

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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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: Committee Services
committee.services@tmbc.gov.uk

27 May 2015

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, 4th June, 2015 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 23 April 2015.

Decisions to be taken by the Committee

4. Development Control 9 - 12
Introduction and Glossary
5. TM/15/01023/FL - Orchard Farm, Well Street, East Malling 13 - 20
6. TM/15/00713/FL - 592 London Road, Ditton 21 - 28
7. 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

PART 2 - PRIVATE

8. 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.

9. 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 M Parry-Waller (Chairman)
Cllr D Lettington (Vice-Chairman)

Cllr M C Base
Cllr Mrs S Bell
Cllr T Bishop
Cllr Mrs B A Brown
Cllr T I B Cannon
Cllr R W Dalton
Cllr D A S Davis
Cllr Mrs T Dean
Cllr Mrs S M Hall

Cllr S M Hammond
Cllr D Keeley
Cllr S M King
Cllr D Markham
Cllr Mrs A S Oakley
Cllr R V Roud
Cllr A K Sullivan
Cllr B W Walker
Cllr T C Walker

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TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 3 PLANNING COMMITTEE

Thursday, 23rd April, 2015

Present: Cllr A K Sullivan (Chairman), Cllr R W Dalton (Vice-Chairman), Cllr J Atkins, Cllr J A L Balcombe, Cllr T Bishop, Cllr Mrs B A Brown, 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 and Cllr Mrs C J Woodger

Councillor Mrs S Murray was also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors Mrs J M Bellamy, D A S Davis, Mrs C M Gale and P J Homewood

PART 1 - PUBLIC

AP3 15/23 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

AP3 15/24 MINUTES

RESOLVED: That, subject to the amendment of Minute AP3 15/10 by the deletion of the words 'on occasion used the facilities and looked after the owner's horses' and the insertion of 'had previous dealings with the applicant regarding the security of the site', the Minutes of the meeting of the Area 3 Planning Committee held on 19 March 2015 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 15/25 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 15/26 TM/14/02831/FL - 206 BIRLING ROAD, SNODLAND

Demolition of existing and erection of one detached house and four detached bungalows and associated parking provision at 206 Birling Road, Snodland

RESOLVED: That the application be REFUSED for the following reason:-

1. The proposed development by virtue of the number of dwellings proposed and their close proximity to the site boundaries when combined with the constrained nature of the site arising from changing land levels and the relationship with the surrounding residential properties would amount to an overdevelopment of the site, resulting in an overbearing form of development which would be harmful to the residential amenities of the surrounding neighbours. As such, the proposal is contrary to the requirements of paragraph 58 of the National Planning Policy Framework 2012, policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010.

[Speakers: Miss Z Killackey (on behalf of Mr and Mrs Killackey), Mr P Hickmott, Mr D Atkinson, Mrs J Ayers, Mr P Morrish and Mrs W Gaskill – members of the public]

AP3 15/27 TM/14/04275/FL - 22 HERON ROAD, LARKFIELD

Erection of a two storey attached dwelling at 22 Heron Road, Larkfield

RESOLVED: That the application be APPROVED in accordance with the details, conditions, reasons 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 condition 4 to read:

4. Prior to the first occupation of the development hereby permitted a scheme of landscaping and boundary treatment which shall include the retention of the existing hedge to the northern and western sides of the site and the omission of the front boundary wall shown on plan number 1140.12 rev.A shall be submitted to and approved in writing by the Local Planning Authority. 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: To ensure that the development does not harm the character of the locality.

(2) The addition of condition

5. The garage and parking space outlined in blue on plan number 1140.01 A shall be retained at all times for the parking of private vehicles.

Reason: To ensure no adverse impact upon highway safety resulting from potentially hazardous on-street parking.

(3) The amendment of Informative 2 to read:

2. During the construction phase, the hours of noisy working likely to affect nearby properties (including deliveries) should be restricted to Monday – Friday 07:30 hours – 18:30 hours, Saturday 08:00 – 13:00 hours with no such work on Sundays or Public or Bank Holidays; and

(4) The addition of Informative

6. In connection with Condition 4, the applicant is reminded that the wall indicated within the site frontage shown on plan number 1140.12 rev.A should not be carried forward as part of the landscaping scheme and that any landscaping scheme which identifies such a wall will not be considered favourably.

AP3 15/28 TM/14/02480/FL - 340 WATERINGBURY ROAD, EAST MALLING

Retention of two garden sheds and pergola at 340 Wateringbury Road, East Malling

RESOLVED: That the application be APPROVED in accordance with the details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health.

AP3 15/29 TM/15/00273/FL - 342 WATERINGBURY ROAD, EAST MALLING

Retention of existing single storey garden room at 342 Wateringbury Road, East Malling

RESOLVED: That the application be APPROVED in accordance with the details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health.

AP3 15/30 TM/14/03017/FL - 354 WATERINGBURY ROAD, EAST MALLING

Two detached single storey outbuildings to provide a home gymnasium and a garden store, an ornamental pond and garden pergolas at 354 Wateringbury Road, East Malling

RESOLVED: That the application be REFUSED in accordance with the details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health.

[Speakers: Mr A Tregar (on behalf of Mr C Mills), Dr Geert Struyven and Mr J Jordan – members of the public; and Mr T Binger – Applicant]

AP3 15/31 ALLEGED UNAUTHORISED DEVELOPMENT 15/00131/WORKH - INVICTA WORKS, MILL STREET, EAST MALLING

The report set out details of unauthorised works undertaken to erect a brick wall to the south eastern boundary of a converted oast building and the construction of 1.8 metre fences around the southern and eastern boundaries.

RESOLVED: That an Enforcement Notice be issued to seek the removal of the unauthorised wall and fences, the detailed wording of which to be agreed with the Director of Central Services.

PART 2 - PRIVATE**AP3 15/32 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 9.17 pm

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.

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	569023 156904	10 April 2015	TM/15/01023/FL
East Malling			

Proposal:	New access roadway from existing access roadway to serve 5 caravan pitches operated under caravan club licence and to provide access to existing septic tank
Location:	Orchard Farm Well Street East Malling West Malling Kent ME19 6JW
Applicant:	Mr John Fuller

1. Description:

1.1 The planning application relates to the construction of a new access roadway. The roadway has been put in place to provide access to an existing septic tank. The application is retrospective. A Temporary Stop Notice was served by the Council on 1 May 2015 as a result of works commencing in advance of any planning permission having been granted.

2. Reason for reporting to Committee:

2.1 At the request of Councillor Oakley and former Councillor Woodger.

3. The Site:

3.1 The application site comprises the access roadway only. The application site does however lie within a wider complex all in the ownership of the applicant. The site of the access roadway lies to the north of an existing mobile home and ancillary buildings, and to the east of an existing stable block and sand school. A mature hedge exists to the north of the site.

3.2 The site lies to the south west of East Malling in the open countryside. The application site is accessed via an existing access roadway leading from Well Street.

4. Planning History (relevant):

TM/10/00502/FL	Refuse	19 August 2010
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New agricultural building and access

TM/10/01011/FL	Application Withdrawn	8 February 2012
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Change of use of land for stationing of two caravans for residential occupation with associated development (utility shed, hardstanding, amended access, access track and septic tank)

TM/10/03441/FL Refuse 25 March 2011

New agricultural building and access

TM/11/02655/FL Granted at Appeal 26 March 2013

Change of use of land for stationing of two caravans for residential occupation with associated development (utility shed, hardstanding, amended access, access track and septic tank)

TM/11/03558/FL Approved 14 June 2012

Construction of stables and outdoor sand manege

TM/13/01029/RD Approved 16 December 2014

Details of surface water disposal, storage and disposal of manure, habitat assessment and landscaping and boundary treatment pursuant to conditions 3, 4, 7 and 9 of planning permission TM/11/03558/FL (construction of stables and outdoor sand manege)

TM/13/01885/RD Approved 5 December 2013

Details of landscape proposals and landscape specification and management plan pursuant to the release of condition 5 (i) of appeal decision TM/11/02655/FL (Change of use of land for stationing of two caravans for residential occupation with associated development (utility shed, hardstanding, amended access, access track and septic tank)

TM/14/04147/FL Application Withdrawn 7 April 2015

Erection of a detached outbuilding to accommodate a tool store, garage and kennel with office above

5. Consultees:

- 5.1 PC: It is understood the 5 caravan pitches do not require planning permission under the Caravan Club licence rules and are outside the land covered by the Appeal decision which has a condition precluding commercial development. It is noted the new drive is internal to the site to serve the septic tank and the above 5 pitches. The Parish Council agrees with local residents concerns about the lanes being unsuitable for caravans being brought along them and is frustrated the Caravan Club rules appear not to take access issues into account. It is felt this system of exemption needs review at national level. The Parish Council feels this development should not be taking place in this countryside location.

5.2 Private Reps: 20 + site notice/0X/4R/0S. 4 letters from residents raising the following objections:

- The Secretary of State excluded any commercial activities from taking place at the site, which would include the site being used under a Caravan Club agreement/Certified Location. The Council and local residents have already been put through the expense of an appeal and all further applications for commercial activities should be rejected.
- The Caravan Club rules require safe access for caravans and motor caravans. The surrounding roadways are narrow with uneven surfaces and are therefore unsuitable for large vehicles. Additional traffic would be hazardous to road safety, cause lengthy delays and reduce the quietness of the surrounding lanes. Are TMBC or KCC consulted by the Caravan Club? This will devalue the area to its residents and prospective buyers.
- The septic tank is already in use and must therefore already be accessible. If not this questions the approval already in place for the existing drainage facilities.
- The consultation has been insufficient.

6. Determining Issues:

- 6.1 This planning application seeks to regulate the existing access roadway which has been constructed using recycled aggregate and roadstone. The application states that the reasons for the access roadway are twofold. The access roadway will provide vehicle access to the existing septic tank. This will facilitate maintenance and emptying. Secondly, it would provide access to land intended to be used for the stationing of up to 5 touring caravans operated as a Caravan Club Certified location, which in itself comprises permitted development and does not require planning permission, a matter I will return to in more detail later within this report.
- 6.2 The key factor in the determination of this case centres on the physical impact of the access track on the countryside. In countryside locations such as this, the NPPF requires decision making to recognise the intrinsic character and beauty of the countryside. In addition, policy CP14 of the TMBCS seeks to restrict development in order to preserve the open nature and character of the countryside.
- 6.3 The roadway has been constructed of recycled aggregate and roadstone which is similar in nature to many other similar roadways and tracks constructed on agricultural land. The site is extensively screened by mature planting and is also shielded from direct public view by the existing stables to the north west and the mobile home to the south. The site can be glimpsed from the east along Stickens Lane, but the roadway itself, given its minor extent and nature combined with the topography of the land, is not readily visible. Consequently the development has a

negligible visual impact and does not compromise the open nature or character of the countryside in any way. The application therefore accords with the aims of the NPPF and CP14.

- 6.4 A number of objections have been received from local residents in connection with this application. They are concerned that the use of the site as a Caravan Club Certified location constitutes a commercial activity and therefore breaches the terms of the planning permission granted on appeal in March 2013 for a change of use of land for the stationing of two caravans for residential occupation with associated hardstanding, access, septic tank and utility shed. Condition 3 of that planning permission prohibits any commercial activity at the site to which the appeal related other than the keeping of horses and other items related to the farrier business. The condition controlling the adjacent land therefore has no material bearing on the consideration of this case despite the fact that the land lies within the same ownership. As I have explained, the use of land for the stationing of up to 5 touring caravans operated as a Caravan Club Certified location is permitted development and cannot be the subject of a planning application.
- 6.5 I am aware that a very small portion of the new access roadway lies within the previous application site for the mobile home, the subject of the earlier appeal decision. This does not mean that the entire roadway is controlled by the previous planning condition preventing commercial activity. The development requires planning permission solely because it is an engineering operation in its own right. The fact that caravans may pass over a small portion of the earlier appeal site has no bearing on the determination of this current application and is not a material planning consideration.
- 6.6 It has been brought to my attention that the existing septic tank is in a different location to that permitted by the Inspector at appeal under planning reference TM/11/02655/FL and the subsequent reserved detail application TM/13/01885/RD. Again, this does not have any direct bearing on the determination of the current application; this issue is currently being investigated and any further information in this regard will be reported as a supplementary matter.
- 6.7 Local residents are also concerned about the impact of the touring caravans on the local highway network. However, as I have explained earlier within this report the use of adjacent land for such purposes does not form part of the current application; indeed the use of land for the stationing of up to 5 touring caravans operated as a Caravan Club Certified site does not require the submission of a planning application at all. I would reiterate again that such a use falls beyond the control of the planning system and does not form part of the current application. The development currently before Members for determination cannot therefore be considered in respect of this issue.

6.8 I am keenly aware of the concerns of local residents. However the objections raised to the application do not constitute material planning considerations that can have any bearing on the determination of the application for the roadway itself, which has, in my view, a negligible impact on the landscape and thus accords with national and local planning policy. Consequently, I recommend that planning permission is granted.

7. Recommendation:

7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter covering letter fm agent dated 25.03.2015, Letter Fm agent dated 10.04.2015, Supporting Information dated 10.04.2015, Location Plan dated 10.04.2015, Site Plan OF/15/1002 Proposed dated 25.03.2015.

Contact: Maria Brown

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TM/15/01023/FL: Orchard Farm Well Street East Malling West Malling Kent ME19 6JW

New access roadway from existing access roadway to serve 5 caravan pitches operated under caravan club licence and to provide access to existing septic tank

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Ditton
Ditton

570973 158496 3 March 2015

TM/15/00713/FL

Proposal: Change of use from A1 (shop) to A5 (hot food takeaway)
Location: 592 London Road Ditton Aylesford Kent ME20 6BX
Applicant: Mr Mustafa Shakir

1. Description:

- 1.1 Planning permission is sought for the change of use of the existing shop (most recently used as a dry cleaners) to a hot food takeaway within use class A5. As part of the proposal permission is also sought for the installation of ventilation equipment.

2. Reason for reporting to Committee:

- 2.1 At the request of the Ward Member, Cllr Oakley.

3. The Site:

- 3.1 The application property is the ground floor of a mid-terrace Victorian premises which fronts onto the A20 (London Road). The site is currently in use as a dry cleaners with a residential dwelling above. To either side are residential dwellings, with a fish and chip shop located at the end of the terrace to the west at number 630-632 London Road and a hairdressers shop to the eastern end at number 586 London Road. As a result the character of the local area is generally residential but with commercial activity along the London Road.
- 3.2 The application site has no parking directly associated with it; to the front of the site is a parking bay on the highway which serves residents and visitors to the existing commercial unit on a first come, first served basis.
- 3.3 The local area is of no special landscape designations.

4. Planning History (relevant):

TM/91/11104/FUL Refuse 25 November 1991

Change of use from retail shop to hot food takeaway.

TM/92/00202/FL grant with conditions 29 December 1992

new shop front

TM/92/00203/AT grant with conditions 29 December 1992

double sided projecting sign, internally illuminated fascia sign and externally illuminated forecourt sign

TM/92/10309/FUL Refuse 7 July 1992

Change of use from shop to hot food home delivery service.

TM/92/10311/FUL grant with conditions 3 July 1992

First floor rear extension.

TM/05/01768/FL Section 73A Approved 8 August 2005

Retrospective application for a sun lounge

5. Consultees:

5.1 KCC (Highways): No comment.

5.2 PC: Raise objection to the application for the following reasons:

Original comments:

- Lack of parking - there are double yellow lines outside the premises and therefore problems would occur on the A20 and surrounding roads.
- Lack of waste disposal - there is no space for a commercial rubbish bin.
- Noise and disturbance by late night use.
- Anti-social behaviour if people congregate outside the property.
- Smells
- Over intensification of takeaway outlets.
- Amount of local objections to the proposal.

5.3 Private reps: 6/0S/0X/32R raising the following points:

- Smells from the proposed use.
- There are enough food outlets in the local area.
- Pressure on existing parking and people parking on double yellow lines.

- Impact upon the junction of Orchard Grove and difficulties exiting the junction.
- Anti-social behaviour.
- Waste disposal.
- Attraction of vermin.
- Encouragement of unhealthy eating leading to health issues.
- The unit should remain as a shop which is more in character with the local area.
- Devaluation of neighbouring properties.
- People sitting in their cars on the car park of 586 London Road and on the walling to the front causing damage.
- Impact upon drains if fats etc. are put down the drains as there is already an issue.
- Question where the bins are to be located.
- Loss of the dry cleaners.
- Hours and location of deliveries.

6. Determining Issues:

- 6.1 Paragraph 17 of the NPPF states that the overarching roles of the planning system are to proactively drive and support sustainable economic development to deliver homes, businesses and industrial units and to promote mixed use developments. Paragraph 19 advises that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth; and that planning should operate to encourage and not act as an impediment to sustainable growth. It directs that significant weight should be placed on the need to support economic growth through the planning system.
- 6.2 The application site is located in an area which, to the north, is primarily residential in character. The terrace in which the proposed takeaway is located has a more mixed character with a hairdressers and a fish and chip shop situated at either end. To the south is the busy A20 London Road and an Esso petrol filling station. Due to the road noise the site is located in an AQMA. The proposed development would allow the re-use of an existing commercial unit for a further commercial use

albeit in a different use class. The site is sustainably located and, providing there would be no material harm to the locality, the development would be acceptable in principle.

- 6.3 There are minor external changes proposed to the building which include the installation of an extraction flue to the rear elevation in order to remove cooking smells. The flue would be partially visible from Orchard Grove through oblique views of the rear of the property due to the open nature of the rear of the buildings which front onto London Road. The flue has been well designed to sit in a relatively discrete location, would be of a modest size, and would sit below the ridge line of the premises, reducing its visual impact. As a result of this, the external works to the rear would not have a harmful impact upon the visual amenity of the locality.
- 6.4 In order to extract cooking smells the applicant is proposing to install a flue on the rear of the premises. This equipment would be of a sufficient specification to prevent unacceptable smells being caused to the neighbouring residential dwellings to either side or above. The extraction equipment has the potential to cause noise and disturbance in its running, although it is possible to design in solutions to overcome any adverse impact caused by noise from the unit. As such, it would be reasonable to attach a condition to any planning permission to require the submission of a noise report prior to the commencement of the use of the premises as a takeaway. This would need to include any necessary measures to mitigate against noise should these be required in order to afford an adequate level of future control.
- 6.5 The proposed hours of use seek permission for the premises to be open for business between the hours of 12:00 and 23:00 Monday to Saturday and 17:00-22:00 on Sundays and Bank and Public Holidays. The fish and chip shop at 630 London Road is open between the hours of 11:00 and 23:00 every day of the week. The site is also located adjacent to the busy A20 which results in road noise to the existing residential properties. Although the 11pm closing is relatively late, it would be in accordance with the other A5 takeaway premises within the same row of terraced properties. The use would not cause a substantial augmentation in noise and disturbance to the closest residential neighbours.
- 6.6 The application site has no direct parking provision associated with it. Parking for this existing commercial premises along with the residential dwellings is on road. The fish and chip shop and the hairdressers have created additional off road parking in the rear gardens of their premises in order to reduce their impact upon highway parking. This was not a requirement of any planning permission but rather works undertaken by the owners of the businesses to improve the parking provision to serve their businesses.

- 6.7 In considering the acceptability of the parking provision at the site it is important to take into account the existing lawful situation. The existing A1 use has a requirement for 3 off road parking spaces, equating to 1 space per 25m². This compares to a requirement of 7 car parking spaces for the A5 use, equating to 1 space per 8m². This totals an additional requirement of 4 car parking spaces to serve the proposed use.
- 6.8 Although there is a lack of off road car parking provision to serve the unit the site is located in an area where there is ample opportunity for customers to walk or use alternative means of transport. As a result of the sustainable location and the fact that the existing commercial unit does not have any off road car parking, the lack of four additional spaces would not result in a considerable increase in on road parking to an extent which would have a significant impact upon highway safety. It may be that no other changes of use along this terrace to commercial uses would be acceptable due to the cumulative impact upon demand for on road parking.
- 6.9 Several letters of objection have raised issue with parking on double yellow lines in the local area which causes a hazard for vehicles exiting Orchard Grove. The local on road parking controls have been imposed to ensure highway safety in the locality. Any person parking in an illegal manner would have the potential for penalty by either the Police or the Council's Parking Enforcement Officers.
- 6.10 Letters of objection have raised other areas of concern such as devaluation of property, litter, anti-social behaviour, lack of need for the takeaway, potential for the development to result in obesity of patrons and loss of the dry cleaners. It is not the role of planning to examine the business case for the need for a takeaway/dry cleaners in the locality, or to influence patron's eating habits. In addition, devaluation is not a material planning consideration. With regard to litter, there is a litter bin outside the site and others along London Road in close proximity to the site. If litter is dropped from the premises this is a matter which is able to be investigated outside of this planning application if/when the matter occurs.
- 6.11 Matters of access to the bins/where the bins are to be stored are a private civil matter. To store the bins on the pavement to the front of the takeaway would be on highway land; access to the rear is an issue between owners of the land involved.
- 6.12 In light of the above assessment, I conclude that the proposal is acceptable in light of the requirements of the NPPF in terms of the principle of the proposed development given its location within the urban confines. It also accords with policy CP1 of the TMBCS and policies SQ1 and SQ8 of the MDE DPD. As such, the following recommendation is put forward:

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Email dated 05.05.2015, Email dated 26.04.2015, Email dated 23.04.2015, Email dated 06.05.2015, Existing Plans and Elevations A101 dated 06.05.2015, Proposed Plans and Elevations A102 dated 06.05.2015, Proposed Plans A103 dated 06.05.2015, Other A104 dated 06.05.2015, Other A105 dated 06.05.2015, Site Plan P747/2 dated 03.03.2015, Location Plan dated 03.03.2015, Floor Plan P747/1 Existing and proposed dated 03.03.2015 subject to:

Conditions

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. Prior to the commencement of the use hereby approved the ventilation equipment as shown on drawing numbers A102, A103, A104 and A105 received 06.05.15 and detailed in e-mails from Martin Potts received 26.04.15 shall be installed and shall be retained and maintained in perpetuity.

Reason: To protect the residential amenity of the locality.

3. Prior to the commencement of development details of an acoustic assessment demonstrating noise levels from the approved ventilation unit to not exceed NR35 at the nearest noise sensitive premises/site boundary (including any flat above the proposed premises) shall be submitted to and approved in writing by the Local Planning Authority and the approved details shall thereafter be implemented prior to the commencement of the use and maintained in perpetuity.

Reason: To protect the residential amenity of the locality

4. The premises shall not be open to the public other than between the hours of 12:00 and 23:00 Monday to Saturday and 17:00 and 22:00 on Sunday and Bank and Public Holidays;

Reason: To protect the residential amenity of the locality

Contact: Kathryn Holland

TM/15/00713/FL: 592 London Road Ditton Aylesford Kent ME20 6BX

Change of use from A1 (shop) to A5 (hot food takeaway).

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