contamination and affordable housing considerations. More specific requirements also need consideration such as trees and landscaping, drainage and PROW.
- 6.4 The site falls within the settlement confines of East Malling and has in policy terms been identified as potentially being suitable for residential re-development. In broad general terms the principle of the proposal is, therefore, acceptable in relation to policies CP13 and H4.
- 6.5 Within the site there are currently seven individual buildings of varying sizes, styles and materials. Some have steeply pitched roofs whilst others have lower or flat roofs. The comments about retaining the Old Dairy building have been noted. The buildings have a functional or in some cases neglected appearance and none are considered to be of such merit as to be worthy of retention or inclusion within the scheme. It is appreciated that Building G (forming the southern garden boundary wall of number 14-20 Blacklands) incorporates some ragstone. The applicants' agents have confirmed that this wall would be retained and made good, although some buttressing might be needed on the south side.
- 6.6 The proposal seeks the removal of what may be viewed as non-conforming historical uses in an area that is now predominantly residential with a school and open space nearby. The proposed housing layout has been designed to fit the linear shape of the site. The houses would be constructed in a mix of brick, weatherboarding and tile hanging in traditional form.
- 6.7 The development has been amended over the course of the application in an attempt to overcome concerns regarding the new houses overlooking the existing dwellings adjacent and to enhance the setting of the Conservation Area. Rear dormer windows have been deleted where necessary to prevent overlooking and

conditions can be attached to prevent new windows/roof openings being introduced in the future. The proposed development is acceptable in layout and design, subject to the use of appropriate materials and should not have a harmful effect on the visual amenities of the adjoining Conservation Area.

- 6.8 Several residents have raised concerns about overlooking and loss of outlook from the rear of properties in Middle Mill Road. It is recognised that with the removal of trees and introduction of two and a half storey buildings on the site there will clearly be a change in outlook. Rear dormers have been deleted from units 5 and 6 to avoid direct overlooking. The distance between the proposed dwellings and those in Middle Mill Road would be around 17-22m, which would retain an adequate degree of separation and avoid direct overlooking and loss of privacy. As a result the proposal should not have an unduly harmful effect on the residential amenities of the neighbours to the west and is considered acceptable in terms of policy CP24.
- 6.9 There are numerous individual and groups of trees both within and adjacent to the site. The submitted tree report states that the trees within the site have been surveyed and the layout of the proposal balanced against the competing needs of the trees. It was concluded that there are a total of 36 trees that will need to be removed as they are either in direct conflict with the proposed development or are of poor quality. Protection measures during demolition and construction works would be implemented in relation to trees remaining at the site.
- 6.10 The tree report is considered to be appropriate and the tree loss, whilst regrettable, is acceptable. The orientation of the access road close to the better trees on the eastern boundary is preferable as it reduces the pressure for future removal from having large trees in private gardens. Given the number of trees around the edge of the development the construction should be carried out with arboricultural supervision to ensure no damage to the trees or their roots. With regard to landscaping and boundary treatment new planting is welcomed but this should not encroach or overshadow the existing footpath. Full details of the landscaping works can be sought by condition.
- 6.11 The site is within a rural settlement and under policy CP17 there is a presumption that on sites of over 0.16 Ha or when a development is for five or more dwellings that 40% of the units should be affordable housing. This development though does not propose any affordable housing due to the specific nature of the site and the land contamination from the historic uses which will require remediation, the cost of which affects the viability of the development.
- 6.12 The viability of the development has been assessed and it is considered that the proposed scheme is not capable of meeting the policy requirement for affordable housing units if it is to remain economically viable. It is also stated that a reduced level of affordable housing would not be feasible due to the likely extent of remediation costs which would reduce the extent of development surplus.

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- 6.13 Whilst it is unfortunate the development cannot provide affordable housing, this lack of provision has to be balanced against the fact that the site is at present in industrial use that is unrestricted in its operations. It is also currently not being operated at full capacity. The area surrounding the site is predominantly residential and the development provides an opportunity to remove the non-conforming use in the centre of the village and also the problems associated with its use at anti-social hours. Given the environmental benefits to be gained from the redevelopment of the site it is considered, in this instance, appropriate not to seek affordable housing provision on site or a contribution towards alternative off-site provision.
- 6.14 The site is, as previously stated, presently in industrial use. KCC Highways have no objections to the principle of the proposed development. It is considered that from a traffic generation position the residential development would have no material impact on local traffic conditions when compared to the permitted use and there will be a benefit resulting from the reduction of commercial traffic. There will be sufficient space for a refuse collection vehicle to enter, turn and leave in a forward direction. Parking will be provided through a combination of dedicated spaces and/or garages for residents and visitors. A total of 21 parking spaces and a further 8 garage spaces (total 29 spaces) would be provided. This provision is in accordance with IGN3. It is not proposed to have the road adopted.
- 6.15 The comment of the Parish Council about a number of the parking spaces being positioned outside some of the residential curtilages is noted. The spaces are considered to be close enough to the houses such that future occupiers can realistically be expected to use them. In most cases, there would be insufficient depth of space available to the front of those houses without garages in which to create new parking places. The parking and manoeuvring space within the site is considered to be adequate and acceptable in terms of KCC standards.
- 6.16 The northern part of the site lies within the Environment Agency flood zone 3 and the applicants' agent has demonstrated that the development could be made safe by raising the floor levels clear of predicted water levels. Drainage will be achieved by an appropriate SUDS system to required standards. The EA has not raised any objections but has recommended specific conditions and identified risks associated with flood risk, land contamination and surface water drainage. All necessary precautions will need to be taken to prevent discharges and spillages to the ground both during and after construction. From an Environmental Health perspective, as the risk assessment submitted with the application identifies potentially complete exposure pathways between potential contaminants, an intrusive site investigation should be undertaken to determine the extent and chemical nature of made ground. It is also recommended that an asbestos survey is considered in the existing buildings prior to demolition and that on site fuel storage tanks are removed. Further survey work would need to be the subject of safeguarding conditions.

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- 6.17 KCC advisors have requested that a financial contribution be made towards the expansion of the primary school, libraries and community learning. Given the above comments on the viability of the development it is not considered appropriate to seek this contribution in this instance.
- 6.18 Some representations have been received from those businesses currently operating from the site. The applicants' agent states that none of the lessees have landlord and tenant rights to renew their leases when they expire. This would be a private matter between the parties concerned. The potential loss of premises for small businesses is regrettable but it is hoped that these could find alternative locations and continue to operate locally.
- 6.19 The comments of the neighbours have been given very careful consideration. The proposed development would have a density of 24 dwellings per hectare, which is not considered intensive in this setting. The introduction of 10 units is not considered to represent overdevelopment in this instance. The existing PROW across the northern part of the site would remain and there would be no greater conflict between pedestrians and vehicles.
- 6.20 Reference has been made to the need to avoid the introduction of street lighting within the new development. In the event that planning permission is granted, it is suggested that low level lighting only is introduced within the development, in order to avoid light pollution.
- 6.21 The issues raised by local residents also include reference to the Human Rights Act. The Human Rights which the objectors invoke are not absolute in their favour, but an element to be taken into account in planning decision-making, along with the many other material planning considerations. The statutory development control processes, in which local authorities are at one level of decision-making, have been specifically considered in the context of their compatibility with the Human Rights Act 1998 by the House of Lords in 2001 (now the Supreme Court) and held to be compatible. The nature of the various components involved in the development control process – which, taken as a whole, include notification of and considering representations about planning applications, an appeals system and possible judicial review on points of law – is key to that judgement. What this means is that, provided appropriate and proportionate weight is given to Human Rights considerations in reaching individual development control decisions, the development control process has been recognised as being capable of adequately reconciling those considerations and any competing or conflicting considerations. This Council and other local planning authorities act accordingly.
- 6.22 This application has been the subject of lengthy consideration due to the variety of constraints associated with the site. The development in the amended form is considered to be acceptable having regard to the policy context outlined above. The number and form of the residential units will have a satisfactory relationship with the adjoining residential properties and existing public rights of way in the

locality. Whilst the lack of affordable housing within the development is regrettable, it is recognised that there is a need to ensure that satisfactory remediation works against possible contamination take place and that the development would be unviable with affordable units.

6.23 In the light of the above, it is concluded that planning permission should be granted.

## **7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 09.11.2012, Validation Checklist dated 05.11.2012, Design and Access Statement dated 05.11.2012, Ecological Assessment dated 05.11.2012, Validation Checklist dated 05.11.2012, Viability Assessment dated 05.11.2012, Site Survey M840 1 dated 05.11.2012, Tree Plan dated 05.11.2012, Survey of trees dated 05.11.2012, Arboricultural Survey dated 05.11.2012, Plan M840 1 Arboricultural dated 05.11.2012, Tree Protection Plan M840 1 dated 05.11.2012, Photographs dated 05.11.2012, Transport Statement dated 05.11.2012, Environmental Assessment dated 05.11.2012, Flood Risk Assessment dated 05.11.2012, Proposed Plans and Elevations 3669-GA04B dated 11.11.2013, Letter dated 17.06.2013, Block Plan 3669-GA00 C C dated 17.06.2013, Site Layout 3669-GA01 D D dated 17.06.2013, Proposed Plans and Elevations 3669-GA02 A A dated 17.06.2013, Proposed Plans and Elevations 3669-GA03 A A dated 17.06.2013, Proposed Plans and Elevations 3669-GA04 A B dated 11.11.2013, Proposed Plans and Elevations 3669-GA05 A A dated 17.06.2013, Proposed Plans and Elevations 3669-GA06 A A dated 17.06.2013, Site Plan 3669-GA07 B B dated 17.06.2013, Site Plan 3669-GA08 B B dated 17.06.2013, Elevations 3669-GA09 A A dated 17.06.2013, Elevations 3669-GA10 dated 17.06.2013, Elevations 3669-GA11 A dated 17.06.2013, Planning Layout 3669-GA12 C C dated 17.06.2013, Block Plan 3669-BL01 dated 17.06.2013, Block Plan 3669-BL02 dated 17.06.2013, Location Plan 3669-SLP01 dated 05.11.2013, subject to:

### **Conditions / Reasons**

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. 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.



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Reason: To ensure that the development does not harm the character and appearance or the visual amenity of the locality and in accordance with paragraphs 17, 57, 58 and 61 of the National Planning Policy Framework 2012.

3. Prior to the development hereby approved commencing, details of the slab levels of the proposed houses shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.

Reason: In order to ensure a satisfactory standard of development.

4. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in any side elevation(s) of any of the buildings other than as hereby approved, without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining property.

5. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the roof of any of the buildings without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of the amenity and privacy of adjoining property.

6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

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.

7. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
- (a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
  - (b) No fires shall be lit within the spread of the branches of the trees.
  - (c) No materials or equipment shall be stored within the spread of the branches of the trees.
  - (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
  - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
  - (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

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

8. 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.

9. 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.

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

10. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

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

11. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Sevenoaks Environmental Consultancy Ltd, June 2012 and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1 in 100 year +30% critical storm so that it will not exceed the run -off from the undeveloped site and not increase the risk of flooding off-site.
2. Finished floor levels for living and sleeping accommodation to be set at a minimum of +300 and +600mm respectively above the immediate surrounding ground levels of the properties (relative to Ordnance Datum Newlyn maODN).

Reason:

1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
2. To reduce the risk of flooding to the proposed development and future occupants.

12. If during development contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing

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how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

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

13. The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

14. The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles.

Reason: Development without the provision of adequate vehicle parking space is likely to lead to hazardous on-street parking.

15. No building shall be occupied until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

16. Prior to the development hereby approved commencing, details of the refurbishment and buttressing of the wall to be retained to form the southern boundary of numbers 14-20 Blacklands shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concordantly with the development.

Reason: In the interests of the residential and visual amenities of the area.

17. Prior to the development hereby approved commencing, details of the siting and type of external lighting for the site shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with development.

Reason: In the interests of the visual and residential amenities of the area.

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**Informatives**

1. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
2. A formal application for connection to the public sewerage system is required in order to service this development. Please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester SO23 9EH (tel 01962 858688) or [www.southernwater.co.uk](http://www.southernwater.co.uk)
3. You are reminded of the need to comply with all the requirements of the letter from Southern Water dated 11.01.2013.
4. During the demolition and construction phase the hours of working (including deliveries) shall be restricted to Monday to Friday 0800 hours-1800 hours, Saturdays 0800-1300 hours with no work on Sundays or Public Holidays.
5. The use of bonfires for the disposal of waste could lead to justified complaints from local residents and would also be contrary to Waste Management Legislation. It is, therefore, recommended that bonfires are not held at the site.
6. The granting of this planning permission does not purport to give permission for the diversion of any Public Right of Way through the site. No Public Right of Way shall be impeded until such time as a relevant diversion Order has been confirmed under the appropriate legislation.
7. Your attention is drawn to the need to comply with the requirements of the letter from the Environment Agency dated 18.12.2012.
8. You are reminded of the need to comply with the requirements of the letter from the West Kent Public Rights of Way Officer dated 3.12.2012.
9. In the event that any protected species are found at the site during the course of the approved development, you are advised to contact Natural England and ensure the necessary mitigation measures are implemented.

Contact: Hilary Johnson

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**SUPPLEMENTARY REPORTS****AREA 3 PLANNING COMMITTEE****DATED 9 January 2014**

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**East Malling & Larkfield TM/12/03326/FL  
East Malling****Demolition of existing industrial buildings and construction of 10 houses with associated garages, parking, roadways and landscaping at Blacklands Mill Street East Malling West Malling Kent for Ms Annette Barnes**

Private Reps: Correspondence has been received from the son of the late Mr Godden who developed the Godden factory at the site in 1972. It is stated that his products and the factory achieved world wide success and the company was recognised with merit within the southeastern business schemes at the time. Mr Godden's son suggests that it would be a fitting tribute to preserve his name on the site.

EMCG: Members are unable to attend and speak at the Committee meeting, but would have preferred the existing ragstone buildings at the site to be retained.

It has also been requested that consideration be given to including a condition requiring the boundary wall to Bone Alley to be built in salvaged ragstone from the demolition of the buildings. In addition the remaining existing ragstone walling should be totally repointed and missing stones replaced where necessary and the whole wall be re-capped in saddle back coping bricks to match those along the remaining part of the boundary wall to Honeymoon Cottages. The application currently shows the wall to be repaired with brick, with a timber fence topping, but this arrangement is not thought to be in keeping and requires frequent maintenance.

The EMGC hopes that this matter can be debated at the Committee meeting and has provided photographs of ragstone walls for reference. The photographs are reproduced as an appendix to this document.

DPHEH: The comments regarding street naming are noted and although not a planning matter an appropriate informative can be attached to a permission regarding this.

With regard to the boundary treatment along Bone Alley the desire of the EMCG to have a ragstone wall all along the site boundary is understood. Details of proposed boundary treatments are required to be submitted for approval under condition 6 of my recommendation. The desire for a ragstone wall can be included as an informative. However, I do not believe that it would be appropriate to make the provision of such a wall a specific requirement through a condition, as this would not meet the required legal tests for the imposition of conditions. It should also be noted that the documents submitted by EMCG, including the supporting photographs, do not form part of a document adopted by the Borough Council for development control purposes and therefore the weight that can be attributed to them is limited.

**AMENDED RECOMMENDATION:****Add the following informatives:**

**10. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](mailto:addresses@tmbc.gov.uk). To avoid difficulties, for first occupiers, 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. To respect the history of the site it is considered that the name Godden should be proposed for the development.**

**11. It is suggested that in preparing the details to discharge condition 6, the applicant should consider the possibility of providing an appropriately detailed ragstone wall to the site boundary along Bone Alley. This might appropriately include re-use of stone from some of the buildings on the site that are proposed for demolition. Sections of the existing wall are also in need of repair and refurbishment, and this should also form part of the proposed scheme of boundary treatments.**

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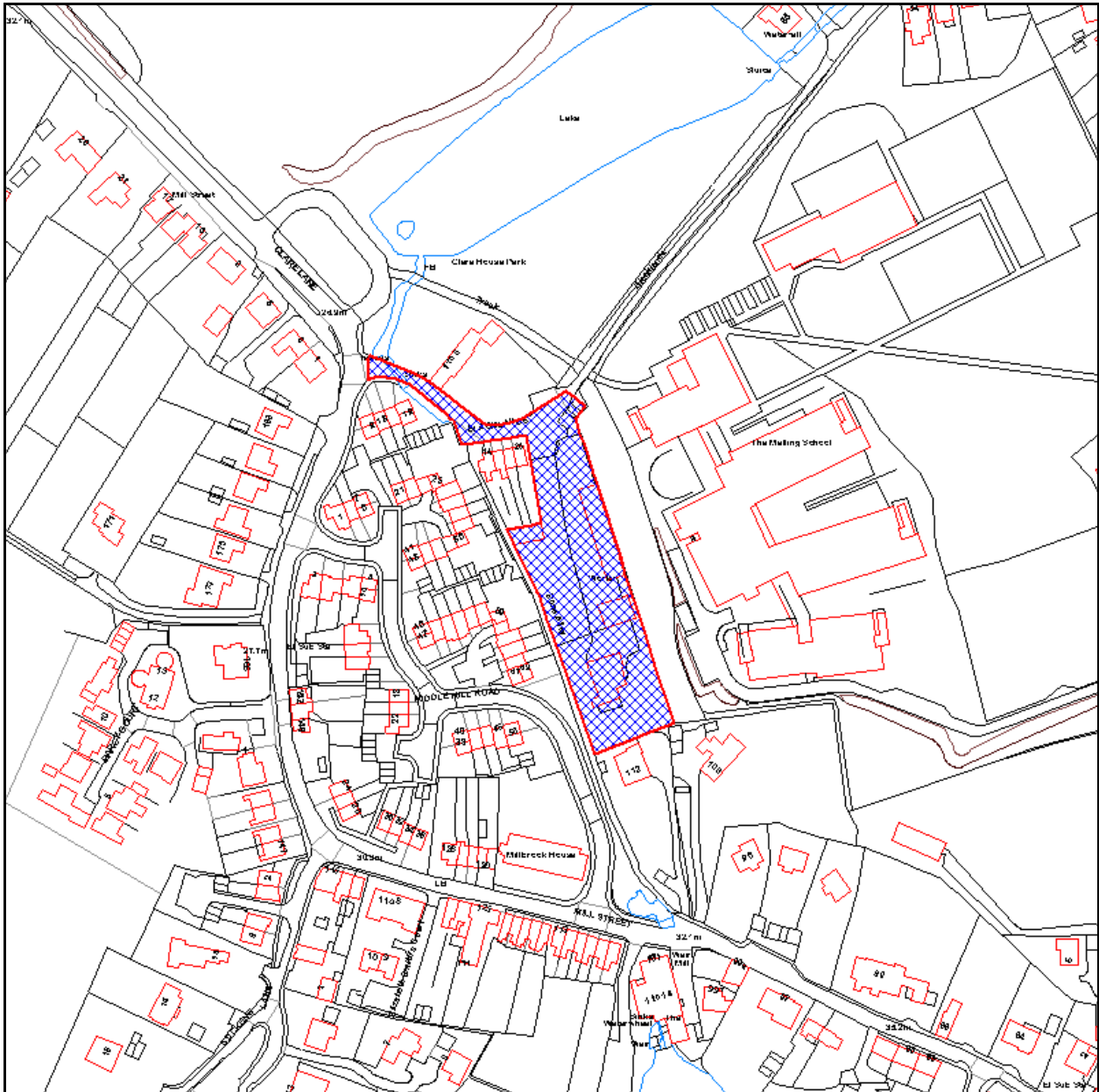


**TM/12/03326/FL**

**Blacklands Mill Street East Malling West Malling Kent**

**Demolition of existing industrial buildings and construction of 10 houses with associated garages, parking, roadways and landscaping**

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**East Malling & Larkfield**                      **570071 156707**    **1 May 2013**                      **TM/13/00551/FL**  
East Malling

Proposal:                      Replacement of self-supporting fence situated behind existing ragstone boundary wall. In addition, replacement of small section of fencing with ragstone walling in keeping with adjoining wall fronting on house

Location:                      Ivy House Farm 42 Chapel Street East Malling West Malling Kent ME19 6AP

Applicant:                      Mr Jonathan Colvile

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## **1. Introduction:**

1.1 Members will recall that this application was withdrawn from the agenda for the Planning Committee meeting of 29 August 2013, to enable further technical appraisal and for the matter to be reported back to Committee in due course. The particular issues that required further investigation included:

- any noise issues associated with the fence; and
- discrepancies in the submitted plan.

1.2 A copy of my report to the 29 August 2013 meeting is attached as an Annex.

1.3 The fence has now been subject to acoustic modelling and assessment, carried out by consultants commissioned by the Borough Council, and amended drawings have been submitted to indicate accurately those sections of the fence that have so far been constructed and how it is intended to be completed. The details have been subject to formal consultation and the findings of the acoustic appraisal have been presented to those local residents who live opposite the site at a meeting. Following the discussion that took place at this meeting detailed noise measurements are being carried out. The findings of this will be presented in a supplementary report.

## **2. Consultees:**

2.1 The findings of the initial consultations are summarised in the report of the 29 August 2013. A further consultation was carried out with regard to the acoustic modelling undertaken.

- Three letters received querying the results of the acoustic modelling and stating that the results do not represent what actually happens on site. The nature of the data used and the model itself are also considered to be not appropriate or representative.

- The accuracy of the submitted drawings is questioned as the drawing shows it lower than actually constructed.

2.2 Following the receipt of revised plans and further information a further additional consultation has been carried out. To date responses have been received from the EMCG and a resident, raising the following points.

2.3 EMCG: Consider the fence to be too high and detrimental to the conservation area and a blight on the local community. It has the appearance of a penal establishment.

2.4 One private representation received making the following points:

- Computer models only show what should happen but does not allow for factors such as air turbulence from high sided vehicles etc. Any measurement should include an element of personal assessment. Noise increase is intolerable and means that children cannot sleep in front bedrooms now.
- Fence would result in additional air pollution as it would reflect pollution towards houses rather than allowing it to be absorbed by vegetation.

### **3. Determining Issues:**

3.1 The planning policy background to the application and the general issues regarding this application are covered in the body of the main report attached as an annex.

3.2 Members will recall that there were concerns about discrepancies that appeared to exist between the information on the submitted plan and in the Design & Access Statement and between both of those and the situation that existed at the site.

3.3 The applicant's agent has submitted a revised plan including annotated dimensions of the height of the fence, as it has now been constructed. The dimensions provided indicate the height of the fence in relation to the road, to enable account to be taken of variations in the ground level along the length of the fence. The drawing also provides details of the existing ground level behind the existing low wall that sits between the fence and the road. The fence is built off the ground behind the wall. It therefore is not a boundary structure abutting the highway. Due to variations in ground levels, the fence as constructed is 2.7m high (above the ground where it is sited) at the southern end, reducing to 2.5m in approximately the centre and 2.55m at the northern end where it meets the ragstone wall. Whilst the northern end of the fence does appear taller, this however is due to the road being lower than the ground level of the land upon which the fence is situated at this end.

- 3.4 Class A of Part 2 of Schedule 2 to the Town and Country (General Permitted Development) Order states that fences, walls and other means of enclosure not abutting a highway can be “permitted development” if up to 2m in height when measured from the existing ground level. Given the rights under “permitted development” to construct a fence up to 2m in height, this application can only practically consider the impact of that element of the fence above the “permitted development” “fallback” position. The application is therefore, in effect, seeking approval for the part above 2m, namely the 0.7m at the southern end reducing to 0.5m in the centre and 0.55m at the northern end. The height has to be assessed on its impact on visual amenity and the character of the street scene. Although this is clearly a subjective matter, in this instance, given the design and finish of the fence, I am of the opinion that the additional height, over and above the permitted development level, would not result in a significant additional visual impact, such that the resulting structure would be detrimental to the visual amenity and character of the area. Put simply, if permission were refused for the proposed fence, it could be removed but replaced immediately by a fence between 0.5m and 0.7m lower.
- 3.5 Acoustic modelling was undertaken in September 2013. Following withdrawal of this application from the agenda of the August meeting, it was considered appropriate to commission independent consultants’ advice to corroborate the initial office assessment of the impact of the fence on the noise environment of nearby properties. The consultants’ modelling assessed the effects of replacing the pre-existing fence with another taller fence with enhanced noise attenuating properties along the same alignment. The results of the modelling indicate that there is no difference in the predicted noise levels between the two situations at the three closest noise-sensitive receptors, these being the houses on the opposite side of the road from the application site. In addition, it was concluded that the part of the fence that actually requires to be assessed (that is, the top 0.5m to 0.7m above the permitted development threshold) would not alter the results as it is the lower element (the part that would be permitted development) that would reflect any sound towards the houses opposite. Whilst the comments of the residents regarding the increase in the levels of noise experienced are noted, on the basis of the acoustic assessment that has now been carried out there would appear to be no justified reason for withholding planning permission for the fence on the grounds of its impact on noise and amenity.
- 3.6 The modelling utilised in the latest assessment accords with currently accepted practice and indeed it would not be appropriate to adopt any other such approach, hence the Council’s use of an independent consultant. The computer software that has been used to provide the noise modelling employs internationally recognised principles as set out in ISO:9613 “Acoustics: Attenuation of sound during propagation outdoors”, 1996. Traffic survey data from a survey undertaken by KCC in June 2011 was used; this is the most up-to-date traffic data available.

- 3.7 The comments of the neighbours regarding their concerns about the increased noise levels that they perceive to be reflected from the replacement fence are noted. As stated previously, it is conventionally recognised that the majority of any reflection of noise would take place at a low level and the impact of any structure over 1.4m above the carriageway would be negligible. As a boundary treatment of this height is permitted under the GPDO, in the location of the fence in this application regardless of there being any consideration of noise impact, its removal could not be justified by this Authority under planning legislation.
- 3.8 With regard to the acoustic modelling, the neighbours have expressed concern that the type of model used cannot differentiate between types of wood and their different characteristics of noise reflectiveness. They believe the model alone should not be used to determine the application. The Council's consultant has advised that the conventional model may have limitations but it is the only one available and is the recognised tool, for instance in planning appeals. It is clearly not now possible to take actual "before and after" measurements of the noise levels experienced in the vicinity of the fence, the previous fence having been removed; modelling of the noise environment is therefore the only available option. The status of the modelling approach is explained in 3.6 above. No contrary information or studies have been provided by the neighbours to contradict the findings or indeed suggest a different methodology for assessing the noise impacts. In any event the acoustic modelling is only one part of the *overall* consideration of the application and any determination has to take into account as a baseline those works that could be undertaken under permitted development. Further noise monitoring has taken place, the results of which will be provided in the supplementary report but this can only indicate the current conditions, not previous levels. It does of course provide the context within which the noise modelling must be considered.
- 3.9 As mentioned in the previous report, Ivy House Farm itself is Grade II Listed and lies within the Conservation Area. The associated land extending to the south (where the subject fence is located) falls outside both the village envelope and the Conservation Area. The applicant's agent has advised that this area of land was laid out as a garden in approximately 1918, according to the applicant, by his grandmother in memory of her first husband who died in the last week of the war in 1918. The fence is outside the historic curtilage of the listed building and therefore the applicant does benefit from the permitted development rights for walls, fences and other means of enclosure contained in Class A of Part 2 of the GPDO.
- 3.10 This matter has been the subject of lengthy consideration and a meeting has been held with the neighbours and the Council's independent consultant acoustic advisor in an attempt to better understand the neighbours' concerns. It was agreed that noise level recordings should be carried out close to the application site during dry and still weather conditions. At the time of preparing this report, further measurements were being carried out at a property opposite the fence. It is

important to obtain as accurate results as possible in order that all parties may fully understand the noise environment experienced by the residents opposite, particularly as they have called into question the Borough Council's assessment of the noise levels actually experienced. The results of this survey work will be included in the supplementary report. This, however, will only provide a snapshot of the current position and will not affect the assessment that has been carried out regarding the modelling of the overall impact of the fence that is the subject of this application. Even if this produces results that are significantly different from those that might be expected based on the traffic survey carried out in June 2011, that does not mean that such a change can necessarily be attributed to the fence that is the subject of the current application, and that is only partially erected, for the reasons set out earlier in this report.

#### **4. Recommendation:**

- 4.1 **Grant Planning Permission** in accordance with the following submitted details: Design and Access Statement dated 01.05.2013, Letter dated 01.05.2013, Site Plan dated 01.05.2013, Photograph 0345 dated 25.02.2013, Photograph 0343 dated 25.02.2013, Photograph 1960 dated 25.02.2013, Proposed Plans 13/0000/02 dated 01.05.2013 and subject to:

#### **Conditions**

1. Within one month of the date of this decision the fence hereby approved shall be finished and maintained in a dark brown coloured finish.

Reason: In the interests of the visual amenities of the area and in accordance with paragraphs 17, 57, 58, 61 of the National Planning Policy Framework 2012.

2. The standard of workmanship achieved in the carrying out of the development shall conform with the best building practice in accordance with the appropriate British Standard Code of Practice (or EU equivalent).

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

3. Prior to the commencement of the construction of the ragstone wall, precise details of its construction shall be submitted to and approved in writing by the Local Planning Authority. Such details as hereby approved shall be carried out concurrently with the development.

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

Contact: Hilary Johnson

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Report of 29 August 2013

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**East Malling &  
Larkfield**  
East Malling

**570071 156707 1 May 2013**

**TM/13/00551/FL**

Proposal: Replacement of self-supporting fence situated behind existing ragstone boundary wall. In addition, replacement of small section of fencing with ragstone walling in keeping with adjoining wall fronting on house

Location: Ivy House Farm 42 Chapel Street East Malling West Malling Kent ME19 6AP

Applicant: Mr Jonathan Colvile

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## **1. Description:**

- 1.1 This is a retrospective application in respect of the retention of a fence that has been erected along the eastern and part of the southern boundary of the site. The fence now measures 2.4m in height and is a replacement for a previous woven panel fence that measured approximately 1.8m in height. The aim of the new fence is to restrict noise and litter affecting the curtilage of the property and also to improve security.
- 1.2 In addition, a small 3m section of fencing would be replaced with ragstone walling, in keeping with the wall adjoining the front of the house to link with the new fencing. At the time of writing this section of wall had not been constructed.

## **2. Reason for reporting to Committee:**

- 2.1 At the request of Cllr Simpson who considers that the fence has a significant impact on the setting of this part of the village and appears to be overbearing and oppressive and not what would be expected in a residential location. There is also concern to ensure that the quality of the stone work in the construction of the wall is to a high standard.

## **3. The Site:**

- 3.1 No. 42 Chapel Street, known as Ivy House Farm, is positioned on the western side of the road towards the southern end of East Malling village. The property is a Grade II Listed Building which is situated within the Conservation Area and village confines. The land associated with the house extends to the south and falls outside the village confines and Conservation Area. The application site lies at the southern edge of the village opposite a mix of residential properties, with agricultural land beyond.

## **4. Planning History:**

- 4.1 None directly relevant.

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**5. Consultees:**

- 5.1 PC: Note that the fence is 0.6m higher than the previous structure and that the site adjoins a Conservation Area and Listed Building. It is considered that the fence stands out at the entrance to the village by reason of its newness, additional height and lack of screen vegetation. A green transition such as a hedge is considered more appropriate in this location adjacent to the countryside. It is understood that the fence is supposed to have deflected noise across the road to the detriment of the dwellings opposite. A site inspection is requested.
- 5.2 EMCG: Does not consider the fence reflects any part of the village character. Suggests that the fence reflects noise across the road to neighbouring properties. Challenges the dimensions of the previous fence as shown on the submitted statement. The difference in height between the previous and the new fence is nearer 1m, rather than 0.4m. The section of ragstone wall should be rejected due to lack of details. Precise details of the ragstone wall should specify random ragstone and lime base mortar. Considers that the fence should be refused and a lower structure of 1.8m from the carriageway level should be considered to lessen its impact.
- 5.3 Private Reps:33/0X/3R/3S +site+press notice: Three letters of support have been received and it is stated that :
- The old fence panels were loose and dangerous and that the new fence is of greatly improved appearance.
  - It is noted that the fence will age with time, the use of evergreen vegetation is welcomed and the fence is in keeping with the local area.

Three letters of objection have also been received. It is asserted that the fence is 2.4m above ground level which is also 0.9m above the level of the highway and as such is visually out of keeping with the area.

- Due to the overpowering appearance the fence should be reduced in height to 1.8m. Attempts to disguise the fence will only increase its bulk.
  - The supplier's website suggests this type of fencing is inappropriate for a residential location as it reflects rather than absorbs sound. The properties opposite are said to have experienced an increase in road noise levels since the high density fence was erected.
- 5.4 KCC (Highways): The fencing does not adversely affect highway safety and I do not wish to raise objection.

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**6. Determining Issues:**

- 6.1 This application is considered in relation to Core Strategy policies CP1 (development should be to a high quality and respect residential amenities) and CP24 (need for high quality design). Policy SQ1 of the MDE DPD states that development should respect and reinforce an areas local distinctive character. Paragraphs 17, 57, 58 and 61 re-inforce the above. Paragraphs 126 and 131 concern development in Conservation Areas and when affecting historic buildings.
- 6.2 The main considerations are the size/ style and appearance of the replacement fence and the section of ragstone wall. It is also necessary to consider the impact on the neighbours, the setting of the Listed Building, character of the Conservation Area and any effect on highway safety.
- 6.3 In support of the application, the agent suggest that the development is entirely acceptable as the fence is a direct replacement for a previous timber boundary treatment that was of poor quality and in a poor state of repair. The fence is set against the backdrop of a tall conifer hedge and the agents considers that it reflects the character of enclosure that is he believes to be an intrinsic feature of Chapel Street.
- 6.4 Some representations have been received in respect of the increase in the height of the fence. It is acknowledged that the replacement fence is higher than the one that previously existed along the site boundary and that the ground level of the new fence is set above road level. The key judgement is, of course, not how much different it is from the previous fence but rather the acceptability of the fence as proposed. The previous fence does, nevertheless, present a datum because is replacement/restoration to that height could occur without the Council's approval, being needed. The fence, especially now as a result of its "new" appearance, does by reason of its height, and horizontal construction represent a noticeable feature in this part of Chapel Street. This is reinforced by the fact that the road at this point is fairly narrow and the fence, together with hedges on the other side of the road, creates a sense of enclosure. It is noted, however, that this is a general feature of the southern approach road to the village. As a result it is considered that the additional height of the fence, whilst it has some impact upon the street scene, does not unduly harm the character of the area generally and the Conservation Area.
- 6.5 During the determination of the application, it was suggested to the applicant's agent that the fence could be re-sited behind the row of trees along the site boundary. The applicant, however, states that this is a replacement structure of superior design and he does not wish to locate it behind the trees as it would impact upon the setting of the Listed Building.
- 6.6 In terms of the Listed Building, the fence is located in the same position as the previous structure. According to the applicant's agent ,a fence has been in this position for many years and, therefore, it is difficult to argue that a replacement

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fence, albeit of increased height, would be detrimental to the setting of the Grade 2 Listed Ivy House Farm.

- 6.7 The East Malling Conservation Group does not consider that there is sufficient detailing regarding the construction of the section of ragstone wall and has suggested that precise details should be specified in order to avoid harm to the host dwelling. This matter can be adequately covered by a condition.
- 6.8 With regard to any impact upon the adjacent highway, the KCC Highways has confirmed that the proposals will have no effect on highway safety and therefore no objections are raised.
- 6.9 It has also been necessary to have regard to the impact of the new fence on the residential amenities of the neighbours living opposite the site. It has been claimed that as this is an acoustic fence noise is now being deflected away from the application site and is creating nuisance problems for those living nearby.
- 6.10 CEHO confirms that the fence is a reflective barrier rather than an absorptive one. If prior advice had been sought this would ideally have sought an absorptive barrier or non-acoustic one. From a distance/attenuation calculation it is estimated that the increase would be approximately 2dB using the standard methodology as set out in the Government document Calculation of Road Traffic Noise. The minimum change commonly held to be detectable by the human ear is 3dB. The difference in noise level is therefore assessed as being imperceptible and not substantial in this instance.
- 6.11 By the time the application was received, the fence had already been erected and comprised a pale coloured horizontal panel structure. Since then work has commenced to stain the fence a darker brown colour which is not reflected in the submitted information. The use of the dark stain has helped to make the appearance of the fence less stark and has improved the visual appearance of the structure. The appearance of the fence is to be softened further with climbing plants such as ivy. The Committee PowerPoint will display a photograph of the stained finish of the fence.
- 6.12 As can be seen from the above the installation of a replacement fence of greater height and different style has caused a number of concerns for those living nearby and also in terms of the impact on the Conservation Area. The proposals have therefore been given very careful consideration. Whilst it is acknowledged that the new fence has an additional impact due to its different height and design from that previously on site, with the use of the dark staining it is considered to represent a satisfactory feature in this location. It is therefore recommended that planning permission is granted subject to safeguarding conditions to ensure that the fence is finished in dark coloured stain and that further information is submitted about the construction of the ragstone wall.

**7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Design and Access Statement dated 01.05.2013, Letter dated 01.05.2013, Site Plan dated 01.05.2013, Photograph 0345 dated 25.02.2013, Photograph 0343 dated 25.02.2013, Photograph 1960 dated 25.02.2013, Proposed Plans 13/0000/01 dated 01.05.2013, Proposed Plans 13/0000/02 dated 01.05.2013, subject to:

**Conditions**

1. Within one month of the date of this decision the fence hereby approved shall be finished and maintained in a dark brown coloured finish, the colour of which shall match the existing applied area of staining.

Reason: In the interests of the visual amenities of the area and in accordance with paragraphs 17, 57, 58, 61 of the National Planning Policy Framework 2012.

2. Prior to the commencement of the construction of the ragstone wall, precise details of its construction shall be submitted to and approved in writing by the Local Planning Authority. Such details as hereby approved shall be carried out concurrently with the development.

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

3. The standard of workmanship achieved in the carrying out of the erection of the ragstone wall shall conform with the best building practice in accordance with the appropriate British Standard Code of Practice (or EU equivalent).

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

Contact: Hilary Johnson

SUPPLEMENTARY REPORTS

AREA 3 PLANNING COMMITTEE

DATED 29 August 2013

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**East Malling & Larkfield TM/13/00551/FL  
East Malling**

**Replacement of self-supporting fence situated behind existing ragstone boundary wall. In addition, replacement of small section of fencing with ragstone walling in keeping with adjoining wall fronting on house at Ivy House Farm 42 Chapel Street East Malling West Malling Kent ME19 6AP for Mr Jonathan Colvile**

In light of further comments received since the publication of the Report this application is **WITHDRAWN FROM THE AGENDA** to enable the Environmental Health team to carry out further investigations into potential noise deflection levels from the fence and also to enable further checks to be made regarding suggested discrepancies in the details on the plan and the measurements of the fence as part installed on site.

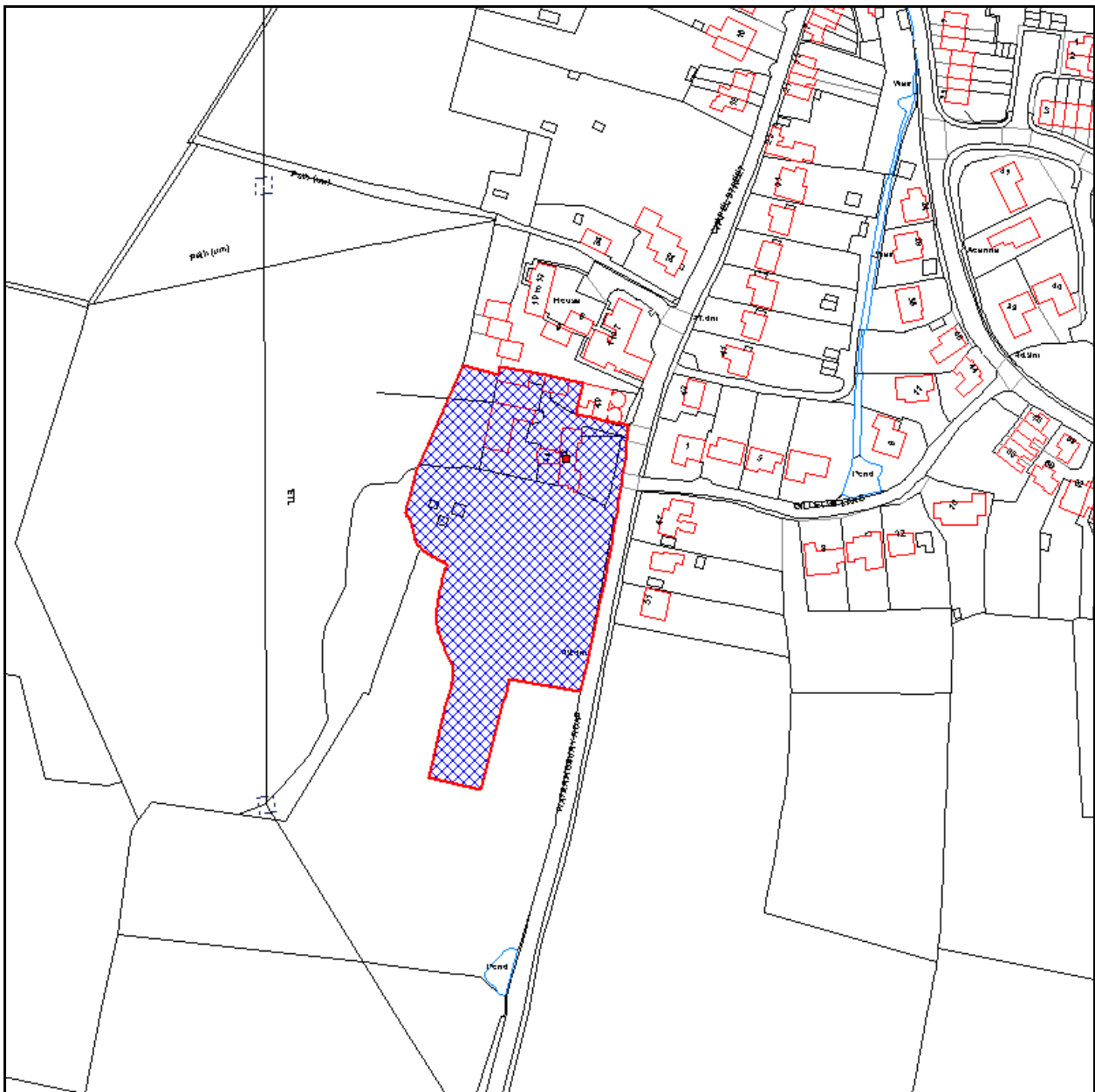
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**TM/13/00551/FL**

Ivy House Farm 42 Chapel Street East Malling West Malling Kent ME19 6AP

Replacement of self-supporting fence situated behind existing ragstone boundary wall. In addition, replacement of small section of fencing with ragstone walling in keeping with adjoining wall fronting on house

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## **Alleged Unauthorised Development**

**Aylesford**  
Aylesford

**13/00305/WORKM**

**572210 158029**

Location: Holtwood Farm Shop 365 London Road Aylesford Kent ME20  
7QA

### **1. Purpose of Report:**

- 1.1 To report the unauthorised stationing of a mobile catering unit within the car park of these retail premises.

### **2. The Site:**

- 2.1 The Holtwood Farm shop is a single storey brick building with access gained from the London Road. The building is also occupied by two other retail businesses, Aylesford Aquatics and Fellows Flowers. The site has its own car park which can accommodate 17 vehicles and is shared between the three businesses. The site is surrounded on three sides by residential properties with a mature hedge marking the boundary.
- 2.2 The mobile catering unit is located adjacent the side wall of the building which serves as the main entrance for the customers. The unit is orientated towards the parking area with the service hatch opening outwards over the parking space. A table and umbrella have been placed in front of the service hatch occupying a further parking space.

### **3. History:**

TM/58/10442/OLD	Refuse	1 January 1958
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Outline Application for residential development

TM/59/10526/OLD	Refuse	31 December 1959
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Outline application for Extension to Retail Sales.

TM/60/10301/OLD	Grant with conditions	8 August 1960
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Alterations and additions to shop and store

TM/60/10677/OLD	Grant with conditions	24 March 1960
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Alternations and continuation of use as retail sale and storage

TM/69/10916/OLD	Grant with conditions	19 March 1969
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Erection of a canopy

TM/75/10447/FUL	Grant with conditions	3 December 1975
Improvement of both access to A20, provision of better car parking facilities and the levelling and tidying of the whole of site.		
TM/79/10606/FUL	Grant with conditions	30 October 1979
Temporary sitting of caravan.		
TM/84/10082/FUL	Refuse	27 July 1984
Single storey extension to farm shop, to form butcher's shop, cold store and preparation area and carry out alterations to existing front elevation.		
TM/85/11304/FUL	Grant	8 July 1985
Retrospective application to erect boundary fence.		
TM/86/11397/FUL	Refuse	13 October 1986
Single storey extension to form storage area.		
TM/91/10218/FUL	Grant with condition	9 July 1991
Demolition of existing separate buildings and replacement with one new building of same total area and new external works.		
TM/13/03356/AT	Refuse	10 January 2014
Advertisement consent for 3no. fascia signs		
TM/13/03491/FL	Invalid	12 November 2013
Retail		

#### **4. Alleged Unauthorised Development:**

- 4.1 Without the benefit of planning permission, the material change of use of land to a use falling within Use Class A5 of the Town and Country Planning (Use Classes) Order 1987 (as amended), being a use for the sale of hot food for consumption on and off the premises, by the stationing of a mobile catering unit.

#### **5. Determining Issues:**

- 5.1 The catering unit is located adjacent to boundary of the property and placed against the side elevation of the main building on an existing paved area. The area has previously been used for the storage of items for sale within the Holtwood Farm shop. The catering unit sells fresh fish and cooked shellfish. By virtue of the nature of this use, it is considered to fall within Use Class A5, rather than Use Class A1 which is applicable to the existing retail use of the rest of the premises. The unit

appears to operate as a separate entity, independent of any of the other businesses at the site. It is considered that due to the nature of the development a material change of use has occurred without the benefit of planning permission. Although the unit has been *in situ* for at least 6 months and does not appear to move on and off the site, no building works or other operation development appear to have taken place.

- 5.2 The catering unit has been set back from the main road and is mostly hidden visually from the dwellings by a well established hedge. It is not considered that it has a detrimental visual impact on the amenity of the surrounding area.
- 5.3 The main considerations are whether, with the loss of parking spaces, there would still be sufficient parking for the operation of the businesses on site and whether the development will harm the residential amenity of the nearby dwellings.
- 5.4 Concerns have been raised by a number of local residents that the development has caused harm to their amenity through the cooking smells that emanate from the unit and undue disturbance as a result of the noise from the patrons and the staff using the unit. The closest neighbouring residential properties are immediately adjacent to the unit with the buildings less than 15 metres away from the unit. It is apparent that the cooking smells, in particular, have a detrimental impact on the residential amenity of the nearby dwellings. The development therefore does not accord with policies CP1 & CP24 of the TMBCS as it would affect the residential amenity of the neighbouring dwellings. For similar reasons it fails to meet the objectives set out in paragraph 17 of the NPPF 2012, as it does not secure a good standard of amenity for all existing and future occupants of land and buildings.
- 5.5 In terms of the loss of parking on site, the area in front of the serving hatch and the associated seating are sited over two of the limited number of spaces available on site. The car park is used by both staff and customers for Aylesford Aquatics, Fellows Flowers and Holtwood Farm shop in addition to the customers for the mobile catering unit which are all located on site. It is considered that the development would not comply with policy SQ8 of the MDE PDP as the loss of parking would leave inadequate parking for the businesses on site.
- 5.6 Following a number of requests by officers for the operator to remove the mobile catering unit he attempted to resolve the unauthorised development through the submission of a planning application (application reference TM/13/03491/FL received on the 21 November 2013) for 'Retail'. However, the application still remains invalid awaiting a number of further details, and cannot therefore be progressed to a decision.
- 5.7 For the above reasons, I believe that it is expedient to take enforcement action to seek the removal of the mobile catering unit.

**6. Recommendation:**

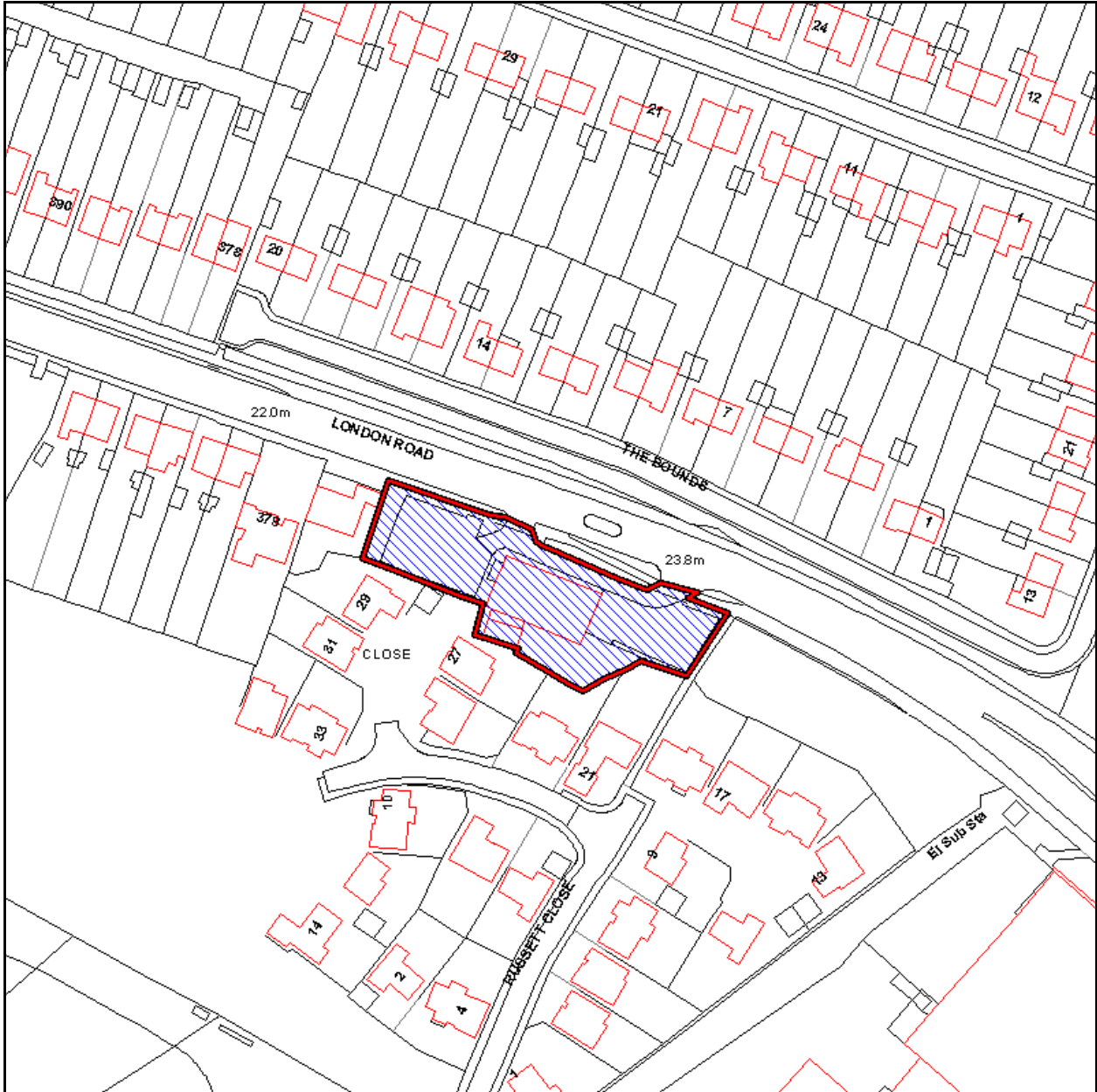
An Enforcement Notice **be issued**, the detailed wording of which to be agreed with the Director of Central Services, requiring the removal of the unauthorised mobile catering unit.

Contact: Paul Batchelor

13/00305/WORKM

Holtwood Farm Shop 365 London Road Aylesford Kent ME20 7QA

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