

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

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

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

21 October 2015

To: MEMBERS OF THE AREA 1 PLANNING COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 1 Planning Committee to be held in the Riverside Lounge, Angel Centre, Tonbridge on Thursday, 29th October, 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 1 Planning Committee held on 17 September 2015

Decisions to be taken by the Committee

4. Development Control 9 - 12
Introduction and Glossary
5. TM/15/01266/FL - Rear of 105, 107 and 109 St Marys Road, Tonbridge 13 - 28
6. TM/15/02641/FL - Land adjacent to 49 Garden Road, Tonbridge 29 - 42
7. TM/15/02254/FL - Land at Cannon Lane, Tonbridge 43 - 60
8. TM/14/02816/FL - Alans Hectare, Cemetery Lane, Hadlow 61 - 82
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.

Matters for consideration in Private

10. Exclusion of Press and Public 83 - 84

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

11. 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 R D Lancaster (Chairman)
Cllr V M C Branson (Vice-Chairman)

Cllr Mrs J A Anderson
Cllr Ms J A Atkinson
Cllr O C Baldock
Cllr Mrs P A Bates
Cllr P F Bolt
Cllr J L Botten
Cllr D J Cure
Cllr M O Davis
Cllr T Edmondston-Low

Cllr B T M Elks
Cllr Mrs M F Heslop
Cllr N J Heslop
Cllr M R Rhodes
Cllr H S Rogers
Cllr Miss J L Sergison
Cllr C P Smith
Cllr Ms S V Spence
Cllr F G Tombolis

This page is intentionally left blank

TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 1 PLANNING COMMITTEE

Thursday, 17th September, 2015

Present: Cllr R D Lancaster (Chairman), Cllr V M C Branson (Vice-Chairman), Cllr Mrs J A Anderson, Cllr Mrs P A Bates, Cllr P F Bolt, Cllr J L Botten, Cllr B T M Elks, Cllr Mrs M F Heslop, Cllr N J Heslop, Cllr M R Rhodes, Cllr Miss J L Sergison, Cllr C P Smith and Cllr Ms S V Spence

Apologies for absence were received from Councillors Ms J A Atkinson, O C Baldock, D J Cure, M O Davis, T Edmondston-Low, H S Rogers and F G Tombolis

PART 1 - PUBLIC

AP1 15/33 DECLARATIONS OF INTEREST

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

AP1 15/34 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 1 Planning Committee held on 30 July 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

AP1 15/35 DEVELOPMENT CONTROL

Decisions were taken on the following applications subject to the prerequisites, 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.

AP1 15/36 TM/14/03644/FL - ALEXANDER STABLES, VINES LANE, HILDENBOROUGH

Demolition of existing buildings on site and construction of 2 detached residential dwellings and associated access and landscaping at Alexander Stables, Vines Lane, Tonbridge.

RESOLVED: That the application be APPROVED in accordance with the conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health and in the supplementary report tabled at the meeting subject to

(1) The addition of conditions

12. No development shall take place until details of proposed finished floor, ridge and eaves levels of each of the dwellings have been submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved level details.

Reason: In the interests of visual amenity.

13. Prior to the commencement of the development hereby approved, arrangements for the management of demolition and construction traffic to and from the site (including hours of operation and deliveries of materials to the site) shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme unless any variation has been agreed by the Local Planning Authority in writing beforehand.

Reason: In the interests of residential amenities and highway safety.

(2) The amendment of the Informatives to read:-

1. 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. 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.

2. The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.

3. With regard to the construction phase of the development, the applicant is asked to take all reasonable steps to mitigate any impact upon surrounding residents. With this in mind, they are strongly encouraged to apply for a Section 61 Control of Pollution Act 1974 'prior

consent' notice to regulate working hours/methods. It is recommended that you contact the Environmental Health Pollution Control Team on pollution.control@tmhc.gov.uk in advance of the commencement of works to discuss this further. The applicant is also advised not to undertake construction works outside the hours of 08.00-18:00 Mondays to Fridays, 08:00-13:00 on Saturdays and not to undertake works on Sundays, Bank or public holidays. Furthermore, arrangements for the management of demolition and construction traffic to and from the site should be carefully considered in the interests of residential amenities and highway safety. With regard to works within the limits of the highway and construction practices to prevent issues such as the deposit of mud on the highway, the applicant is encouraged to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181 at an early time.

4. It is recommended that bonfires are not held at the site as this can cause justifiable nuisance for neighbours.

5. The Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in the future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

[Speakers: Mrs M Coles – Hildenborough Parish Council; Mr H Smith, Mrs E Smith, Mr D Burrows, Mr R Howe, Mrs S Howe, Mrs G Shukla, Mr D Shukla (on behalf of Mr D Davis), Mr A Rucker – members of the public; and Mr M Blythin – Agent]

AP1 15/37 TM/15/01411/FL - 22 HARDWICK ROAD, HILDENBOROUGH

Demolition of existing garage and erection of replacement two storey side extension, single storey rear extension and front porch at 22 Hardwick Road, Hildenborough.

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

[In accordance with Council and Committee Procedure Rule 8.6 of the Constitution Councillor branson asked that her vote against the recommendation to approve be recorded]

[Speakers: Mrs M Coles – Hildenborough Parish Council; Mr G Boyse – member of the public]

AP1 15/38 TM/15/01642/FL - 7 AND 8 CHURCH ROAD, HILDENBOROUGH

Proposed two storey rear and side extensions at 7 and 8 Church Road, Hildenborough.

RESOLVED: That planning permission be REFUSED for the following reason:-

1. The proposed extension by virtue of its overall footprint, bulk, siting and proximity to the boundary would be an overbearing and oppressive form of development when viewed from the main private garden area of 9 Church Road, to the detriment of their residential amenities. The proposal is therefore contrary to policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy SQ1 of the Managing Development and Environment DPD 2010 and saved policy P4/12 of the Tonbridge and Malling Borough Local Plan 1998.

[Speakers: Mr Thompson – member of the public; Mr S Hiscocks – Agent]

AP1 15/39 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 9.27 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 23 September 2015

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
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
DMPO	Development Management Procedure Order
DPD	Development Plan Document
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 2015
GPDO	Town & Country Planning (General Permitted Development) Order 2015
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
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
MWLP	Minerals & Waste Local Plan
NE	Natural England
NPPF	National Planning Policy Framework
PC	Parish Council
PD	Permitted Development
POS	Public Open Space
PPG	Planning Policy Guidance
PROW	Public Right Of Way
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
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 (as amended)
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
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

Tonbridge **558650 145487** **20 April 2015** **TM/15/01266/FL**
Vauxhall

Proposal: Demolition of existing buildings and the erection of a residential unit to provide a one bed bungalow and two bed semi-detached property with parking and landscaping
Location: Rear Of 105, 107 And 109 St Marys Road Tonbridge Kent TN9 2NL
Applicant: D B Design And Build Ltd

1. Description:

- 1.1 This planning application was deferred from APC1 on 02 July 2015 in order for Members to undertake a site inspection to assess the potential impacts of the proposed development, particularly in light of the reason for refusing planning permission on previous applications, the most recent of which is the subject of an ongoing appeal yet to be determined by the Planning Inspectorate.
- 1.2 There has been a delay in the Members' Site Inspection taking place owing to the discovery of asbestos on site and specialist advice that Members and Officers not attend the site until the material in question had been removed and the site verified as safe. We have now received that verification and have been advised that the site inspection can now be conducted. Officers are now actively working to organise the Members' Site Inspection in advance of 29 October given the delays that have already taken place whilst the applicant sought to clear the material in question. Any specific issues that arise from the Members' Site Inspection will be reported as a supplementary matter on 29 October.
- 1.3 A copy of my July report is annexed for ease of information.

2. Consultees (since 02 July):

- 2.1 Private Reps: One further letter of objection received on the following grounds:
 - Loss of privacy;
 - Loss of light;
 - Access to the site is narrow and as parking along the road is busy in the evenings, visibility will be obstructed;
 - Accessibility problems for emergency and delivery vehicles;
 - Impact on sewers (foul waste).

3. Determining Issues:

- 3.1 The issues raised in the latest representation were all discussed in detail in the previous Committee report (annexed for information). The capacity of the sewers is not a material consideration and connection to the sewer would be a matter for consideration under the Building Regulations and subject to separate consents outside the realms of planning legislation.
- 3.2 Any matters arising as a result of the Members' Site Inspection will be discussed as a Supplementary report.

4. Recommendation:

- 4.1 **Grant planning permission** in accordance with the following submitted details: Proposed Plans and Elevations DHA/10755/07 Car barn dated 05.06.2015, Site Layout DHA/10755/03 Proposed dated 17.04.2015, Proposed Floor Plans DHA/10755/04 dated 17.04.2015, Proposed Elevations DHA/10755/05 dated 17.04.2015, Section DHA/10755/06 dated 17.04.2015, Section DHA/10755/06 dated 27.04.2015, Planning, Design And Access Statement dated 17.04.2015, Contaminated Land Assessment dated 17.04.2015, Location Plan DHA/10755/01 dated 17.04.2015, Block Plan DHA/10755/02 Existing dated 17.04.2015, subject to the following conditions:

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.
- 2 No development shall take place until details and samples of 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 of the existing building or the visual amenity of the locality.
- 3 The car barn shown on plan number DHA/10755/07 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.
- 4 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 2015

(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.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C and D of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

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

- 6 No development shall take place until details of the finished floor levels of all buildings hereby approved have been submitted to and approved by the Local Planning Authority and the work shall be carried out in strict accordance with those details.

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

- 7 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.

- 8 The scheme of landscaping and boundary treatment shown on the approved plans shall be carried out in accordance with the approved plans.

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.

Informatives:

- 1 It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained.
- 2 The applicant is advised to contact the Health and Safety Executive for advice concerning the demolition of the existing building.
- 3 The applicant is advised that the proposed hardstanding is to be constructed of porous material or provision should be made to direct water run-off from the hard surface to a permeable or porous area within the curtilage of the dwellinghouse(s).
- 4 No waste material should be burnt on site.
- 5 Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/box should be stored within the boundary of the property and placed at the nearest point to the public highway on the collection day.
- 6 With regard to the construction phase of the development, the applicant is asked to take all reasonable steps to mitigate any impact upon surrounding residents. With this in mind, they are strongly encouraged to apply for a Section 61 Control of Pollution Act 1974 'prior consent' notice to regulate working hours/methods. It is recommended that you contact the Environmental Health Pollution Control Team on pollution.control@tmbc.gov.uk in advance of the commencement of works to discuss this further. The applicant is also advised to not undertake construction works outside the hours of 08.00 -18:00 Mondays to Fridays, 08:00-13:00 on Saturdays and to not undertake works on Sundays, Bank or public holidays. Furthermore, arrangements for the management of demolition and construction traffic to and from the site should be carefully considered in the interests of residential amenities and highway safety.

- 7 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited 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. 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.

Contact: Vicky Bedford

This page is intentionally left blank

White Oak Close to the west. It is located within relatively close proximity to Tonbridge Town Centre.

- 3.2 The site currently contains a cluster of small, single storey commercial units, which are rather derelict and dilapidated in nature and have been out of use for some time. The last known use of the site was for a small printing business, which ceased to operate some time ago.
- 3.3 The area is characterised by steeply sloping streets running parallel to Quarry Hill, benefiting from long views northwards across Tonbridge towards Sevenoaks Ridge.
- 3.4 The access driveway into the site, which has been established for many years, is positioned between 105 and 107 St Marys Road.

4. Planning History (relevant):

TM/66/10260/OLD grant with conditions 3 March 1966

Re-building of store and lavatory accommodation.

TM/70/10139/OLD grant with conditions 14 December 1970

Rebuilding of workshop and garage.

TM/79/11132/OLD Application Withdrawn 3 March 1979

Section 53 determination for use of premises for the operation of a small printing business.

TM/79/11286/FUL grant with conditions 29 August 1979

Rebuilding of workshop.

TM/14/00943/FL Refuse 26 August 2014

Demolition of existing buildings and construction of 2 no. dwellings with associated parking and landscaping

TM/14/03340/FL Refuse 19 November 2014

Demolition of existing buildings, erection of 2 x one and a half storey dwellings, with associated parking and landscaping

5. Consultees:

5.1 KCC Highways: No objections.

5.2 Private Reps: 15/0X/2R/0S. Objections are raised on the following grounds:

- Reducing the size of one property to a bungalow appears to be to placate the properties on the St Marys Road side, with the hope that they will get one big house at least – it may be easier to get away with impacting the life of an elderly couple with a house built next door to their garden fence.
- The second application reduced the size of both proposed properties, whilst this application now reverts to one of the properties going back to the size of the original application – surely this is bordering on madness?
- Any properties built above bungalow size have a huge environmental effect on neighbouring properties.
- Although it makes more sense for this area to be used for commercial rather than residential I could see a couple of bungalows as a compromise.
- The proposed development by virtue of its size, massing and bulk combined with its close proximity to the boundary shared with the immediate neighbours (107 and 109 St Marys Road), and when considering the very limited size of these neighbouring rear gardens would result in a dominant and oppressive form of development when viewed from the main private garden areas enjoyed by those neighbours, to the detriment of their residential amenities.

6. Determining Issues:

6.1 The delivery of new housing lies at the heart of the NPPF, with the supply for housing to meet need expressed as one of the core roles which the planning system must perform to achieve sustainable development. It states that best use should be made of opportunities within existing urban areas to meet housing need by encouraging the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value (paragraph 111). This is generally supported by policy CP1 of the TMBCS which states that development should be concentrated at the highest density compatible with the local built and natural environment, mainly on previously developed land and served by sustainable modes of transport. Policy CP11 of the TMBCS states that development should be concentrated in urban areas where there is greatest potential for the re-use of previously developed land. Development in urban areas can also minimise the need to travel by being located close to existing services, jobs and public transport. Annex 2 of the NPPF defines, for planning purposes, that previously developed land is “land which is or was occupied by a permanent structure; including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated

fixed surface infrastructure...". The land therefore constitutes previously developed land (PDL).

- 6.2 This part of St Marys Road is predominantly characterised by semi-detached and terraced dwellinghouses of a mixture of designs and styles. Many of these, including the properties located directly to the east, have very small rear garden spaces measuring approximately 5m at the shortest section, increasing to a maximum of approximately 8.7m. With this in mind, I do not consider that the proposed density of development and the relatively compact private curtilage areas proposed are out of keeping with the prevailing pattern of development in the locality. I am also satisfied that the proposed development would not represent an overdevelopment of the site.
- 6.3 With these factors in mind, the broad principle of development of this nature is acceptable, having regard to the specifics of the scheme which need consideration.
- 6.4 Policy CP24 of the TMBCS requires good design and quality in new developments, and a respect for the site and its surroundings. This is supported by policy SQ1 of the MDE DPD 2010, which states that all new development proposals should protect, conserve and where possible enhance:
- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
 - the distinctive setting of and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.
- 6.5 It is my view that the proposed development has been carefully considered in order to address the previous refusals of planning permission, particularly bearing in mind the constrained nature of the plot. The creation of a building which is single storey at the point closest to the nearest neighbours, stepping up to two storey, acknowledges those constraints well and, whilst representing a somewhat unusual design approach, reflects the height and scale of the existing buildings at this point within the site. I therefore consider that the proposed building is acceptable in visual terms.
- 6.6 The proposed two storey element of the semi-detached pair is proposed to be located approximately 1m from the boundary with the rear gardens of the neighbouring properties in White Oak Close. The degree of separation at this point ensures that the building at its highest point would not have an overbearing or dominant impact on these neighbouring properties, particularly when considering that the most direct relationship will be with the very end portions of the gardens in question.

- 6.7 No first floor flank windows are proposed which could have the potential to create overlooking meaning there would not be any loss of privacy arising from the proposal.
- 6.8 The previous refusals of planning permission centred on the impact on the residential amenities of the properties fronting St Marys Road and these refusals form an important material planning consideration. This latest scheme has significantly reduced the scale of the proposed development at the point closest to these neighbours in an attempt to overcome these concerns. At this point, the development now reflects the siting and height of the existing building on site and would, in my view, have no more of an impact on outlook than the existing building. The taller part of the building, which is still substantially reduced in overall height when compared to the refused schemes, is significantly set away from the boundary shared with these properties which ensures that it would not be an oppressive form of development.
- 6.9 Policy SQ8 of the MDE DPD states that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network. Paragraph 32 of the NPPF requires that decisions should take account of whether a safe and suitable access to the site can be achieved for all people and states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The proposals include the retention of the existing access way and arguably would be used on a less intensive basis than might have historically occurred when the site was operating on a commercial basis (or certainly if it was operating at capacity within its lawful planning use). In terms of parking provision to serve each of the units, IGN3 requires 1 space per unit, which has been achieved by this scheme.
- 6.10 It must be acknowledged that the previous commercial uses of the site have resulted in the potential for land to have become contaminated. I am also aware that highly fragmented asbestos sheeting with visible fibres has been identified on site. This requires careful management which can be secured by planning condition to ensure that any necessary remediation is undertaken in a controlled manner.
- 6.11 In light of the above considerations, I consider that the proposed scheme responds positively to the constrained nature of the site in order to successfully overcome the previous reasons for refusal and meets the requirements of the NPPF and LDF. As such, the following recommendation is put forward:

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details:
Proposed Plans and Elevations DHA/10755/07 Car barn dated 05.06.2015, Site Layout DHA/10755/03 Proposed dated 17.04.2015, Proposed Floor Plans DHA/10755/04 dated 17.04.2015, Proposed Elevations DHA/10755/05 dated

17.04.2015, Section DHA/10755/06 dated 17.04.2015, Section DHA/10755/06 dated 27.04.2015, Planning, Design And Access Statement dated 17.04.2015, Contaminated Land Assessment dated 17.04.2015, Location Plan DHA/10755/01 dated 17.04.2015, Block Plan DHA/10755/02 Existing dated 17.04.2015, subject to the following conditions:

Conditions

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

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

2. No development shall take place until details and samples of 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 of the existing building or the visual amenity of the locality.

3. The car barn shown on plan number DHA/10755/07 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.

4. 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 2015 (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.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C and D of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

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

6. No development shall take place until details of the finished floor levels of all buildings hereby approved have been submitted to and approved by the Local Planning Authority and the work shall be carried out in strict accordance with those details.

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

7. 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.

8. The scheme of landscaping and boundary treatment shown on the approved plans shall be carried out in accordance with the approved plans.

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.

Informatives:

1. It is the responsibility of the applicant to ensure, before the development hereby

approved is commenced, that all necessary highway approvals and consents where required are obtained.

2. The development involves demolition and owing to the likelihood of the existing building containing or being constructed of asbestos the applicant is advised to contact the Health and Safety Executive for advice. Any asbestos found on site must be removed in a controlled manner by an appropriately qualified operator.
3. The applicant is advised that the proposed hardstanding is to be constructed of porous material or provision should be made to direct water run-off from the hard surface to a permeable or porous area within the curtilage of the dwellinghouse(s).
4. No waste material should be burnt on site.
5. Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/box should be stored within the boundary of the property and placed at the nearest point to the public highway on the collection day.
6. With regard to the construction phase of the development, the applicant is asked to take all reasonable steps to mitigate any impact upon surrounding residents. With this in mind, they are strongly encouraged to apply for a Section 61 Control of Pollution Act 1974 'prior consent' notice to regulate working hours/methods. It is recommended that you contact the Environmental Health Pollution Control Team on pollution.control@tmbc.gov.uk in advance of the commencement of works to discuss this further. The applicant is also advised to not undertake construction works outside the hours of 08.00 -18:00 Mondays to Fridays, 08:00-13:00 on Saturdays and to not undertake works on Sundays, Bank or public holidays. Furthermore, arrangements for the management of demolition and construction traffic to and from the site should be carefully considered in the interests of residential amenities and highway safety.
7. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited 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. 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.

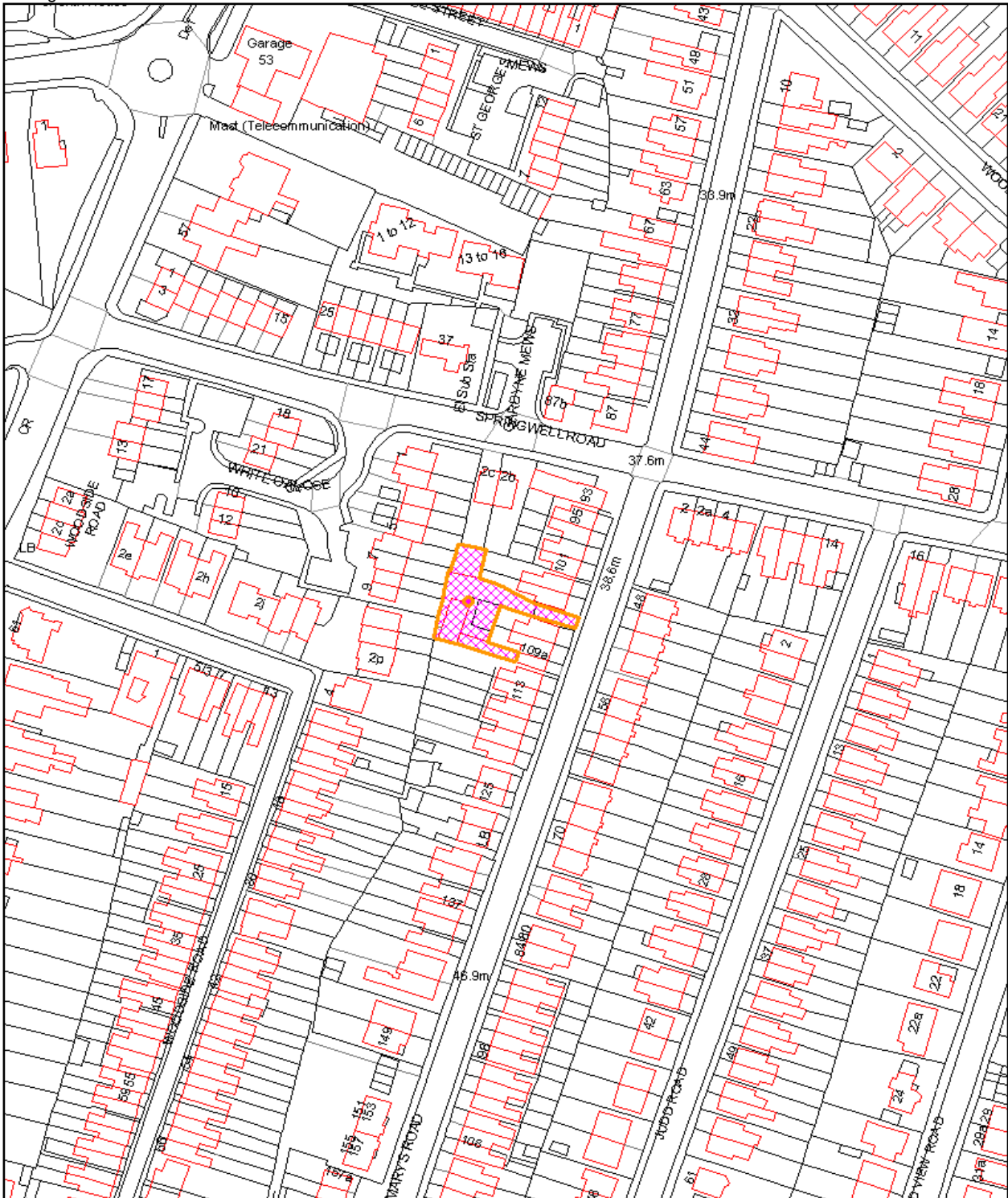
Contact: Vicky Bedford

TM/15/01266/FL

Rear Of 105, 107 And 109 St Marys Road Tonbridge Kent TN9 2NL

Demolition of existing buildings and the erection of a residential unit to provide a one bed bungalow and two bed semi-detached property with parking and landscaping

For reference purposes only. No further copies may be made. ©Crown copyright. All rights reserved. Tonbridge and Malling Borough Council Licence No. 100023300 2015.



This page is intentionally left blank

Tonbridge **559599 146851** **12 August 2015** **TM/15/02641/FL**
Medway

Proposal: Demolition of existing detached double garage and erection of a detached dwellinghouse with associated access and parking facilities
Location: Land Adjacent To 49 Garden Road Tonbridge Kent TN9 1PT
Applicant: Mr & Mrs N Palmer

1. Description:

- 1.1 Planning permission is sought for the construction of a detached 4 bedroom dwelling house with associated access and parking facilities, along with the replacement of the driveway of No.49 following the subdivision of the site.
- 1.2 The proposed dwelling will be constructed from brickwork at ground floor level with white weatherboarding at first floor. A barn hipped roof is proposed to be constructed from clay roof tiles, and incorporates 2 x pitched roof dormer windows within the front elevation and 3 x roof lights within the rear elevation.
- 1.3 The proposed driveway for the new dwelling is shown to provide off-street parking for two cars, along with a timber bin store sited to the north east corner.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllr Lancaster given the nature of the development and concerns from local residents regarding overdevelopment of the site and the impacts of the development on the Garden Road.

3. The Site:

- 3.1 The site lies within the built confines of Tonbridge, with Garden Road comprising entirely residential properties although the wider area contains a greater mix of uses.
- 3.2 Garden Road itself consists of a range of property styles, varying from rows of small, narrow terraced properties to comparatively larger dwellings within larger plots.
- 3.3 Cannon Lane lies beyond the Mill Stream, to the east of the application site, which contains a variety of retail and commercial premises and, more recently, residential properties. The land between the stream and Cannon Lane is a landscaped area which is a prominent feature within the street scene when viewed from Cannon Lane.
- 3.4 The site lies within Flood Zone 2.

- 3.5 The site lies to the immediate north of the Tonbridge Conservation Area and Grove House and Grove Cottage which are Grade II Listed Buildings.
- 3.6 Immediately to the south east of the application site are No's 51 and 52 Garden Road, which were granted planning permission on 14 February 2011 (reference TM/10/03146/FL). These properties are a semi-detached pair constructed with brick and white weatherboarding.
- 3.7 Further to the west, closer to the entrance into Garden Road, are other new dwellings adjacent to No.21 Garden Road, which were granted permission in 2013 and 2014 (reference numbers TM/13/03469/FL and TM/13/03467/FL respectively).
- 3.8 The trees to the front of the application site are protected by a Tree Preservation Order.

4. Planning History (relevant):

TM/10/03146/FL Approved 14 February 2011

Erection of a pair of 2 No. semi-detached dwellinghouses with associated access and parking facilities

5. Consultees:

- 5.1 Environment Agency: Based on the Flood Risk Assessment (FRA) provided (Ref 2225, June 2015), we have no objection to the demolition of this garage and replacement with a new detached house.

The FRA has stated that finished floor levels will be at least 600mm above the 1 in 100 year plus climate change flood level and that evacuation is possible.

Since the submission of this FRA, new updated flood modelling has been released. This shows that the 1 in 1000 year flood level for the location of the new property is 21.98mAoD. We can only advise that finished floor levels are set at an appropriate amount above the design flood level, however the 1 in 1000 flood level should also be considered.

- 5.2 KCC (H+T): An application of this scale would not warrant a legitimate concern in terms of traffic generation.

Garden Road is a residential road over its entire length from Hadlow Road to its end adjacent to Cannon Lane. The road is narrow and thereby subject to slow traffic speeds. I can report that there have been no injury crashes on Garden Road for at least the last 9 years. The last injury crash (slight) in the vicinity of Hadlow Road with Garden Road was in 2010.

There is no evidence of indication that this proposal will constitute a road safety hazard and no objections are raised.

5.3 Private Reps 4 + Site + Press Notice/0X/4R/0S. Objections have been raised on the following grounds:

- Overdevelopment of the site – the application results in a small poor quality dwelling and awkwardly shaped rear garden;
- The scale and proportions are out of keeping with surrounding properties;
- The garage is subservient to the development, but the new dwelling will not be;
- The building line of the two neighbouring properties has been ignored, adding to a dominance in the street scene;
- The building should be reduced in size by 1 storey and set further back to reduce its dominance;
- The application does not offer a well-considered and cohesive plan;
- The submitted plan fails to provide a true reflection of the development as Nos 51 and 52 are omitted from the plan;
- No objection to the additional property, but concerned at another development in this tight and crowded road;
- Strong potential for road traffic accidents;
- The road should be resurfaced by the developer as it's in very poor condition, exacerbated by numerous recent developments;
- Residents have previously been promised that the road will be resurfaced;
- Road restrictions and traffic calming measure should be put in place – sleeping policeman, 20mph speed limit, double yellow lines;
- Parking in the road causes a problem;
- As the road is narrow it does not permit two vehicles to pass each other - a full traffic management and delivery plan should be put in place to minimise disruption to residents;
- Consideration should be given to re-modelling the entrance/exit onto Bordyke/Hadlow Road, as there is potential for accidents;
- An investigation should be carried out of 3 new outlet pipes from the new properties adjacent to this plot, which appear to drain into Mill Stream;
- The submitted Contaminated Land Risk Assessment is dated September 2010 and makes no reference to the two new properties;

- The previous development adjacent to the site is being marketed as 4 rather than 3 bed dwellings as approved;
- Further developments along this narrow section of road, which does not have a pavement will increase the risk to pedestrians;
- Residents have been subjected to continued disruption in the past 3 years and the proposals will lead to more disruption;
- The proposed site is not suited to another build, due to its location and the narrowness of the road;
- It will be almost impossible for No.49 to reverse out of their drive;
- There is no turning area at the end of the road causing difficulties in manoeuvrability;
- The contractor/developer should meet with local residents on a monthly basis and a newsletter should be provided to keep residents informed of planned works.

6. Determining Issues:

- 6.1 The delivery of new housing lies at the heart of the NPPF, with the supply for housing to meet need expressed as one of the core roles which the planning system must perform to achieve sustainable development. It states that best use should be made of opportunities within existing urban areas to meet housing need by encouraging the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value (paragraph 111). The NPPF defines previously developed land as being land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. As the proposed new dwelling will replace an existing detached garage the site is considered to constitute previously developed land for the purposes of applying the NPPF in this respect.
- 6.2 Policy CP1 of the TMBCS states that development should be concentrated at the highest density compatible with the local built and natural environment mainly on previously developed land and served by sustainable modes of transport. Policy CP11 of the TMBCS states that development should be concentrated in urban areas where there is greatest potential for the re-use of previously developed land. Development in urban areas can also minimise the need to travel by being located close to existing services, jobs and public transport. With the above considerations in mind, the principle of the proposed development is broadly acceptable in policy terms.

- 6.3 Policy CP24 of the TMBCS relates to achieving a high quality built environment including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:
- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
 - the distinctive setting of, and relationship between, the pattern of settlement roads and the landscape, urban form and important views.
- 6.4 The NPPF attaches great importance to the design of the built environment, stating that good design is a key aspect of sustainable development and is indivisible from good planning (paragraph 56). It also stresses the need for development to respond positively to local character, reflecting the identity of local surroundings whilst not discouraging innovation (paragraph 58).
- 6.5 Paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case the adjacent listed wall (attached to Grove House) and Conservation Area). Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance of such an asset can be harmed or lost through alteration of the asset or through development within its setting.
- 6.6 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that there is a general duty when carrying out any functions under the Planning Acts with respect to any buildings or other land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In this case, as the site is adjacent to the Conservation Area, particular regard must be had to its setting.
- 6.7 The Tonbridge Character Area Appraisal describes this area as being "enclosed" and "compact", referencing the Victorian cottages which form the entrance to Garden Road as being "*set close to the road behind narrow paved, unenclosed frontages*" with the southern end comprising "*a small development of clustered modern housing*", having a "*quiet residential character*". The character of the road is strengthened by barge boards, slate and tiles roofs, chimneys and contrast brickwork. This character has been reflected in more recent years by several infill developments along the road.
- 6.8 The layout of the proposed dwelling within its plot has been conceived to ensure that it follows the established pattern of development along this section of Garden Road. Furthermore, there would be sufficient separation between the new

dwelling and the site boundaries. The dwelling would be served by a front curtilage comprising two off-street parking spaces (side by side), a decked area immediately behind the house and a rear garden beyond. Whilst relatively small, this would be a sufficient and functional space to serve the related dwelling. For these reasons, I do not consider that the proposal would amount to an overdevelopment of the site, nor would it appear cramped within the plot and, as such, it is of a size and layout commensurate with the prevailing built environment.

- 6.9 The proposed dwelling has been designed to take direct reference from the pair of dwellings immediately adjacent to the site, incorporating a hipped roof (clay tiles), small front dormers, weatherboarding and a chimney stack. Such features will provide visual cohesiveness and ensure that the proposed dwelling successfully integrates within the street scene. The proposed finished floor levels mean that the dwelling would be very slightly higher at its ridge than the new pair of semi-detached dwellings but slightly lower than the ridge of 49 Garden Road. As such, the building would not appear as an incongruous feature within the street scene as a result of its height.
- 6.10 With the above factors in mind, I consider that the proposed dwelling in terms of its layout, built form, scale and detailed design has been well conceived and responds positively to the surrounding built environment. For these reasons, I also consider that the setting of the adjacent Conservation Area would be suitably preserved. Similarly, the setting of the listed brick wall would not be adversely affected by the proposals, and no physical works are proposed to it.
- 6.11 Protected trees sited along the site frontage are shown to be retained which is visually appropriate.
- 6.12 Internally, the dwelling has been arranged in such a way as to ensure that windows serving habitable rooms will not result in any overlooking of neighbours. The windows on the flank wall are shown to be obscure glazed to ensure that there will be no loss of privacy arising from the development. Similarly, the layout of the dwelling within its plot and its specific relationship with the immediate neighbours is such that there would not be any overshadowing or loss of daylight/sunlight arising from the proposal.
- 6.13 Policy CP2 of the TMBCS requires new development to be well located relative to public transport, cycle and pedestrian routes and with good access to local service centres. Local residents have raised concerns that the development will give rise to extra traffic and demand for parking which is at a premium. More generally, I am aware that there is ongoing concern that incremental infill developments along Garden Road have had implications in this regard in recent years. The vehicular access to serve the new dwelling is to remain as existing (currently the access serves the garage) and parking for 2 vehicles will be provided within the front curtilage. Furthermore, replacement parking is to be provided to serve No. 49

within its existing front garden meaning that both dwellings will be served by a level of parking which accords with the adopted standards.

- 6.14 Residents have stated that the developer should be required to produce a construction management plan to minimise disruption for local residents during construction. Whilst the proposed development is relatively minor, Garden Road is a narrow, no-through road and, with this in mind, it would be appropriate in the circumstances to require the applicant to provide a demolition and construction management plan. This can be secured by planning condition. Residents have also stated that the road should be resurfaced and traffic calming measures and alterations to the access should be put in place. Given the nature and scale of the development proposed by this application, such off-site measures could not reasonably be required of the developer in this instance.
- 6.15 The site lies within Flood Zone 2. In principle dwellinghouses are considered to be an acceptable form of development within this flood zone provided that measures are incorporated to ensure suitable built levels, provision is made for appropriate means of escape and that the building is designed in a way that minimises flood risk. The proposed dwelling will be constructed at an acceptable level, and this is accepted by the EA. Furthermore, the proposed vehicle parking areas are shown to be constructed with block paving and 'Core Drive' interlocking panels filled with gravel which is good practice in areas such as this.
- 6.16 The proposed new dwelling is located within relatively close proximity to Cannon Lane meaning that noise impact on the future occupants of the dwelling is a key consideration. It is considered that suitable acoustic protection measures can be designed in to the building in order to achieve an acceptable aural environment and such details can be required by planning condition.
- 6.17 The planning application is accompanied by a report in respect of contaminated land which is deemed to be fit for purpose and, given that the garage has always been in residential use rather than for any commercial purposes, there is a low risk of the site being contaminated. As such, I would recommend that a condition be attached to any permission granted to ensure that works stop in the event that any unsuspected contamination is found to allow for a remediation strategy to be brought forward for approval. In light of the above assessment, I consider that the proposal fully meets the requirements of the NPPF and Local Development Framework and I therefore recommend that planning permission be granted subject to conditions.

7. **Recommendation:**

Grant Planning Permission in accordance with the following submitted details: Flood Risk Assessment 2225 June 2015 dated 12.08.2015, Contaminated Land Assessment dated 12.08.2015, Documents Certificate of Analysis dated 12.08.2015, Planning Statement dated 12.08.2015, Statement Validation dated 12.08.2015, Photograph Brick sample dated 12.08.2015, Report Laboratory

dated 12.08.2015, Report Environmental Search dated 12.08.2015, Other Historic Maps 1 to 14 dated 12.08.2015, Plan TR-49 GARDEN ROADS-15 Arboricultural Statement dated 12.08.2015, Floor Plans And Elevations 2344-14-PL001 P6 dated 12.08.2015, subject to the following conditions:

Conditions:

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

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

- 2 No development shall take place above other than the demolition of the existing garage until details and samples of 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 visual amenity of the locality.

- 3 The development shall be constructed at the level indicated on drawing number 2344-14-PL001.

Reason: In the interests of amenity, privacy and flood mitigation.

- 4 Within 3 months of commencement of development full details of a scheme of acoustic protection of habitable rooms of the building have been submitted to and approved in writing by the Local planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels are in accordance with BS8233:2014. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

Reason: In the interests of aural amenity of the occupants of the new dwelling.

- 5 If during development, ground contamination is found to be present at the site, then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of protection of the environment and harm to human health in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, B, C, D

or E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To prevent over development of the site, in the interests of visual and residential amenity.

- 7 The new dwelling hereby approved shall not be occupied, until the area shown on drawing number 2344-14-PL001 as vehicle parking space to serve that dwelling 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 2015 (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.

- 8 Within one month of the commencement of the development hereby approved until the parking area shown on drawing number 2344-14-PL001 to serve No.49 Garden Road shall be 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 2015 (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.

- 9 A clear, unobstructed access route from the dwelling to the highway should be provided to secure an exit route from the site under flood conditions.

Reason: To significantly reduce the risk to life and avoid entrapment on the site.

- 10 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.

- 11 The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

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.

- 12 The windows on the north west flank elevation shall be fitted with obscured glass and, apart from any top-hung light, shall be non-opening. This work shall be effected before the extension is occupied and shall be retained thereafter.

Reason: In the interests of residential amenity.

- 13 The proposed driveway is to be constructed of a porous material or provision should be made to direct water run-off from the hard surface to a permeable or porous surface within the curtilage of the dwellinghouse.

Reason: To ensure that the development is in accordance with National requirements and does not increase the risk of flooding in the area.

- 14 Prior to the commencement of the development hereby approved, arrangements for the management of demolition and construction traffic to and from the site (including hours of operation and deliveries of materials to the site) shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme unless any variation has been agreed by the Local Planning Authority in writing beforehand.

Reason: In the interests of residential amenities and highway safety.

Informatives

1. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited 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. 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.

2. If the development hereby permitted involves the carrying out of building work or excavations along or close to a boundary with land owned by someone else, you are advised that, under the Party Wall, etc Act 1996, you may have a duty to give notice of your intentions to the adjoining owner before commencing this work.
3. The applicant is advised that the Local Authority operates a back edge of public highway refuse collection service. Bins should therefore be moved to the boundary of the site close to the public highway for use on collection day.
4. With regard to works within the limits of the highway, the applicant is asked to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181.
5. The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions
6. 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.
7. The development involves demolition and owing to the likelihood of the garage containing or being constructed of asbestos the applicant is advised to contact the Health and Safety Executive for advice. Any asbestos found on site must be removed in a controlled manner by an appropriately qualified operator.

Contact: Vicky Bedford

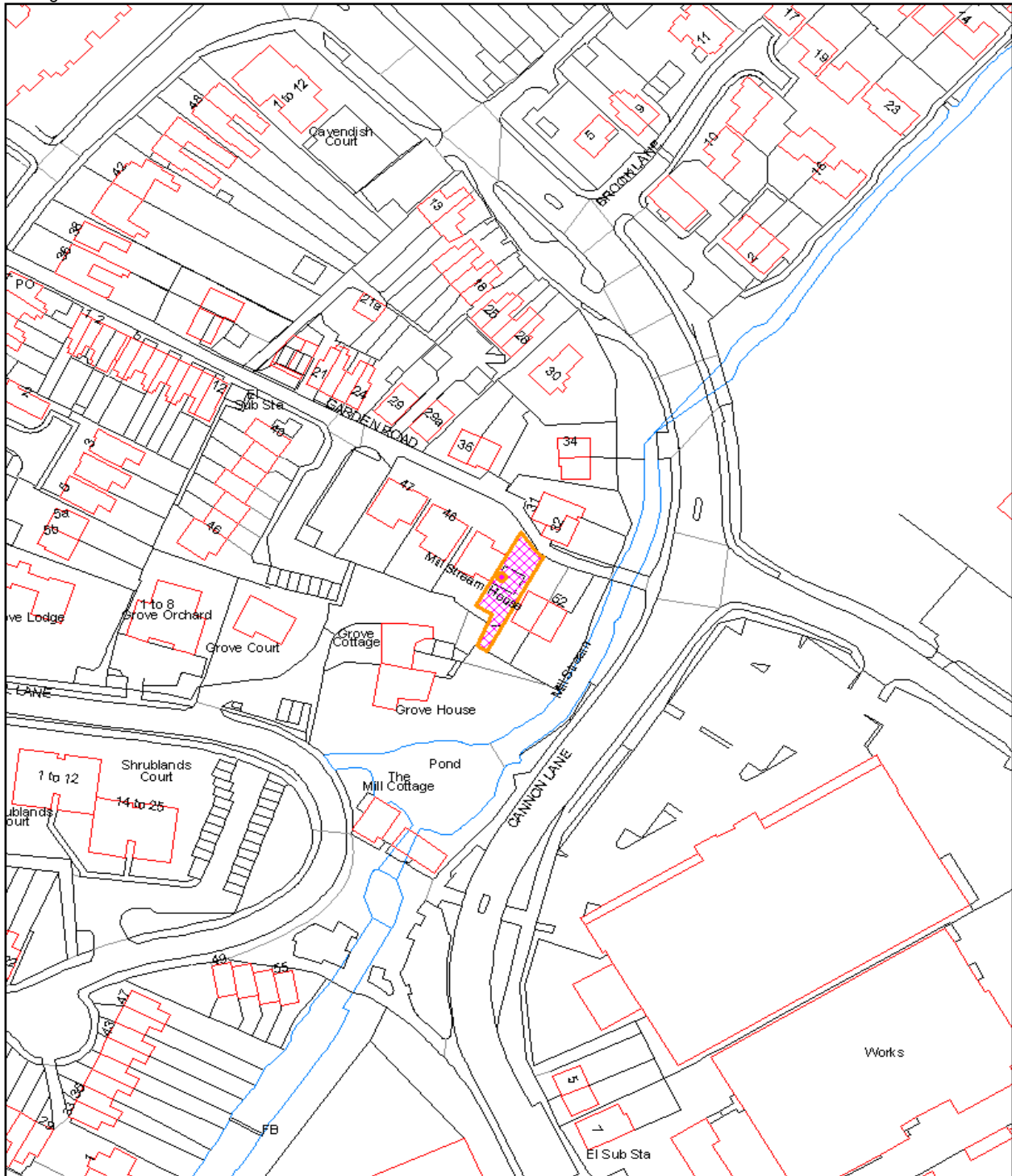
This page is intentionally left blank

TM/15/02641/FL

Land Adjacent To 49 Garden Road Tonbridge Kent TN9 1PT

Demolition of existing detached double garage and erection of a detached dwellinghouse with associated access and parking facilities

For reference purposes only. No further copies may be made. ©Crown copyright. All rights reserved. Tonbridge and Malling Borough Council Licence No. 100023300 2015.



This page is intentionally left blank

- 1.6 It is proposed that the drive-thru and restaurant will operate 24 hours per day, seven days a week. The application does detail, that on a corporate level, there is some flexibility with opening hours where specific amenity issues dictate otherwise; however, the applicant has proposed 24hr use in this case. The peak periods are cited as being typically lunchtimes, followed by evenings and breakfasts.
- 1.7 Outdoor areas will be landscaped to provide external space that includes furniture for outside dining, children's play equipment (including an outdoor climbing area), paved and tactile surfacing, together with railings to separate pedestrian and vehicle areas. Planting species will be incorporated to soften the building into its locality, whilst maintaining security and retaining views of the restaurant building.
- 1.8 The application details that servicing of the restaurant would be undertaken by a dedicated supplier, and will take place approximately 3 times per week, lasting between 15 – 45 minutes depending on the delivery required.
- 1.9 The application documents detail that drive-thru restaurants, such as that proposed here, typically employ more than 56 full and part-time staff.
- 1.10 This application follows the grant of planning permission in 2014 (reference TM/14/01635/FL) which established the principle of a restaurant/drive-thru facility at this site alongside retail warehousing. That permission remains un-implemented and extant until July 2017.
- 1.11 Separate Advertisement Consent applications (for building fascia and freestanding totem signage) for the proposed McDonald's facility are currently pending consideration. These will be subject to further discussions with the applicant and will be determined following a decision on this planning application.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllr. Lancaster given the significance of the proposals and the public interest it will generate from residents close by and others in the town.

3. The Site:

- 3.1 The site comprises approximately 0.52 hectares of land located on the eastern side of Cannon Lane. Adjacent to the site to the north there are a pair of semi-detached residential dwellings (5 & 6 Cannon Lane) and the Cannon Lane/Swanmead Way Retail Park (former Homebase, Carpet Right, etc.).
- 3.2 To the south and east are industrial units (Tonbridge Accident Repair Centre, Travis Perkins, Cannon Bridge Industrial Estate) and to the west, on the opposite side of Cannon Lane, lie B&Q and Halfords, adjacent to which lies 'Blossom Bank', a new residential development. The ground floor road frontages of the 'Blossom

Bank' development include a recently opened Subway and a new fitness gym (The Strength and Conditioning Institute).

4. Planning History (relevant):

TM/12/01775/FL Approved 7 December 2012

Demolition of existing office buildings and former print works and erection of retail floorspace with ancillary car parking, servicing and landscaping

TM/14/01635/FL Approved 18 July 2014

Demolition of existing office buildings and former printing works and erection of two retail Units (Use Class A1) and a restaurant /cafe and drive thru (Use Class A3/A5) Unit with ancillary car parking, servicing and landscaping

TM/15/02021/FL Approved 12 August 2015

Demolition of existing building and works to exposed face of building to remain

TM/15/02251/AT Pending decision

Installation of various signage (including 1 no. gateway, 1 no. side by side directional, 11 no. freestanding signs, 2 no. banner signs and 16 no. dot signs) associated with McDonalds restaurant/ drive thru

TM/15/02252/AT Pending decision

Installation of 6 no fascia signs associated with new McDonalds restaurant /drive-thru

TM/15/02253/AT Pending decision

Installation of freestanding 12m high totem sign associated with new McDonalds restaurant /drive-thru

5. Consultees:

5.1 KCC (Highways and Transportation): Subject to S278 works previously agreed being undertaken and completed prior to commencement, there are no objections on highway grounds since the proposals will not contribute to severe levels of new traffic on the highway network at peak times. It is recommended that a condition be imposed to require all deliveries to be undertaken off the public highway (as proposed within the application).

5.2 Environment Agency: Raise no objections, subject to the imposition of conditions to cover: (i) the development being carried out in accordance with the Flood Risk

Assessment details (including that finished floor levels are set no lower than 21.243m AOD and mitigation measures being implemented prior to occupation); and (ii) ground contamination.

5.3 Kent Police (Crime Prevention Design Advisor): Gives general advice relating to measures to design out crime and improving community safety within new developments, specifically in relation to Secure by Design principles.

5.4 Private Reps: 15/0X/2R/1S + site notice. The main points of objection and support can be summarised as follows:

Objection

- How can a 24hr drive-thru facility be proposed in this location – in this context concerns have been raised regarding the late night use of the premises and the associated potential for anti-social behaviour and noise problems;
- There is already a significant issue with speeding along Cannon Lane, which in the middle of a quiet night can cause significant noise. The proposed 24hr use will only exacerbate this problem;
- Given the population and habits of a town like Tonbridge, questions what benefit at all, either on an environmental, financial or community basis, will a new 24hr McDonald's provide;
- Whilst there may be more retail units being built in the surrounding area, there is also an increasing residential population that must be considered (*emphasis placed on the residents of Blossom Bank*);

Support

- States that the adjoining business (Tonbridge Accident Repair Centre) is in direct contact with the applicant and have enjoyed good open dialogue with them on any potential issues. Consequently, the applicant has agreed to erect some form of protective bollards between the rear of the building (eastern elevation) and their drive-thru road. This will provide essential protection to prevent any vehicles from striking the rear of our building;
- In the circumstances, we are only too pleased to offer our full support to this application.

6. Determining Issues:

6.1 Firstly, in terms of the consideration of the relevant planning issues for this proposal, regard must be had to the extant 2014 planning permission for this site (TM/14/01635/FL). That permission, which remains un-implemented and more importantly extant until July 2017, allows for the erection of two retail warehouse units (Use Class A1) and a restaurant/café with drive-thru facility (Use Class

A3/A5) with ancillary car parking, servicing and landscaping. The principle of a drive-thru restaurant at this site has therefore already been established in land use planning terms.

- 6.2 As part of that earlier permission, the operator of the drive-thru restaurant/café was not known and therefore the approved building was a fairly generic restaurant/drive-thru building. The consented drive-thru restaurant building was shown to be two storeys in height, with a total floor area of circa 570 sq. metres. By comparison, the proposed McDonald's drive-thru/restaurant building would be single storey in height and have a smaller floor area (circa 440 sq. metres) than the previously consented drive-thru restaurant building (circa. 570 sq. metres). Unlike the earlier scheme, the site would be used solely used in connection with the McDonald's drive-thru/restaurant, as opposed to containing the two previously approved retail warehouse units (with floor areas of 890 sq. metres and 750 sq. metres respectively).
- 6.3 It is also important to note that whilst the extant permission (TM/14/01635/FL) imposed a number of planning controls on that development, it did not seek to impose any limitations on the hours of operation in which the drive thru restaurant/café could trade. At that time, and notwithstanding the 'Blossom Bank' development that was just starting to be occupied, it was concluded that, given the general industrial character of the area and factoring in the previous un-restricted industrial use of the site, there were no justified noise grounds to limit operational hours of the restaurant/drive-thru facility.
- 6.4 It is therefore imperative that these factors form important material planning considerations which have significant weight in the determination of these proposals for a McDonald's restaurant/drive-thru.
- 6.5 The principle of the loss of employment land has already been accepted through the grant of earlier planning permissions TM/12/01775/FL and TM/14/01635/FL, as has the principle of a drive-thru café/restaurant in this location. As stated above, there is no longer any retail (Use Class A1) proposed within this site and that, in floorspace terms, the size of the restaurant/drive thru has been reduced from the extant 2014 scheme.
- 6.6 On the basis of the extant consent, and concurring with the position taken in respect of that scheme, I do not consider that the proposed McDonald's drive-thru restaurant would have a material impact on the vitality or viability of the Town Centre. This would be the second McDonald's within Tonbridge and there is no indication that this proposal would result in the closure of the company's existing High Street premises (located at No. 14 High Street). Instead, this new facility would cater for a different customer base, with a strong focus on the drive-thru and 24hr service. Indeed, facilities such as this are commensurate with locations such as this given the space they occupy, meaning that they would be at odds with a

town centre location in terms of site capacity, visual appearance and highways considerations.

- 6.7 With these factors in mind, I consider that the principle of this development in this location remains acceptable, the only aspects having changed in terms of the principle considerations being the omission of the retail warehouse units and the fact that we now know the intended end user of the unit, which I must stress is not a material planning consideration in the determination of this case.
- 6.8 TMBCS Policy CP24 sets out the general criteria for all new development, including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by MDE DPD Policy SQ1 which requires that all new development proposals should protect, conserve and where possible enhance:
- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity; and
 - the distinctive setting of and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.
- 6.9 The design of the proposed McDonald's restaurant/drive-thru building is typical of similar franchise buildings elsewhere, both nationally and internationally. That said, the specific details of the scheme, such as parking and access layouts, together with hard and soft landscaping, have been designed to integrate the proposals into the local surroundings. I am of the view that the proposed development would integrate well into the site and wider Cannon Lane street-scene, being set back within the site and oriented to be end-on to Cannon Lane. It would also be a relatively low-level (single storey) building, extending to a maximum roof height (including roof detailing) of approximately 5.8 metres.
- 6.10 Externally, the proposed building would be clad with a mix of natural stone tiles, wood effect panels/cladding and aluminium finishes sitting above a low-level dark grey engineering brick plinth. The proposed roof would include a mix of 'folded' aluminium panels and walnut wood coloured aluminium louvre panels; these roof details are intended to hide all external plant (air conditioning units, extraction equipment, etc.) that would be located on the flat roof area. These proposed external materials are considered acceptable for this site.
- 6.11 The scale and height of the single storey building would not give rise to any unacceptable harm to surrounding land uses, including the closest residential dwellings (at No's 5 & 6 Cannon Lane) and those located on the opposite side of Cannon Lane within the 'Blossom Bank' development. There are therefore no objections to the proposed development in terms of visual impact within the wider street-scene.

- 6.12 The application is accompanied by a Noise Technical Note (effectively an addendum to the original Acoustic Assessment prepared in support of the earlier 2014 application). This Technical Note considers the difference between the previously approved scheme and that now proposed, advising that the conclusions drawn within the previous acoustic report concerning car park noise, deliveries and drive-thru noise are still considered to be valid. The earlier Assessment demonstrated that noise from the previous development would not exceed NR35 at the nearest adjacent residential properties (No's 5 & 6 Cannon Lane) and at a secondary receptor (the nearest apartments fronting Cannon Lane within the Blossom Bank development). Subject to the same operational controls being imposed by condition, namely restricting deliveries to between 06:00 and 22:00 hours and limiting any plant/equipment to that detailed within the submitted information, I am satisfied that there would be no justifiable noise grounds to resist this development.
- 6.13 Furthermore, Members will note that concerns have been expressed from a number of local residents regarding the proposed 24hr operation of the McDonald's restaurant/drive-thru facility. As stated in paragraph 6.3 above, the extant permission for a drive-thru facility at this site does not place any operational restrictions on the times when the premises can trade and therefore there is an unfettered permission for a very similar facility which could be implemented at any point until July 2017. As stated above, this is a relevant material consideration and must be afforded significant weight as part of the determination of these latest proposals. Furthermore, it should be recognised that the recently opened Subway store, which occupies one of the units forming the entrance to Blossom Bank itself, also has an unfettered permission in terms of opening hours. I understand that this store currently operates between the hours of 7am and 10pm Monday – Saturday and between 10am and 6pm on Sundays but the key consideration is that it *could* operate on a 24 hour basis without any control from the Council. This must also be afforded some weight in the consideration of this case, as should the fact that a number of the industrial units in the immediate locality are not governed by any restrictive conditions concerning hours of operation.
- 6.14 Having considered these proposals in acoustic terms I remain of the view that there are no justifiable noise grounds to resist this development. That conclusion, together with the presence of the extant consent, leads to me to the position that it would neither be reasonable nor justified to now seek to impose hours of operation controls on the restaurant/drive-thru facility as part of this application.
- 6.15 With that in mind, and taking into account other related concerns from local residents in relation to the potential for anti-social behaviour and the advice received from the Kent Police Crime Prevention Design Advisor, I have sought further assurance from the applicant in this respect. The applicant has submitted a Management and Crime Prevention Statement detailing how McDonald's as a global company takes this matter very seriously. Specifically, this Statement

details the main measures that McDonald's employ to avoid instances of crime and anti-social behaviour within its estates:

- external lighting is provided to increase the safety and security of the restaurant;
- CCTV is provided, both for security and to monitor the drive-thru lane. A central unit records all internal and external footage, acting as a deterrent against crime and anti-social behaviour;
- building design, layout and landscaping is designed with natural security and surveillance in mind;
- management and crew members receive on-going training, including training on Conflict Resolution to ensure that any potential disturbances can be dealt with quickly and effectively and in a controlled manner. Furthermore, details of numerous training awards are detailed, showing McDonald's corporate commitments to staff development; and
- a 'StaffSafe' system is used nationally throughout all restaurants. This system can be used whenever outside assistance is required (e.g. from the Police in the event of disorder) and links directly to the CCTV system so that video footage is recorded and can be shared with the Police as necessary.

6.16 Taking these measures into mind, and on the basis of the conclusions drawn regarding noise, I remain firmly of the view that there are no justifiable grounds to limit proposed operation of the restaurant/drive-thru in this location. I am also satisfied that the intended use of the premises, particularly during late-night periods (i.e. between the hours of midnight and 6am) are unlikely to give rise to substantive complaints of late-night crime, anti-social behaviour or noise.

6.17 In terms of the potential for odour nuisance arising from the restaurant/drive-thru facility, and in accordance with the extant permission, an odour risk assessment in accordance with Annexe C of the DEFRA guidance should be submitted. I am satisfied that this is technically achievable and as such this matter can be adequately addressed by planning condition.

6.18 In terms of potential ground contamination, the application is accompanied by a Geo-environmental summary report that identifies earlier geotechnical and geo-environmental ground investigations undertaken by Jonas Associated Ltd in connection with the earlier 2014 consent. The submitted survey report identifies that there are potential contaminant linkages associated with the site which require further assessment and investigation, and on this basis further ground investigation works are recommended. The need for further contaminated land assessment has been requested by the Environment Agency and the Council's own Contaminated Land Advisor and I am satisfied that this matter can be adequately addressed by planning conditions.

- 6.19 In respect of highway matters, KCC (Highways and Transportation) has confirmed that they have no objections to the scheme subject to the highway improvement works (as previously agreed as part of the extant permission) coming forward before the development is occupied. The previously agreed highway improvement works are shown on the proposed site layout plan and are intended to be subject to a Section 278 Agreement with the Highway Authority. A planning condition can be imposed to ensure that the new restaurant/drive-thru facility cannot open before these highway improvement works are completed.
- 6.20 Furthermore, it is noted that the proposed scheme now represents a material reduction in built floorspace within the site (both in terms of a smaller restaurant/drive-thru facility and the removal of the two previously approved retail warehouse units). On this basis, I am satisfied that there would be an overall reduced impact arising from this development on the surrounding highway network, compared with the extant 2014 scheme. I am therefore of the view that these proposals would not contribute to severe levels of new traffic on the highway network at peak times, and that, accordingly, there are no grounds for refusal on highway impact.
- 6.21 KCC (Highways and Transportation) has requested that a condition be imposed to require all deliveries to be undertaken off the public highway. This matter can be adequately be secured by planning condition, as was the case with the 2014 permission.
- 6.22 In terms of air quality considerations, I have concluded that the proposed scheme now represents a material reduction in floorspace within the site (over and above the extant scheme), and that there would be an associated reduced number of movements on the highway. Furthermore, whilst an outside eating area and children's play space are proposed within the site, these would be located some 55-60m from the Cannon Lane highway at the front of the building. On this basis, I am satisfied that these proposals would not give rise to any air quality concerns.
- 6.23 The application site lies predominantly within Flood Zone 2. The application is accompanied by a Flood Risk Addendum Report (which refers back to the initial FRA undertaken as part of the 2014 application), concluding that flood mitigation measures, including the building being set at a floor level 300mm above the 1 in 100 year flood levels (plus climate change) and the provision of mitigation measures including primary access routes through areas within Flood Zone 2 are necessary. These measures can be adequately secured by planning condition and the EA has confirmed that it has no objection to these proposals on this basis.
- 6.24 In conclusion, I would reiterate that this application represents an alternative development to the earlier 2014 consent which remains extant until July 2017. The principle of a restaurant/drive-thru facility in this location has already been established in land use planning terms through the grant of that permission, and as part of that consent there are no restrictions on when that restaurant/drive-thru

facility can operate. Having assessed these proposals for a McDonald's, I am satisfied that there are no planning grounds to resist the proposed facility on this site, neither are there justifiable noise or amenity grounds to impose opening restrictions beyond the proposed 24hr operation. I am also satisfied that all other relevant planning considerations have been discussed above and can adequately be addressed by the imposition of appropriately worded planning conditions.

6.25 I am, therefore, of the opinion that this proposal is acceptable subject to the planning conditions listed below.

7. Recommendation:

7.1 **Grant Planning Permission** in accordance with the following submitted details: Email received 09.09.2015, Block Plan 6522-PL-102 D received 09.09.2015, Site Layout 6522-PL-104 C received 09.09.2015, Floor Plan 6522-PL-106 A received 09.09.2015, Site Layout 6522-PL-108 D received 09.09.2015, Site Layout 6522-PL-122 C received 09.09.2015, Other MANAGEMENT AND CRIME PREVENTION received 13.10.2015, Email received 18.08.2015, Desk Study Assessment GEO ENVIRONMENTAL Desk Study received 18.08.2015, Letter AECOM LANDSCAPE ADVICE received 09.07.2015, Planning Statement PLANWARE LTD July 2015, Version 1 received 09.07.2015, Design and Access Statement PLANWARE LTD July 2015, Version 2 received 09.07.2015, Transport Statement ADL/RG/2838/14A May 2015 received 09.07.2015, Details Buton furniture received 09.07.2015, Acoustic Assessment ADDENDUM 60338675 received 09.07.2015, Environmental Survey TECHNICAL NOTE 60338675 received 09.07.2015, Flood Risk Assessment TECHNICAL NOTE ADDENDUM 60338675 received 09.07.2015, Elevations patio fencing received 09.07.2015, Details climbing equipment received 09.07.2015, Photograph Cod and Canopy received 09.07.2015, Drawing COD DT canopy received 09.07.2015, Details fencing received 09.07.2015, Location Plan 6522-AL-001 REV C received 09.07.2015, Existing Site Layout 6522-AL-103 A received 09.07.2015, Elevations 6522-PL-105 A and section received 09.07.2015, 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. All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

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 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 2015 (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.

4. No development above ground level shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping and boundary treatment for the site and the traffic island. 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 visual amenities of the site.

5. No development above ground level shall take place until details of the existing and proposed levels of the site including the finished floor levels of the building to be erected shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved details.

Reason: In the interests of visual amenity and to reduce the risk and impact of flooding on the proposed development.

6. All plant, machinery and equipment (including ventilation, refrigeration and air conditioning systems) to be used pursuant to this permission shall be so installed, maintained and operated in accordance with the detailed specification set out in the Addendum to Acoustic Report (Reference LA/1364/02aR/ML, dated 15 June 2015) so as to prevent the transmission of noise and vibration into any neighbouring premises. Any replacement or additional plant, machinery or equipment subsequently installed should be substantively similar to those detailed in the approved specification unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the aural environment of nearby dwellings.

7. No delivery vehicles shall arrive, depart, be loaded or unloaded within the application site outside the hours of 06:00 to 22:00 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

8. The use of the restaurant/drive-thru building hereby approved shall not commence until full details of a ventilation scheme for the removal and treatment of cooking odours has been submitted to and approved in writing by the Local Planning Authority. The scheme shall draw reference to the requirements and recommendations of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The acoustic details shall include full spectrum octave analysis for the proposed ventilation equipment. This must demonstrate that the noise from the equipment will not exceed NR35 at the nearest noise sensitive premises - this to include the flat above. The odour details shall include a risk assessment for odour as detailed in Annex C of the DEFRA guidance. The approved scheme shall be fully installed before use of the kitchen commences and shall thereafter be maintained in strict accordance with the approved details. No cooking of food shall take place unless the approved extraction system is being operated.

Reason: To mitigate the impact of any associated emissions in accordance with paragraph 122 of the National Planning Policy Framework 2012.

9. The restaurant/drive-thru building hereby permitted shall not be occupied until such time that the highway improvements detailed at Appendix 5.2 (Highway Layout and Visibility Splays) of the Transport Statement prepared by ADL Traffic Engineering Ltd (Reference ADL/RG/2838/14A, dated May 2015) have been completed.

Reason: In the interests of highway safety.

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

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

11. Provision shall be made on the site, at all times for vehicle loading, off-loading and turning.

Reason: To ensure that delivery vehicles can be parked or manoeuvred off the highway in order to maintain the safe and free flow of traffic.

12. No development shall be commenced until the following have been submitted to and approved by the Local Planning Authority:

(a) a contaminated land desktop study identifying all previous site uses, potential contaminants associated with those uses including a survey of the condition of any existing building(s), a conceptual model of the site indicating sources, pathways and

receptors and any potentially unacceptable risks arising from contamination at the site;

(b) based on the findings of the desktop study, proposals for a site investigation scheme that will provide information for an assessment of the risk to all receptors that may be affected including those off site. The site investigation scheme should also include details of any site clearance, ground investigations or site survey work that may be required to allow for intrusive investigations to be undertaken.

If, in seeking to comply with the terms of this condition, reliance is made on studies or assessments prepared as part of the substantive application for planning permission, these documents should be clearly identified and cross-referenced in the submission of the details pursuant to this condition.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

13. Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

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

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

14. 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: In the interests of amenity and public safety and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

15. The development hereby approved shall be carried out in accordance with the Flood Risk Assessment Addendum – Updated Site Layout prepared by AECOM, Reference 60338675 dated 16 June 2015.

Reason: To reduce the risk and impact of flooding on the proposed development.

16. No built development shall take place until details of surface water drainage have been submitted to and approved by the Local Planning Authority. If it is proposed to dispose of any surface water by infiltration into the ground, the submitted details shall include full details of measures to be taken to protect groundwater from pollution. The development shall be carried out in strict accordance with the approved details. No infiltration of surface water drainage into the ground shall take place other than in accordance with such details as have been approved.

Reason: In order to prevent pollution of ground water in accordance with Policy CC3 of the Managing Development and the Environment DPD 2010.

Informatives:

1. With regard to the construction phase of the development, the applicant is asked to take all reasonable steps to mitigate any impact upon surrounding residents. With this in mind, they are strongly encouraged to apply for a Section 61 Control of Pollution Act 1974 'prior consent' notice to regulate working hours/methods. It is recommended that you contact the Environmental Health Pollution Control Team on pollution.control@tmhc.gov.uk in advance of the commencement of works to discuss this further. The applicant is also advised to not undertake construction works outside the hours of 08.00 -18:00 Mondays to Fridays, 08:00-13:00 on Saturdays and to not undertake works on Sundays, Bank or public holidays. Furthermore, arrangements for the management of demolition and construction traffic to and from the site should be carefully considered in the interests of residential amenities and highway safety. With regard to works within the limits of the highway and construction practices to prevent issues such as the deposit of mud on the highway, the applicant is encouraged to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181 at an early time.
2. The development involves demolition and owing to the likelihood of the roof containing or being constructed of asbestos the applicant is advised to contact the Health and Safety Executive for advice. Any asbestos found on site must be removed in a controlled manner by an appropriately qualified operator.
3. The applicant is reminded that land contamination risk assessment is a step by step process. During the course of the risk assessment process set out in the above condition(s) it may become clear that no further work is necessary to address land contamination risks. Where this is agreed to be the case the condition(s) may be discharged by the Local Planning Authority without all the steps specified having been completed or submitted for formal approval. In all cases, written confirmation should be obtained from the Local Planning Authority confirming that the requirements of the condition(s) have been met. The Local Planning Authority would like to take the opportunity to remind the applicant that it is their responsibility to ensure the site is safe and suitable for its end use.
4. The applicant is reminded that a suitably qualified and competent person shall fulfil the requirements of the condition(s) pertaining to contaminated land remediation. In seeking to discharge the condition(s) pertaining to contaminated land remediation,

the applicant is advised that all studies and assessments submitted must be carried out by a competent person and conform to CLR11: Model Procedures for the Management of Land Contamination (DEFRA 2004).

5. Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.
6. Regarding the application of Food Hygiene Regulations under the Food Act 1984, the applicant is advised to contact the Environmental Protection Team, Tonbridge & Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ. Tel: (01732) 844522.
7. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited 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. 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.

Contact: Julian Moat

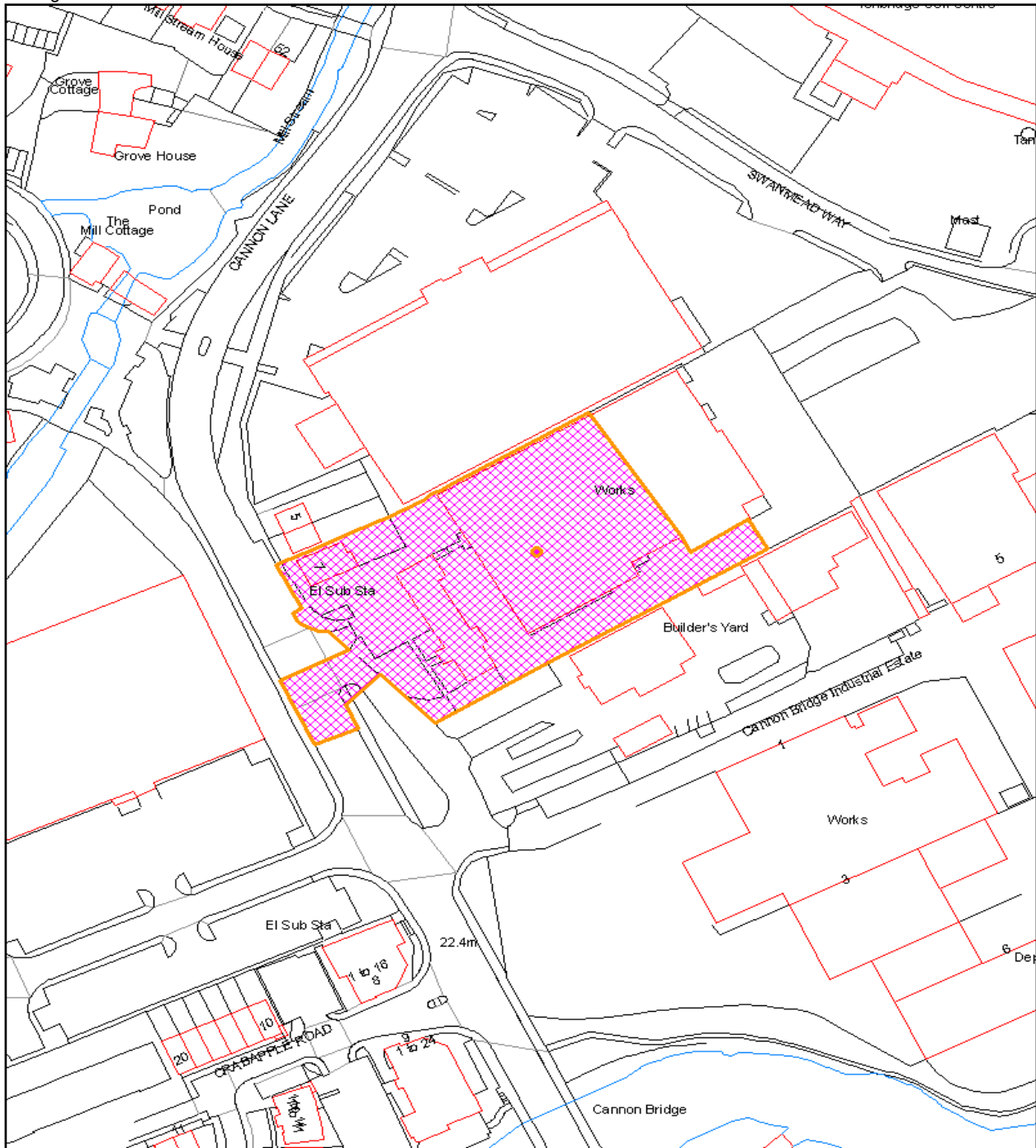
This page is intentionally left blank

TM/15/02254/FL

Land At Cannon Lane Tonbridge Kent TN9 1PP

Demolition of existing buildings and construction of new freestanding single storey McDonalds restaurant with associated drive thru lane, car parking, landscaping, customer order displays and canopies.

For reference purposes only. No further copies may be made. ©Crown copyright. All rights reserved. Tonbridge and Malling Borough Council Licence No. 100023300 2015.



This page is intentionally left blank

Hadlow (Hadlow) **563777 150399** **18 September 2014** **TM/14/02816/FL**
Hadlow And East
Peckham

Proposal: Change of use of land to a private gypsy and traveller caravan site consisting of 2no. pitches
Location: Alans Hectare Cemetery Lane Hadlow Tonbridge Kent TN11 OLT
Applicant: T Coster And O Eastwood

1. Description:

1.1 This application is subject to an appeal to the Planning Inspectorate against non-determination within the target date (November 2014). Accordingly, this report seeks a resolution from Members to determine what the Council's decision would have been if they were still in a position to determine the application. This resolution will be taken forward and used as the basis for the Council's case in connection with the appeal. The nature of the development proposals now subject of the appeal is set out as follows:

1.2 The application sought planning permission for the change of use of land to a private Gypsy and Traveller caravan site consisting of two pitches. The application is now largely retrospective as the site is occupied by two plots, each containing a mobile home and separate day room. Supporting information has been submitted to accompany the planning application, which details the need for Traveller sites within the Borough and wider area and relevant Government guidance and development plan policies, alongside the circumstances of the applicants. To summarise, this supporting information states:

- TMBCS policy is out of date as there is no five year supply of Traveller sites and the Council's sole method of meeting need is via public provision on the extended Coldharbour site;
- A rural location is essential and there is no preclusion of such sites within the countryside;
- It forms no part of national or local planning policy that such sites must be hidden or invisible in order to be acceptable; there is an acceptance through policy that some degree of visual impact is to be expected;
- Planning conditions controlling hard and soft landscaping could be suitably imposed;
- The Planning Policy for Traveller Sites 2012 (PPTS) indicates a Government preference for private site provision meaning that granting planning permission

here would accord with the aims of that policy whilst letting two of those Gypsy families who cannot provide their own sites apply for the Coldharbour pitches;

- Accepts that the development constitutes inappropriate development but in terms of any other harm, there is a highly localised and limited impact on openness and an extremely modest encroachment into the countryside;
- There is no requirement that the applicant – as opposed to the evidence – establish that there are no available alternative sites available;
- Personal circumstances of the applicants and the best needs of the children are capable of being material considerations.
[Although it should be noted that other than providing evidence to support that the applicants are Gypsies in line with the definition contained within the PPTS, no further substantive information has been provided within these regards.]

1.3 The application is also supported by a Landscape Design Statement and proposals for additional landscaping across the site. Some landscaping has already been undertaken across the site.

1.4 This application follows the refusal of planning application TM/12/01760/FL which proposed the change of use of the land to allow for the siting of one mobile home and one touring caravan for occupation by one Gypsy family. This was refused in October 2012 for the following reasons:

- *“The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in paragraphs 89-91 of the National Planning Policy Framework 2012 and paragraph 14 of the Planning Policy for Traveller Sites 2012 and Policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007. An inadequate case of very special circumstances has been submitted in justification of the harm caused by inappropriateness and the harm to the openness of the Green Belt.”*
- *“The development, by virtue of its nature and scale, detracts from the openness of the Green Belt and the character of the rural locality and is therefore contrary to paragraphs 17 and 79 of the National Planning Policy Framework 2012, paragraph 23 of the Planning Policy for Traveller Sites 2012 and Policies CP14 and CP20 of the Tonbridge and Malling Borough Local Development Framework Core Strategy.”*
- *“The development is contrary to paragraph 22 of the Planning Policy for Traveller Sites 2012 and Policy CP20 of the Tonbridge and Malling Borough Core Strategy 2007 for the reason that the likely need for additional gypsy pitches within the Borough will be met by the proposed expansion of an existing gypsy site in the Borough.”*

1.5 The application was effectively held in abeyance since its submission pending some key decisions from the Court of Appeal and the Planning Inspectorate. Those decisions have now come forward, giving greater direction about the way in which we should be dealing with these cases. The implications for this case are discussed throughout the assessment that follows.

1.6 It was whilst we waited for these important decisions to come forward that the applicant submitted an appeal to the Planning Inspectorate against non-determination of the application within the target date (November 2014), as set out above.

2. Reason for reporting to Committee:

2.1 To seek a resolution from Members to determine what the Council's decision would have been if they were still in a position to determine the application.

3. The Site:

3.1 The site lies within the Metropolitan Green Belt, to the south of Cemetery Lane, near to its junction with Maidstone Road. To the west of the site lies The Harrow, a former Public House, and a general ribbon of residential properties fronting onto Maidstone Road.

3.2 A public footpath runs along the southern boundary of the site at a distance in excess of 70m from the mobile homes themselves.

3.3 To the west of Alan's Hectare is a site known as Springfield Place; this site is an authorised caravan site for an extended Gypsy family. The planning permission in this case allows for a total of three static caravans and a single touring caravan. Currently a fourth static caravan is in situ and is subject to enforcement action. This site, and the family residing there, has no links to the applicants of this current submission, other than forming an immediately adjoining piece of land.

3.4 The application site itself has, in recent months, been subject to a certain amount of unauthorised development including the creation of the access drive and forecourt parking areas shown on the submitted plans. In respect of 'Plot 1' (as identified on the submitted plans), the mobile home is in situ (although handed at 90 degrees from the position shown on those plans). The day room is also in situ as is a touring caravan. At the time of our last inspection, a trampoline also had been located in the garden area serving this unit.

3.5 In respect of 'Plot 2', the day room has been constructed and the base has been laid for the mobile home. A large touring caravan is also in situ and at the time of our last inspection a horsebox was parked to the rear of this plot.

3.6 In terms of landscaping, some hedge planting has already been undertaken and a post and rail fence has been erected, denoting the boundary between the caravan

plots and the remaining pasture land (which lies within the same ownership as the applicants). An existing post and wire type fence within the paddock (shown on the submitted plans to be removed) remains in situ at this time.

3.7 Dog pens/kennels have been placed within the paddock area, although close to the mobile home plots. These do not appear to be fixed into the ground and are more akin to moveable structures.

3.8 There do not appear to be any commercial activities currently taking place from the site.

4. Planning History (relevant):

TM/55/10166/OLD Refuse 25 October 1955

Erection of twenty two houses or bungalows

TM/59/10088/OLD Refuse 22 January 1959

Erection of dwelling

TM/66/10004/OLD Refuse 27 September 1966

Erection of 27 houses

TM/79/11496/OUT Refuse 1 June 1979

O/A for erection of dwelling houses (20-25)

TM/81/10340/FUL Refuse 4 February 1981

Siting of mobile home for temporary 5 year period.

TM/81/11039/OUT Refuse 19 June 1981

Outline application for one agricultural worker's bungalow

TM/88/10463/OUT Refuse 6 June 1988

Outline application for dwelling or smallholding

TM/91/11211/OUT Application Withdrawn 20 June 1991

Outline Application for agricultural workers dwelling

TM/91/11221/FUL Refuse 20 September 1991

Stationing of caravan for the occupancy of an agricultural worker

TM/92/10082/FUL Refuse 17 January 1992

Change of use of mobile home from agricultural to dwelling

TM/04/02338/FL Non-determination 6 October 2004

appeal

Appeal dismissed

13 May 2005

Siting of caravan/mobile home

TM/12/01760/FL Refuse 26 October 2012

Change of use of site from Agriculture to the siting of one mobile home and one touring caravan for occupation by one Gypsy family

5. Consultees:

- 5.1 PC: Object – inappropriate development within the Green Belt
- 5.2 KCC (H+T): No objections although the access to the site is in a poor standard and the applicant should make contact with KCC in order to ensure the access is up to standard.
- 5.3 EA: We have assessed this application as having a low environmental risk. We therefore have no comments to make.
- 5.4 Hadlow Park Residents Association: Objections raised on the following grounds:
- Inappropriate development within the Green Belt;
 - No very special circumstances have been demonstrated;
 - Coldharbour site meets the need of the area;
 - Site is clearly visible from Cemetery Lane;
 - Remainder of site is clearly capable of being converted into further pitches;
 - Nothing material has changed since the last refusal of planning permission on the site.

5.5 Private Reps: 7 + site + press notice/0X/21R/0S. Objections have been raised on the following grounds:

- Inappropriate development in the Green Belt and no very special circumstances exist;
- Harm to local amenity value given proximity to a public footpath, open fields and a local cemetery;
- No changes in circumstance since the previous application was refused;
- Impact on the setting of Hadlow Tower;
- Visible from neighbouring properties;
- Harm to visual amenity;
- Likelihood of localised flooding and problems with surface water run off;
- Allowing this development would set a precedent for other proposals in the locality;
- Site can be viewed from the public road;
- Two pitches will cause additional hazards to traffic at the A26 junction;
- Septic tank drainage will not work;
- Soakaways will not be effective;
- Intensive use of the land for two pitches;
- No need for a Traveller site;
- Use of brownfield land should be prioritised;
- Spoils the rural nature of the surrounding area;
- Impact on the public footpath to the detriment of those who enjoy using it;
- Supporting information is heavily biased towards citing case law where other cases have succeeded at appeal;
- Little precedent to justify this type of development on sensitive green belt land;
- Potential of future expansion into the paddock land in future;
- Coldharbour expansion meets any need;

- Development would cause environmental and economic damage to the immediate area and the historic Hadlow Village as a whole.

6. Determining Issues:

6.1 The main issues in the consideration of this case relate to the principle of the development within the Green Belt, its impact upon openness, its impact upon the rural character of the locality more generally and the issues surrounding the provision and need of Traveller sites across the Borough. These matters form the basis of the assessment that follows.

Planning Policy for Traveller Sites (PPTS):

6.2 This forms part of the NPPF and should be read in conjunction with the guidance contained within it. PPTS makes clear that the implementation policies set out in the NPPF will apply also to decision-taking for Traveller sites. In applying those implementation provisions to Traveller sites, references in those provisions to policies in the NPPF should, where relevant, be read to include policies in the PPTS.

6.3 PPTS states that the government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community, and gives guidance in respect of the use of evidence, plan-making and decision-taking. It sets out that government's aims in respect of Traveller sites are:

- that local planning authorities should make their own assessment of need for the purposes of planning;
- to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
- to encourage local planning authorities to plan for sites over a reasonable timescale;
- that plan-making and decision-taking should protect Green Belt from inappropriate development;
- to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites;
- that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective;
- for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies;

- to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply;
- to reduce tensions between settled and traveller communities in plan-making and planning decisions;
- to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure;
- for local planning authorities to have due regard to the protection of local amenity and local environment.

6.4 Specific planning policies for Traveller sites, including sites within the Green Belt, are clearly set out within this document. The requirements set out in PPTS are considered in detail throughout this report.

Human Rights and Equalities Considerations

6.5 A key matter in this type of case is the European Convention on Human Rights as applied by the Human Rights Act 1998 along with the Council's requirement to act in accordance with the Equalities Act 2010.

6.6 In terms of Equalities legislation, Gypsies and Travellers have a protected status that must be considered in all decisions made by Public Authorities. The Council needs to coherently apply the PPTS, as described above, which itself has been subject to Equality Impact Assessment (EqIA) by the Government. Specifically, the Council in the exercise of its statutory functions (in this case the determination of planning applications) has a clear duty to have due regard to particular needs and lifestyles when making decisions.

6.7 The Public Sector Equality Duty is set out at Section 149 of the Equalities Act 2010. It imposes a duty of all public authorities that they must, in the exercise of their functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.8 This is a duty that applies to Local Planning Authorities, the Planning Inspectorate and the Secretary of State. The key point is that whilst the duty is not a lone

justification to grant planning permission or to stop enforcement action, decision makers must have regard to it when considering Traveller cases.

- 6.9 For example, it is necessary for consideration to be given as to whether refusing planning permission (which could potentially mean that the applicants would have to resort to roadside encampments) would be an action which would “foster good relations” between the settled community and Travellers. This is a matter that the Planning Committee must give due regard in the consideration of this case, and one that the Inspector will have regard to in determining the current appeal.

Impact on the Green Belt and Countryside:

- 6.10 The site lies within the Metropolitan Green Belt where the NPPF affords strict control to development stating that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CP3 of the TMBCS sets out that national Green Belt policy will apply.
- 6.11 Paragraph 88 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.12 Policy E of the PPTS states that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development; such development is harmful to the Green Belt and should not be approved except in very special circumstances. In July 2013, in a Ministerial Statement, the Secretary of State made clear he considered that the single issue of unmet need, whether for Traveller sites or for conventional housing, is unlikely to outweigh harm to the Green Belt, and other harm, such as to constitute the very special circumstances justifying inappropriate development in the Green Belt. A further written Ministerial Statement in January 2014 re-emphasised this point. Policy CP20 of the TMBCS also states that there is a presumption against Traveller sites in the Green Belt unless there are very special circumstances.
- 6.13 The high level of protection afforded to the Green Belt has further been emphasised in a letter from the DCLG dated 31 August 2105 which sets out a planning policy statement explaining changes to national planning policy to make intentional unauthorised development a material consideration, and also to provide stronger protection for the Green Belt. It states:

“The government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.”

For these reasons, this statement introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received from 31 August 2015.

The government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt.”

- 6.14 A Written Ministerial Statement is expected to follow this autumn. It is important to recognise that the application to which the current appeal relates was submitted before 31 August 2015 and therefore this Statement does not directly apply. In any case, it is important to recognise that the Act still allows for the consideration of retrospective applications as a legitimate and proper way to deal with development. The purpose therefore for bringing this to Members' attention at this juncture is to highlight the clear position from Government concerning the importance of the Green Belt and the need to afford it continuing and stronger protection.
- 6.15 With the above considerations in mind, it is clear that the development constitutes inappropriate development, which is by definition harmful to the Green Belt thus requiring very special circumstances to exist which outweigh the degree of harm caused to the Green Belt. Having established this, it is also necessary to consider whether the development causes any other harm, which includes any other harm to the Green Belt itself along with any other harm that is relevant for planning purposes.
- 6.16 In addition to the definitional harm identified, the development causes clear material harm to the openness of the Green Belt in terms of its function and character. I appreciate that the site to some extent is seen within the context of the Springfield Place development, and the development beyond which fronts Maidstone Road. However, Alans Hectare is south and east of that established development and (until the unauthorised development commenced on site) was far more intrinsically open in character, being seen more readily within the context of the open countryside beyond as opposed to Springfield Place and the loosely linear form of development which characterises the Maidstone Road. The development therefore, undoubtedly, has eroded the openness of the Green Belt at this point. The mobile homes, day rooms, access road, forecourts, parked vehicles, domestic activity and residential paraphernalia have all contributed to a significant loss in openness. There has been a clear encroachment of development within the Green Belt in direct conflict with one of the purposes for including land within the Green Belt, as set out at paragraph 79 of the NPPF. I accept that a proportion of the land has been retained as a paddock and has retained an open quality but this in my view does not mitigate the harm arising from the development in any way.

Character and appearance of the countryside

- 6.17 A core principle of the Framework is that planning should recognise the intrinsic beauty and character of the countryside. Policy CP20 of the TMBCS requires consideration of the visual effect of the development on the character and appearance of its surroundings and rural amenity. More generally, policies CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD require all development to be well designed, of a high quality, appropriately respecting the site and its surroundings.
- 6.18 The area around Cemetery Lane is characterised by agricultural land, interspersed by pockets of residential development. The site is afforded some screening by boundary hedging and the development is recognised as being predominately low level in terms of scale. However, the number of buildings, their accumulation across the site combined with the associated paraphernalia when taken cumulatively gives rise to a development which is not in character with the rural amenities of the locality, and thus causes harm to the character and appearance of the countryside. I recognise that the plans submitted also indicate proposed landscape measures in an attempt to afford additional screening but this is limited and does not mitigate the identified harm to the rural landscape.

Any other harm

- 6.19 Policy CP20 (d) of the TMBCS requires that sites can adequately be accessed by vehicles towing caravans and that there is safe pedestrian and cycle access to the site. More generally, policy SQ8 of the MDE DPD states that development proposals will only be permitted where they would not significantly harm highway safety and where the traffic generated by the development can adequately be served by the highway network. In these respects, it is accepted that Cemetery Lane is a narrow country lane. However, its use for such purposes has already been established through the grant of permission at the adjacent site (Springfield Place) and Kent Highways has raised no objections to this development on the grounds of highway safety. In this respect, regard must also be had to paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.20 Criterion (e) of policy CP20 requires that the site is reasonably accessible to shops, schools and other community facilities on foot, by cycle or public transport. The site does lie on the outskirts of Hadlow Village and is accessed initially by Cemetery Lane, a narrow country lane as I have outlined above. However, the site is in close proximity to the A26 and the public transport connections afforded by that main highway. Indeed, there is a bus stop on the main road, just by the former Harrow PH, and the village centre is a relatively short walk further. I am therefore satisfied that the site, in locational terms, meets the requirement of this part of the policy.

- 6.21 Reference has been made within the representations received to the fact that the site is publically visible and is also visible from individual properties. The fact that the site is visible from certain vantage points does not in itself render the development automatically harmful. Rather, it is the intrinsic harm to the Green Belt and rural amenities of the countryside identified that must be considered. Equally, rights to a view are not a material planning consideration.
- 6.22 I have noted that reference has been made in the representations received to the impact of the development on the setting of Hadlow Tower (Grade I Listed) and to the historic centre of Hadlow Village more generally, which is designated as a Conservation Area. In this regard, I am mindful that paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance of such an asset can be harmed or lost through alteration of the asset or through development within its setting.
- 6.23 I am however wholly satisfied that the substantial separation that exists between the site and these heritage assets combined with the low level nature of the development in question means that there is no impact on the historic setting of the Tower or village arising from this development.
- 6.24 Equally there is a policy requirement to protect residential amenities and again, given the fact that the site is adequately separated from existing properties, I am satisfied that there is no impact on residential amenity. To the best of my knowledge, the applicants are not undertaking any commercial activity from the site and there is nothing contained within the application to suggest that this is the intention.
- 6.25 Reference has also been made to problems with localised flooding and I am aware that such problems do exist within the local area. The planning application (now subject of the appeal) indicates that foul sewage is dealt with by means of a septic tank with surface water dealt with by soakaways. Having regard to the representations made in this respect, and given the existence of previous problems in the area, further investigations are being undertaken in this respect and it is my recommendation to the Planning Committee that this matter be pursued further by Officers through the appeal Hearing process.

Other material considerations

Meeting need

- 6.26 I note that a number of the representations received in connection with this application have referenced the previous reasons for refusal (2012 decision), stating that there have been no material changes in circumstance to warrant a different outcome in this instance. However this is not the case and regard must

now be had to the most recent decision of the Planning Inspectorate in the case of Woodford, Old Lane, Ightham. This is an important material planning consideration and must be given considerable weight in the assessment of this case, particularly as it made a number of key statements concerning the need for Traveller sites within the Borough that require detailed consideration.

- 6.27 In making her decision in the case of Woodford, the Inspector acknowledged that Policy CP1(5) of the TMBCS states that where practicable, new housing development should include a mix of house types and tenure and must meet identified needs in terms of affordability. For those with a nomadic way of life, such as Gypsies and Travellers, appropriate provision should be made if a need exists. The Inspector also recognised that even though the policy context has changed since 2007 (with the publication of the NPPF in March 2012) the policy requirement reflects a national policy objective to develop fair and effective strategies to meet all types of housing need.
- 6.28 Members will be aware that the local provision of sites consists of the two public sites (Windmill Lane and Coldharbour) and a number of privately owned sites with varying planning status.
- 6.29 In terms of need, the Inspector highlighted a number of key issues, which are summarised as follows:
- That the alternative accommodation at Coldharbour Lane was not suitable for the appellants and, related to this, that the Council should have ensured that there was a range of options available (i.e. private sites) rather than relying on one, public (effectively social-rented) alternative to meet identified needs;
 - That the Gypsy and Traveller Accommodation Assessment (GTAA) completed by the Council's consultants Salford University in 2013 underestimates local need and that an approach for considering the needs from a wider area than the Borough boundary should have been adopted;
 - That because the Borough has unmet need and has not identified a five year supply of sites, its planning policies are out of date;
 - The Inspector also noted that in her opinion the 'tolerated' site at Hoath Wood should not be included as part of the supply of existing pitches.
- 6.30 More specifically, the Inspector stated that "*undue reliance*" on a single public site (Coldharbour) is not consistent with the objective of Policy CP1 (5), which indicates a mix of tenures in supply of accommodation. She went on to mention that a "*restricted application*" of policy CP20 has occurred, which is not consistent with PPTS that promotes fair, equal and effective strategies and more private traveller site provision.

- 6.31 She also went on to recognise that there are likely to be circumstances where the pitches and layout at Coldharbour are not suitable to meet all needs, in particular where applicants have specific space requirements, for example to cater for business operations or the keeping of horses or as a result of personal circumstances such as the fear of violence. Whilst none of these issues have been highlighted on behalf of the applicant in this instance, the criticism of the Inspector concerning “*undue reliance*” on Coldharbour is a key material consideration. The Inspector also referenced previous appeal decisions where an expectation had been expressed that alternative sites would be allocated in a DPD.
- 6.32 The Inspector went on to identify that need outweighed the supply of public pitches within the Borough meaning that Coldharbour is unable to satisfy all the local need for pitches and that the “*undue reliance*” on Coldharbour has resulted in a lack of alternative available options.
- 6.33 The Inspector also identified that small private pitches have an important role to play in meeting need (this is a matter referenced by the applicant’s agent as part of their supporting information).
- 6.34 The Inspector concluded on the matter of need by stating:

“At the present time the Council is unable to demonstrate a supply of deliverable Traveller sites for the next five years. Therefore the strategy for meeting need in Policy CP20 is not considered to be up-to-date. In contrast the 2015 Local Plan Position Statement refers to an existing 5.2 years supply of land for building housing and the delivery of some 600 homes in 2013/14. The Council is preparing a new Local Plan, which provides an opportunity to deliver additional pitches and to assess whether or not need is able to be accommodated within the constraints similar to those posed by the existing criteria based policies. At the hearing the expectation was that the Local Plan would be adopted in 2016. However, the 2015 Position Statement indicates that there has been slippage in that timescale. Public consultation to inform the Local Plan is anticipated to take place later in 2015. The remaining stages would include preparation of a draft plan, submission, examination and receipt of the Inspector’s report and finally adoption, probably late 2017.....”

As to the probability of alternative sites in appropriate locations coming forward in a reasonable timescale, the main mechanism is through the new Local Plan. The plan led system is the means of achieving sustainable development in traveller site provision and PPTS provides a framework for plan-making. At this early stage of the plan making process there is no firm indication of the policy approach, and how and when pitches will be achieved. Past experience indicates meeting need is not readily resolved.”

Personal Circumstances

6.35 Very little information has been provided within the planning application which explains the personal circumstances of the applicants, although I expect more to be forthcoming in the upcoming appeal. From our investigations, I understand that two families are residing on site, each with two children. The occupants of Plot 1 have two children who both attend Laddingford Primary School. The occupants of Plot 2 have one child attending secondary school and another over school age (16 or above). Further information in these respects will be sought through an Equalities Statement to be conducted by Officers and, should any further details be forthcoming, they will be reported as a supplementary matter.

Very special circumstances

6.36 With the identified harm to the Green Belt, it is necessary to establish whether very special circumstances exist which outweigh this degree of harm to an extent to justify the grant of planning permission. The NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This requirement sets a very high threshold.

6.37 Policy CP20 of the TMBCS provides a strong direction that the development of a Traveller site within the Green Belt will not be acceptable unless there are very special circumstances. The Government attaches great importance to Green Belts. A stated aim in PPTS is that plan-making and decision-taking should protect Green Belt land from inappropriate development. PPTS confirms a Traveller site is inappropriate development and should not be approved except in very special circumstances. It also states that personal circumstances and unmet need alone are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances and that meeting a specific identified need should be achieved through the plan making process, not in respect to a planning application.

6.38 However, the Inspector in the case of 'Woodford', having had regard to this policy context, has identified that there is an unmet need for Traveller sites within the Borough, despite the extension of the Coldharbour site. There is no doubting that delivery of a number of additional pitches at Coldharbour has made an important contribution to increasing the social provision in the local area. Nevertheless, the Woodford Inspector repeatedly emphasised that PPTS seeks to ensure fair, realistic and inclusive policies for Traveller site provision and a supply of specific deliverable sites to provide a five year supply against locally set targets. Within the national policy context, the Inspector found that the Council's existing local planning policy is not up-to-date. The result, the Inspector concluded, is a constraint on delivering alternative site provision.

6.39 The Inspector however concluded that the "need" considerations fell short of outweighing any permanent harm to the Green Belt and as such very special

circumstances were not found to exist to justify the inappropriate development. In that case, the development of the Traveller site was found to be contrary to Policy CP20 of the TMBCS, NPPF and PPTS. The direction based on Green Belt policy is that permanent planning permission should not be granted for the use of this site as a caravan site. The Inspector considered that to allow the caravan site permanently, without allowing an opportunity for the Council to complete the local plan process within the context of PPTS, would not represent a sustainable form of development.

Temporary planning permission

6.40 The key objections to the development are that it lies within the Green Belt and is inappropriate development; it causes material harm to openness and “other” harm to rural amenity more generally. Members will appreciate that much of the Borough is covered by the Green Belt designation and the existing public Gypsy sites stand at full capacity and have a low turnover. To put this in some context, the Coldhabour site has a total of 26 pitches, all of which are currently occupied. The number of people currently waiting for a pitch stands in excess of 100, although it should be recognised that some of these people may have also listed other sites as an option they would consider should they become available first. Whilst the applicant has not submitted any evidence of searching for alternative sites including those outside the Green Belt, it is generally accepted that suitable sites within rural or urban settlements are unlikely to be readily available at this time.

6.41 Given the level of harm caused by the development, and when having full regard to the conclusions made by the Inspector determining the Woodford appeal, I do not consider that a permanent planning permission is justifiable in these circumstances.

6.42 The outcomes of the Woodford appeal decision provide important relevant context for this case. As I have explained, in that case, the Inspector considered that there was harm to the Green Belt such that permanent planning permission should not be granted but she did grant a temporary planning permission to ensure that the harm to the Green Belt would not be permanent and in the meantime to allow the Borough Council time to progress the Local Plan and make allocations accordingly. In making this judgement, the Inspector made the following distinctions within her assessment:

“The primary source of harm is through the inappropriateness of the change of use of the land. The actual loss of openness and the encroachment increases that harm to a small degree.”

“The appeal site is tucked away off Old Lane, a narrow sunken lane enclosed by hedgerows and earth banks. The layout of the caravan site responds to the physical features of the land. The mobile home and the domestic spaces are on

the lower part of the land and are effectively screened by boundary hedgerows and trees.”

- 6.43 It therefore appears, on the basis of this very recent decision by the Planning Inspectorate, that unless a site suffers from clear and overwhelming site specific problems it is likely that temporary planning permissions will be granted by the Planning Inspectorate even for sites in the Green Belt such as this.
- 6.44 With these factors in mind, and when considering the overarching aims of PPTS, it is necessary to consider whether a temporary planning permission is the most appropriate way forward at this point in time in this particular case, although it is recognised that the application to which the appeal relates does not make reference to this being a fallback the applicants would be willing to accept.
- 6.45 Members will be aware that, generally, guidance states that a temporary planning permission may be appropriate where it is expected that planning circumstances will change in a particular way at the end of the period. More specifically, PPTS emphasises the importance of positive planning to manage development and sets clear objectives to increase the number of authorised Traveller sites in appropriate locations to address under-provision and maintain an appropriate level of supply. It also states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission, albeit one of the exceptions cited in this regard is for proposals on land designated as Green Belt.
- 6.46 Notwithstanding these considerations, it is necessary to establish whether the level of harm identified in this case is such that it could not be accepted even on a temporary basis and even when having due regard to the issue of identified unmet need.
- 6.47 In this respect, I have undertaken a detailed assessment of the site characteristics particularly when compared to the Woodford site – given that effectively sets a benchmark at which the Planning Inspector concluded that the harm to the Green Belt was limited and thus could be accepted on a temporary basis. The key difference in site characteristics between this site and Woodford is the topography and resultant screening afforded to the sites and I refer back to the Inspectors description of Woodford set out at paragraph 6.43 of this report. In stark contrast, Alans Hectare is characteristically flat and exposed in nature thus causing far more overt harm to the Green Belt and the countryside more generally than identified in the case of Woodford.
- 6.48 It is important to stress in making these comparisons that when assessing Green Belt impact it is not whether or not the development can be *seen* that renders it acceptable or not, nor whether site characteristics and screening afforded to individual developments amount to a case of very special circumstances. Rather it

is the degree of actual harm to the Green Belt and whether or not “on the ground” that degree of harm could be accepted for a limited period.

6.49 This is a matter of careful balance but in these particular circumstances, when having regard to the level of harm identified, I do not believe there is a reasoned justification for the grant of a temporary planning permission for this development pending the progression of the Local Plan. In making this conclusion, I am mindful that there is an identified unmet need to be addressed and I have no doubt that this matter will be raised as a key issue for discussion at the upcoming Hearing. In this regard, it will be necessary for Officers to establish whether any alternative sites might be available to accommodate the occupiers of this site. Clearly, based on the Inspector’s decision in the case of Woodford and evidence of current occupation and waiting list levels, Coldharbour does not represent a feasible alternative at this time and this must be recognised. It is not necessarily for the Planning Committee to suggest alternative sites at this time, rather to have an awareness that in endorsing the recommendation that follows at Section 7 of this report, there will be implications in terms of the needs of the applicants to consider.

6.50 I have also considered whether any planning conditions could reasonably be imposed that would limit the degree of harm arising in order to render the development acceptable in planning terms for a temporary period of time (in accordance with the requirements of the PPTS). Planning conditions covering matters of occupation, use of the land, landscaping, boundary treatments, drainage and so on would all seek to mitigate further harm to the Green Belt, countryside and general amenity but would not ameliorate the harm already identified as arising from the development itself in a way that would render it acceptable to remain on site for a temporary period of time.

6.51 In light of the above considerations, on balance, I recommend as follows:

7. Recommendation:

7.1 The Planning Inspectorate and the applicant be advised that, had the Local Planning Authority been in a position to determine the application, it would have **Refused Planning Permission** for the following reasons:

Reasons:

1 The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in paragraphs 89-91 of the National Planning Policy Framework 2012 and paragraph 16 of the Planning Policy for Traveller Sites 2015 and Policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007. The development constitutes inappropriate development which is harmful to the Green Belt by definition. Furthermore, the development by virtue of its specific nature, siting and scale causes material harm to the open function and character of the Metropolitan

Green Belt and gives rise to an encroachment of built development into the countryside, contrary to the requirements of paragraph 79 of the National Planning Policy Framework 2012. There are no very special circumstances which outweigh the degree of harm caused to the Green Belt by inappropriateness and harm to openness. The development is therefore contrary to the requirements set out in Section 9 of the National Planning Policy Framework 2012, the Planning Policy for Travellers Sites 2012 and policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007.

- 2 The development, by virtue of its nature, siting and scale, detracts from the character of the rural locality and causes harm to the rural amenity of the countryside and is therefore contrary to Policies CP14 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007.

Contact: Emma Keefe

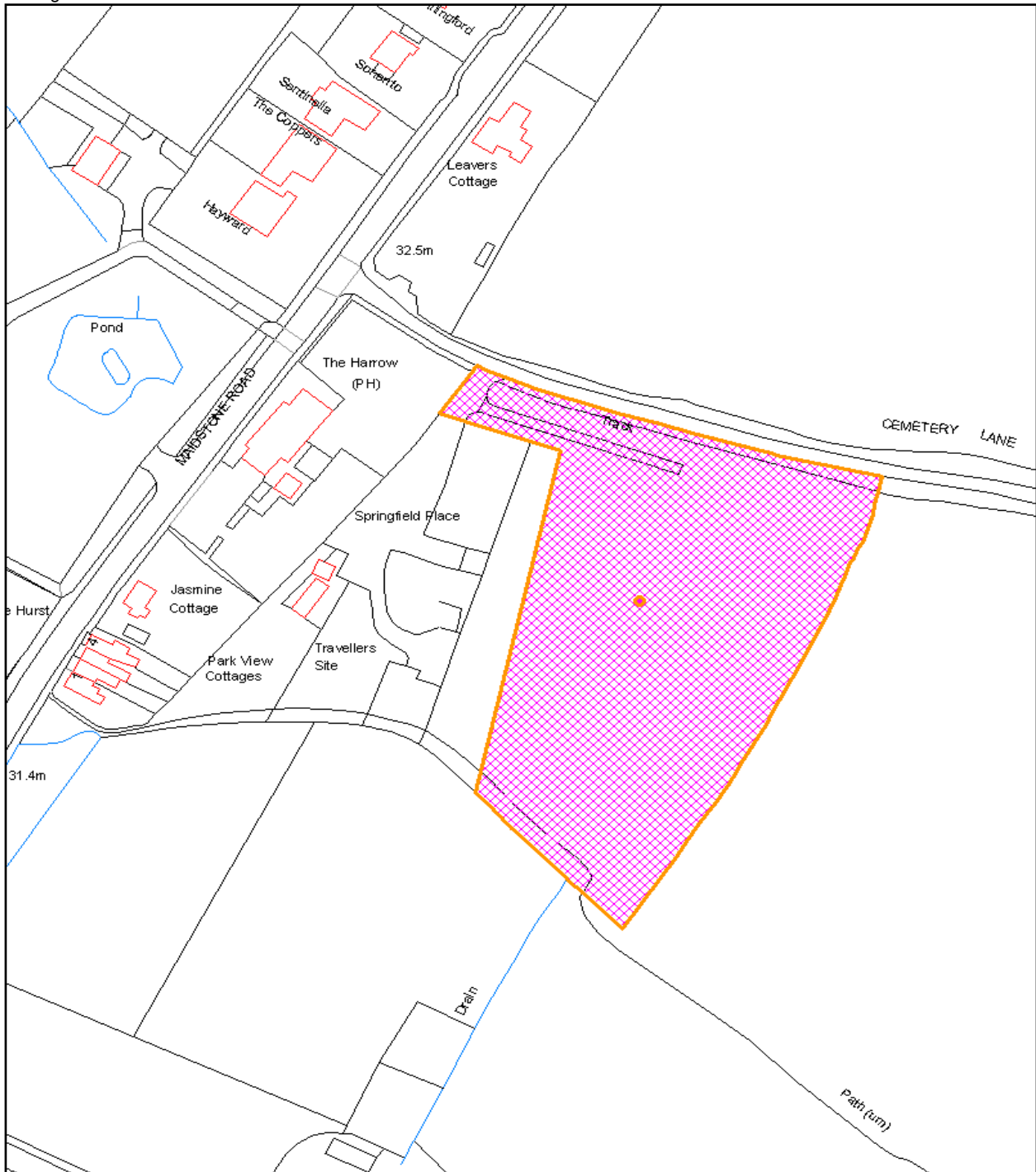
This page is intentionally left blank

TM/14/02816/FL

Alans Hectare Cemetery Lane Hadlow Tonbridge Kent TN11 0LT

Change of use of land to a private gypsy and traveller caravan site consisting of 2no. pitches

For reference purposes only. No further copies may be made. ©Crown copyright. All rights reserved. Tonbridge and Malling Borough Council Licence No. 100023300 2015.



This page is intentionally left blank

Agenda Item 10

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.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

This page is intentionally left blank