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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

25 February 2014

To: MEMBERS OF THE AREA 2 PLANNING COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 2 Planning Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Wednesday, 5th March, 2014 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for Absence
2. Declarations of Interest

3. Minutes 5 - 8

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on Wednesday 11 December 2013

Decisions to be taken by the Committee

4. Development Control 9 - 12
Introduction and Glossary
5. TM/13/01464/FL - Rotary House, Norman Road, West Malling 13 - 22
6. TM/13/01382/FL - Crown Point Nursery, Sevenoaks Road, Ightham 23 - 44
7. TM/13/03329/FL - Four Seasons Park, Labour in Vain Road, Wrotham 45 - 58
8. TM/13/03598/FL - 1 Mill Cottages, Maidstone Road, Platt 59 - 70
9. TM/13/01952/FL - Mill Yard, 26 Swan Street, West Malling 71 - 90
10. Urgent Items

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

Matters for consideration in Private

11. Exclusion of Press and Public

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

PART 2 - PRIVATE

12. 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 Mrs F A Kemp (Chairman)
Cllr Mrs E M Holland (Vice-Chairman)

Cllr Mrs J A Anderson
Cllr M A C Balfour
Cllr C Brown
Cllr F R D Chartres
Cllr M A Coffin
Cllr S R J Jessel
Cllr Mrs S Luck
Cllr B J Luker

Cllr Mrs S Murray
Cllr T J Robins
Cllr H S Rogers
Cllr A G Sayer
Cllr Miss J L Sergison
Cllr Miss S O Shrubsole
Cllr M Taylor

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TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

Wednesday, 11th December, 2013

Present: Cllr Mrs F A Kemp (Chairman), Cllr Mrs E M Holland (Vice-Chairman), Cllr Mrs J A Anderson, Cllr F R D Chartres, Cllr M A Coffin, Cllr S R J Jessel, Cllr Mrs S L Luck, Cllr B J Luker, Cllr Mrs S M Murray, Cllr A G Sayer and Cllr Miss J L Sergison.

Councillor Baldock was also present pursuant to Council Procedure Rule No 15.21

Apologies for absence were received from Councillors Balfour, C Brown, Robins and Rogers.

PART 1 - PUBLIC

**AP2
13/057** **DECLARATIONS OF INTEREST**

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

**AP2
13/058** **MINUTES**

RESOLVED: That the Minutes of the meeting of the Area 2 Planning Committee held on 30 October 2013 be approved as a correct record and signed by the Chairman.

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

**AP2
13/059** **DEVELOPMENT CONTROL**

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

**AP2
13/060** **TM/13/02826/FL - FAIRSEAT COTTAGE, VIGO ROAD, FAIRSEAT**

Rear/side first floor extension and external alterations including demolition of rear lean-to (Resubmission of TM/13/00732/FL) at Fairseat Cottage, Vigo Road, Fairseat.

RESOLVED: That the application be

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

[Speaker: Mr H Bott - Stansted Parish Council

**AP2
13/061** **TM/13/03006/FL - SHRUBSHALL MEADOW, LONG MILL LANE, PLAXTOL**

Development of vacant site to provide 7no. affordable homes for rent and shared ownership including 2x three bed houses, 3x two bed houses and 2x one bed apartments including 12no. parking spaces and landscaping at Shrubshall Meadow, Long Mill Lane, Plaxtol.

RESOLVED: That, subject to the provision of a suitable planning obligation under S106 to ensure that the dwelling units remain as affordable housing units in perpetuity to meet identified local need, in accordance with the Core Strategy and allied documents, the application be

APPROVED subject to:

(1) the satisfactory completion of a Legal Agreement (Planning Obligation) to cover the nominations process and that the seven units remain affordable in perpetuity to meet the purpose for which they were permitted; and

(2) in accordance with the submitted details, conditions, reasons and informatives set out in the main report of the Director of Planning, Housing and Environmental Health; and

(3) Amendment to Condition:

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

to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking and to deal with surface water drainage.

[Speakers: Mrs J Denham and Mr Absalom - members of the public]

**AP2
13/062**

**TM/12/01373/FL - LAND REAR OF THE BUTTS, BEECHINWOOD
LANE, PLATT**

Section 73 application to vary conditions 1 (direction of shooting); 2 (maximum number of archers and club use); of planning permission TM/12/01294/FL (Retrospective application for engineering operation to alter archery field by cutting bank to south west and deposit arisings to north west) at land rear of The Butts, Beechinwood Lane, Platt.

RESOLVED: That the application be

APPROVED as per the details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health, subject to:

(1) Amendment to Conditions:

4. Notwithstanding the provisions of Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, unless otherwise agreed in writing, the use of the site shall be restricted to be used for:

- (i) the applicant's own private recreational and practice purposes with a maximum of 8 participants, or
- (ii) ad hoc practice by a maximum of 32 club members between the hours of 10.30am to 6.00pm on Wednesday and Thursdays and weekends, or
- (iii) a club run from the site with a maximum of 3 tournaments limited to the period April to September each year, with a maximum of 32 competitors in each tournament.

Reason: In the interests of rural amenities and to comply with policies CP1, CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.

8. All archery activities shall be limited to the use of only Longbows (specifically no crossbows, recourse or compound bows shall be used). The Longbows used shall be of a maximum draw weight of 70lbs with an average draw weight no greater than 50lbs and shall only be used in strict accordance with the safety standards and requirements of both

the British Long Bow Society and Archery GB (formerly the Grand National Archery Society) or anybody that may in the future supersede such organisation(s).

Reason: To accord with the terms of the application and in the interests of the actual and perceived public safety of the area to comply with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

(2) Additional Condition:

9. There shall be no club use or tournaments until a minimum 25 space car park has been provided, surfaced and drained in accordance with details that have first been submitted to and approved by the Local Planning Authority. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved parking spaces.

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

(3) Delete informative

[Speakers: Platt Parish Council and Mrs P Darby - member of the public]

MATTERS FOR CONSIDERATION IN PRIVATE

**AP2
13/063**

EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 2110 hours

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA PLANNING COMMITTEES

Report of the Director of Planning, Housing & Environmental Health

Part I – Public

Section A – For Decision

DEVELOPMENT CONTROL

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

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

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

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

GLOSSARY of Abbreviations and Application types

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

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

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

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

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

West Malling West Malling and Leybourne	567812 157849	17 May 2013	TM/13/01464/FL
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Proposal:	Erection of a conservatory
Location:	Rotary House Norman Road West Malling Kent ME19 6RN
Applicant:	Age Concern

1. Description:

- 1.1 The application proposes the construction of a conservatory within the front courtyard space of Rotary House, immediately behind the existing main vehicle entrance point. The proposed conservatory would be constructed from low level brickwork with white uPVC glazing and roof structure. The building would measure 4.9m in width x 6.2m in depth with an overall height of 3.3m to the roof ridge.
- 1.2 At present, Age Concern runs a Day Centre service at Rotary House with a Dementia Centre on a Wednesday and Friday. The applicant details that it has seen an increase in demand for these services, especially the dementia service, and predicts this increasing demand will continue over the coming years. The proposed conservatory would add much needed additional space to the existing premises allowing clients the extra room to relax and go out into an existing sensory garden (located on the front boundary of the site with Norman Road).
- 1.3 The applicant has detailed that it has access to 5 off street parking spaces (located just east of the Rotary House building adjacent to the vehicular access way into the Primary School/Cricket Club). These spaces are leased from Kent County Council (KCC) as landowner. An additional drop off and parking area exists within the application site, allowing at present for the parking and turning of several minibuses or private cars.
- 1.4 The existing Centre has up to 6 minibuses which it uses as part of its services. These typically travel out from the premises in the morning (leaving at around 9:15am and returning between 10-10:30am) to collect clients, and later departing at approximately 2:30pm, before the school run commences, to return clients to their homes and returning somewhere between 3:30-4:00pm. The applicant details that it works with the School to ensure that minibus movements are not timed to clash with School drop-off or pick-up times.
- 1.5 The application details that, during evenings and weekends, one of the Centre minibuses parks at Spade Works (Offham) with another at a driver's home. The remaining minibuses either park within the application site or within the 5 car parking spaces leased to Age Concern by KCC.

1.6 In terms of staff parking, the application details that staff parking is minimal owing to staff living within the local community and those staff which do drive themselves to the Centre are able to park on street in the near locality.

2. Reason for reporting to Committee:

2.1 This application is being reported to Committee given general public interest on the basis of the various issues associated with surrounding land uses and the balance which needs to be struck between the issues raised and the support for the Centre as an important local community facility.

3. The Site:

3.1 Rotary House is located on the northern side of Norman Road on a corner plot adjacent to the shared vehicular access route to West Malling Primary School and West Malling Cricket Club. It is a single storey building used as a Day Care Centre which provides support and services to older people throughout the rural parts of the Tonbridge and Malling Borough.

3.2 The application site is located outside the defined settlement confines of West Malling and within the Metropolitan Green Belt. The site is also located within the West Malling Conservation Area.

3.3 The building was first used as a temporary depot for a school library service through a series of temporary planning consents (references: MK/4/71/663, MK/4/72/807, MK/4/73/999 and TM/75/54). Permission was granted for a temporary 5 year period in 1985 (reference: TM/85/449) for a Day Care Centre for elderly persons welfare, which was subsequently extended in 1990 (reference: TM/90/493).

3.4 A permanent permission was subsequently granted for the Day Care Centre in 1996 (reference: TM/96/01298/FL). A condition on this planning permission specifically states that the use of the building shall not continue in the event that parking provision within the site becomes unavailable for that purpose (i.e. effectively removing Permitted Development Rights for the land within the site used as parking and turning space). Planning permission was also given for an extension to the western side of the building, totalling some additional 75 sq. metres in 1996 (reference: TM/96/01057/FL).

4. Planning History:

MK/4/71/663	Grant with conditions	29 December 1971
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Use of building for temporary depot for school library service.

MK/4/72/807 Grant with conditions 1 December 1972

Continued use of buildings for temporary depot for school library service.

MK/4/73/999 Grant with conditions 19 March 1974

The use of premises as depot for school library service.

TM/75/54 No Objection 21 January 1975

Continued use of former school kitchen for school library service.

TM/85/449 Grant With Conditions 19 June 1985

New vehicular access and Day Care Centre for elderly persons welfare for a temporary period of 5 years

TM/90/493 Grant With Conditions 31 July 1990

Renewal of permission TM/85/449 for vehicular access and Day Care Centre for elderly persons welfare

TM/95/50841/FL Grant With Conditions 10 October 1995

Extensions to existing Day Care Centre

TM/96/01057/FL Grant With Conditions 14 October 1996

Extension to existing Day Care Centre

TM/96/01298/FL Grant With Conditions 28 October 1996

Retention of existing Day Care Centre

TM/98/02129/ORM ORM approved 7 May 1999

Relocation of fire exit from the west elevation to the north elevation of the extension

TM/04/02762/TPOC Grant With Conditions 9 September 2004

Remove branch of one Sycamore growing close to roof and telephone cables; remove deadwood throughout the tree (TPO ref. 12.10.04)

Fell Sycamore with decay and die-back and replace on frontage with more suitable species

5. Consultees:

- 5.1 PC: Members object to this proposal because of the likely impact on parking which would be displaced. In particular, Members would not wish Age Concern minibuses manoeuvring in the access road. Members also commented on the choice of position of the proposed conservatory; they could not see that this would provide an enjoyable view for clients.
- 5.2 KCC Highways: Considers that the applicant should explore the opportunity for creating one additional vehicle parking space on land it leases from KCC (adjacent to the eastern side of Rotary House) as this would help address local concerns with parking. The main concern relates to foreseen difficulties which would result from the siting of the conservatory in relation to vehicle movements onto and off Norman Road. From the plans provided, it would appear that the proposed conservatory would extend flush to the adjoining building lines. This in my view will remove the current ability for manoeuvring in this area and the proposal will unduly give rise to problematic reversing onto or off Norman Road.
- 5.3 West Malling Primary School: Object to the proposals on the grounds of a loss of on-site parking which will only add to the car parking/traffic congestion problems down the shared driveway. If the development is approved, this will displace parking into the Age Concern reserved parking area (to the east of Rotary House). This area is already too small for minibus parking. Staff vehicles will also be displaced, resulting in increased parking pressure along the shared access road which will impact on visitors to the School, Cricket Ground and public open space. The proposals may also result in increased staff at the Centre, resulting in the need for more staff parking.
- 5.4 Private Reps (11/0X/3R/0S) + Press/Site Notice (CA). The following key points of objection have been raised:
- The location and design of the conservatory is at odds with the intended purpose (i.e. for residents of the Centre to enjoy an extra space to relax) – the conservatory would have limited outlook towards Norman Road;
 - The proposed site of the conservatory currently forms an important parking space for one of the Centre's minibuses. The Rotary House site is extremely constrained and the space within the site fully utilised for the parking of 3 minibuses in total. The loss of on-site parking for a minibus would therefore worsen the current situation and add to vehicular congestion in the locality;

- The Centre regularly causes traffic congestion and dangerous hazards for pedestrians – minibuses are regularly parking overhanging the pedestrian pavement along Norman Road; and
- The proposed conservatory roof extends above the height of the existing centre roof – this should be no higher than the existing building;

6. Determining Issues:

- 6.1 The application site lies within the Metropolitan Green Belt. The application must therefore be assessed in relation to National Green Belt Policy, as set out in the NPPF and TMBCS Policy CP3. The NPPF states (in paragraph 89) that the construction of new buildings is inappropriate development except for (*inter alia*) extensions or alterations which do not represent disproportionate additions over and above the size of the *original* building.
- 6.2 Whilst West Malling is defined as a Rural Service Centre within TMBCS Policy CP12, that designation does not extend to encapsulate the application site. Therefore, by definition, Rotary House is located within the countryside where TMBCS Policy CP14 applies. This policy states that an existing dwelling or an established employment site may be extended on an appropriate/limited basis (i.e. in terms of scale/bulk), although does not specifically cover community infrastructure such as this facility.
- 6.3 Rotary House is located within the West Malling Conservation Area and paragraph 137 of the NPPF states that opportunities for new development within the setting of heritage assets should enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution or better reveal the significance of the asset should be treated favourably. The statutory requirement to give special consideration as to whether a development proposal will preserve or enhance the character and appearance of a Conservation Area is furthermore set down in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.4 Policy SQ1 of the MDEDPD states that (*inter alia*) proposals for development will be required to reflect the character and local distinctiveness of the area including its historical and architectural interest as well as the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views. Policies CP1 and CP24 of the TMBCS also require the character and amenities of a locality to be safeguarded.
- 6.5 The key issues in terms of MGB and countryside are the visual impact and the impact on openness of the proposed single storey conservatory to the front (south) of Rotary House. Paragraph 17 of the NPPF requires protection of the Green Belt and recognition of the intrinsic character and beauty of the countryside. From an examination of the planning history of this site, the building has remained of a consistent footprint (approximately 200 sq. metres), with one extension of

approximately 75 sq. metres being added in 1996 (under application reference TM/96/01057/FL). I consider that the proposed conservatory, which would add a further 30 sq. metres of floorspace, would not be disproportionate to that of the original building; the cumulative total of the 1996 and current extensions would represent just over a 52% increase in the size of the building compared to the original 200 sq. metre footprint. In this case, I consider that the proposed conservatory is of a limited scale (approximately 30 sq. metres) and raises no significant openness issues owing to its specific siting, scale and appearance. I therefore consider that the development is appropriate in this instance and would not harm the wider openness of the Green Belt designation.

- 6.6 The proposed conservatory is of a general domestic appearance and would be relatively prominent within the Conservation Area street-scene of Norman Road, albeit the structure itself would be located within an existing alcove area within the front of the existing building. The Rotary House building itself is of no special architectural character or merit, being a flat roof single storey structure, finished externally with a mix of yellow stock bricks and timber cladding. Whilst the building itself is of no special character or appearance and does not contribute to the wider setting of the Conservation Area, this does not mean it is acceptable to add a further addition to the building which similarly would contribute little to the overall setting of the West Malling Conservation Area. In this instance, I consider that the proposed development fails the test of either preserving or enhancing the street-scene appearance of the Conservation Area.
- 6.7 I note that there is a number of competing land uses in the immediate vicinity to the application site which each cause some degree of highway nuisance to residents living in the locality. The close proximity of the existing Primary School, Age Concern Centre and Cricket Club/public open space in one small geographical area all compound the extent of these highway concerns to a large degree, more so than if a single one of these facilities were operating in this area in isolation.
- 6.8 The Age Concern Centre has existing space (within its boundary) to park up to three minibuses of an evening/weekend and to close the existing access gates once the buses are on the site. During day-time hours, minibuses are currently able to reverse into the front of the site from Norman Road to drop-off and pick-up clients – this either involves reversing straight back into the grounds (on the area where the conservatory would be located) or reversing around to the east towards the main Centre entrance doors. As noted by the Highway Authority, the addition of the proposed conservatory would remove the ability of minibuses to reverse straight into the grounds; instead they would only be able to reverse around to the eastern side of the vehicle entrance area. The addition of the conservatory would also remove any ability for minibuses to turn within the site. As noted in paragraph 3.4 above, at the time the Day Care Centre was given permanent planning permission in 1996 (under application TM/96/01298/FL) a planning condition was imposed which states that the use of the building shall not continue in the event

that parking provision within the site becomes unavailable for that purpose (i.e. effectively removing Permitted Development Rights for the land within the site used as parking and turning space).

- 6.9 The Centre currently leases 5 off-street parking spaces from KCC which are located adjacent to the eastern side of Rotary House along the first section of the shared access road into the nearby Primary School and Cricket Ground. These parking spaces are used by the applicant for either minibus or staff car parking during the daytime, evenings and weekends.
- 6.10 I agree with the advice received from KCC Highways that, should an additional minibus parking space be provided (within the land leased from KCC), this would help to alleviate localised highway concerns. Having explored this option with the applicant, I have been unable to secure any formal agreement due to the land being outside the direct control of the applicant. Therefore, the current application has to be considered on the basis of the current parking situation which effectively results in the loss of at least one parking space. I also concur with the advice received from KCC Highways in that the proposals would reduce the ability for vehicle manoeuvring within the application site. The addition of the proposed conservatory will therefore undoubtedly give rise to problematic reversing onto or off Norman Road.
- 6.11 As noted in paragraphs 1.2 and 3.1 above, the Centre delivers an important community facility which provides support and services to older people throughout the rural parts of the Tonbridge and Malling Borough. The applicant has detailed in support of its application that it has seen an increase in demand for the services currently offered at the Centre, especially in relation to the dementia service. The proposed conservatory is intended to add much needed additional space to the existing premises in order to cater for an increasing level of demand.
- 6.12 In reaching a decision on the development proposals put forward in this case, it is important that sufficient regard is given to the continued need for this existing community facility and how its expansion requirements can be realised to meet demand in the coming years. That need clearly needs to be balanced against other material considerations which exist in this case, namely visual impact on the Conservation Area and the impact on highway safety.
- 6.13 For the reasons discussed above, I consider that the proposals would not preserve or enhance the character and setting of the Conservation Area and therefore are, in principle, contrary to the advice contained in paragraph 137 of the NPPF, TMBCS Policies CP1 and CP24, MDE DPD Policy SQ1 and the statutory requirement set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.14 Similarly, for the reasons discussed above, the addition of a conservatory room on this already tight site is likely to lead to an increased level of highway related concerns, namely (i) the displacement of adequate manoeuvring space for

vehicles within the application site which would undoubtedly create problematic reversing onto or off Norman Road and (ii) the loss of one vehicle parking space within the site which could not be replaced elsewhere within the land directly controlled by the applicant and where there is already congestion and conflicting demands.

6.15 Whilst I acknowledge the importance of this existing community facility, I do not consider that this material consideration in itself is sufficient to outweigh the principal concerns raised relating to highway matters and in general street-scene design terms in the Conservation Area. I therefore recommend that permission be refused accordingly.

7. Recommendation:

7.1 **Refuse Planning Permission** for the following:

Reasons

1. The proposed conservatory to the front (south) elevation of Rotary House fails to preserve the character and appearance of the Conservation Area and would give rise to a detrimental street-scene impact, contrary to the advice contained in paragraph 137 of the National Planning Policy Framework 2012, Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document 2010 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. The proposed conservatory would give rise to the displacement of an existing vehicle manoeuvring area within the application site which would result in problematic reversing onto or off Norman Road giving rise to highway safety concerns through conflicts between vehicles and pedestrians, contrary to Policy SQ8 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document 2010.
3. The proposed conservatory would result in the loss of one on-site vehicle parking space which could not be replaced elsewhere within the land directly controlled by the applicant and where there is already congestion and conflicting highway demands, contrary to Policy SQ8 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document 2010.

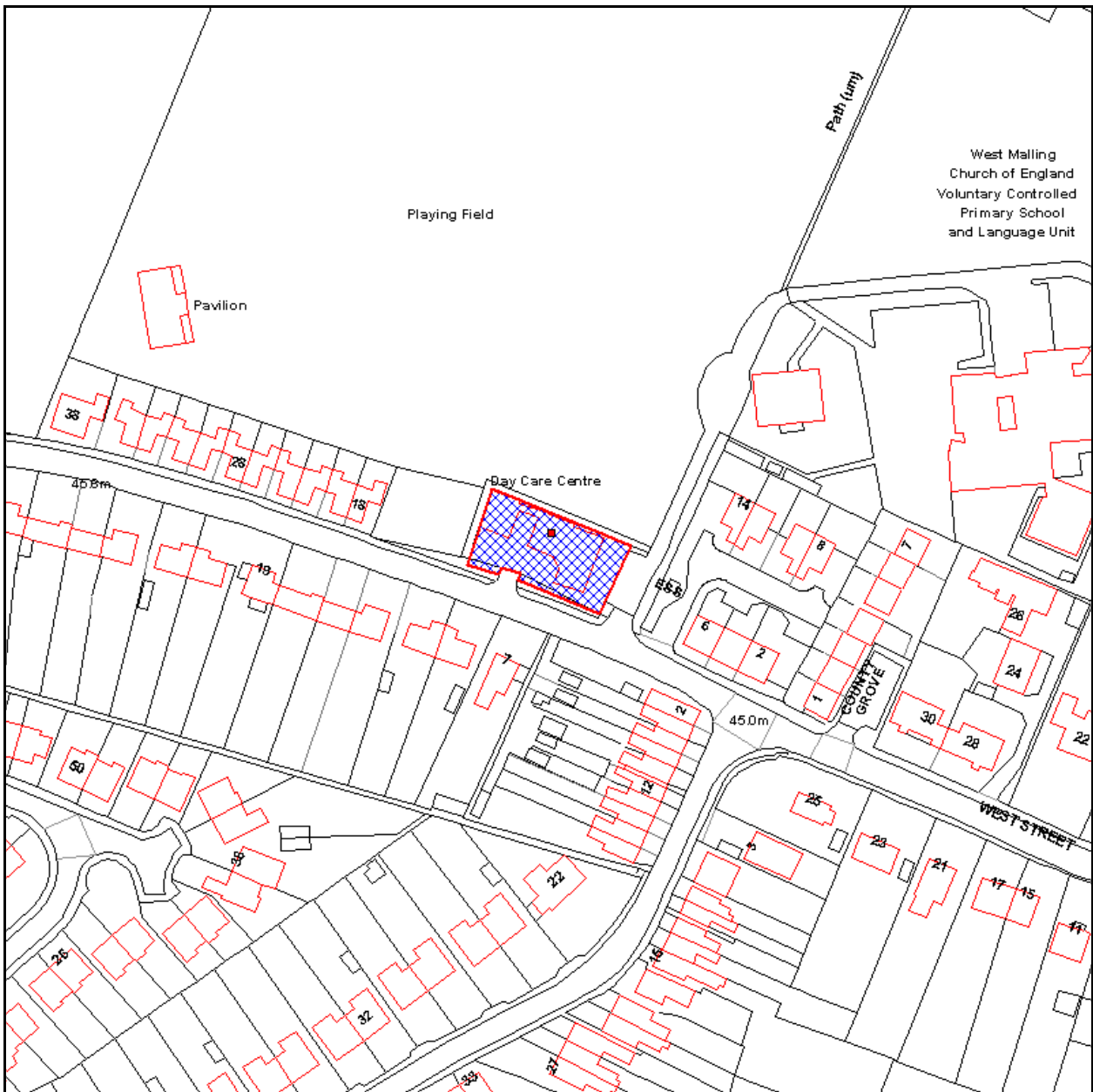
Contact: Julian Moat

TM/13/01464/FL

Rotary House Norman Road West Malling Kent ME19 6RN

Erection of a conservatory

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Ightham Ightham	557667 155361	8 May 2013	TM/13/01382/FL
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Proposal:	Erection of new agricultural/nursery dwelling and demolition of existing buildings
Location:	Crown Point Nursery Sevenoaks Road Ightham Sevenoaks Kent TN15 0HB
Applicant:	Reuthe's Nursery

1. Description:

1.1 Members may recall that this application was previously reported to Area 2 Planning Committee on 30 October 2013. At that meeting, the Committee resolved to defer consideration pending further information being submitted by the applicant to support its case of justification for the new agricultural/nursery workers dwelling.

1.2 A "Fact Sheet" has been submitted by the applicant to summarise what it considers to be the key issues and to address the concerns raised at A2PC on 30 October 2013. A summary of the key information submitted is as follows:

- Mr & Mrs Tomlin will occupy the new dwelling to manage the improvements they are so keen to implement. They have stated that living on site is essential if Reuthe's Nursery is to flourish – they are very enthusiastic to make Reuthe's the leading Rhododendron nursery in the UK, others have closed and there is a real opportunity to take it to new levels. Mr & Mrs Tomlin have stated that they have the option to lease their present home (in Edenbridge) to a former employee;
- The new dwelling provides a nursery office where customers can be met and a staff welfare area can be provided;
- Problems in the past have largely been due to no on-site supervision. These problems have included: electricity failure due to 'tripping'; irrigation failure due to water or electric failures; excess bills due to vandalism/leaks (example water bills of £2,570 whereas normally it would cost around £1,000); plant vandalism (particularly with valuable species); snow damage on greenhouses from sudden snow falls during recent winters; and arson (Chelsea exhibits were burnt by arsonists in 2007);
- Propagation is vital – the owners do this personally and re-iterate the need to live on site to do this successfully;
- Track record of the owners (Mr & Mrs Tomlin) – Mr Tomlin worked at Reuthe's Keston Nursery with two generations of the Reuthe family, has 30 years experience at Director level of nursery management, was a Member of the Royal Horticultural Society, Rhododendron and Camellia Committee from

1995-2010, from 2010 to present is a Committee Member of the new RHS Rhododendron and Camellia Magnolia Committee and a Judge and Steward at RHS shows. Mrs Tomlin has 30 years experience at Director or Partner level of nursery management dealing with all aspects of sales and accounts;

- Reuthes Nursery is profitable – figures have been provided demonstrating a net profit in 2013 of £24,530 and 2012 of £13,063.
- Mr & Mrs Tomlin acquired Reuthe's Nursery in 1992 when sufficient funds were accumulated to build a dwelling but the application was refused under reference TM/99/01792/OA. The Reuthes company funds were then put into another property in the West Country and that has now been sold at £143,000. This is company capital which is available for Reuthes Nursery; and
- Additional projected turnover (5 year business plan) will increase due to on-site propagation. In Year 1 this is estimated to be £23,250 and by Year 5 it is estimated to be £36,000. This additional income will not all be profit, but it is expected that approximately 35 – 40% of this will be profit.

1.3 I have included a copy of the previous Committee report and Supplementary Report as an Annex. Whilst additional information has been provided by the applicant, the proposals themselves remain unaltered.

2. Determining Issues:

- 2.1 I note the further "Fact Sheet" information submitted by the applicant in response to the concerns raised during the Area 2 Planning Committee on 30 October 2013. I understand the concerns that Members expressed at the previous meeting, however there is nothing in the additional information now submitted that could lead me to alter my original recommendation. If anything, this additional information can be seen as strengthening the applicant's case. There is some further explanation as to why the applicants consider the provision of residential accommodation to be "essential", in the terms set out in NPPF paragraph 55. This appears to have been the principal question in Members' minds at the previous meeting.
- 2.2 However, Members should note that there has always been some degree of doubt as to the existing level of profit (as outlined in paragraph 1.2 above) which relates solely to Crown Point Nursery, as opposed to the wider Reuthe's Nursery business which also covers the owner's existing nursery in Edenbridge. Therefore, I consider that limited weight should be given to the detailed financial background that has now been provided in the determination of this application.
- 2.3 It should be noted that the original recommendation (as set out in my original report which can be found in the Annex) was altered to include the requirement for the applicant to enter into a satisfactory Planning Obligation (either a legal agreement or unilateral undertaking) to tie the occupation of the new dwelling to

the operation of the agricultural unit (Crown Point Nursery). This approach is still necessary and would be consistent with that adopted by the Borough Council in relation to other recent permissions granted for agricultural workers' dwellings of a similar nature in this locality in recent years.

2.4 I therefore present the following recommendation as set out below.

3. Recommendation:

3.1 **Grant Planning Permission** as detailed by the plans and other documentation as set out in paragraph 7.1 of my original report (see Annex), subject to:

- The applicant entering into a satisfactory Planning Obligation (either a legal agreement or unilateral undertaking) to tie the occupation of the new dwelling to the operation of the agricultural unit (Crown Point Nursery) and
- The conditions as set out in my original report (see Annex)

Contact: Julian Moat

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Report of 30 October 2013

Ightham
Ightham**557667 155361 8 May 2013****TM/13/01382/FL**

Proposal: Erection of new agricultural/nursery dwelling and demolition of existing buildings

Location: Crown Point Nursery, Sevenoaks Road, Ightham, Sevenoaks, Kent, TN15 0HB

Applicant: Reuthes Nursery

1. Description:

- 1.1 The application proposes the construction of a new proprietor/manager's house for the horticultural nursery at Crown Point, known as Reuthes Nursery. As part of the application it is also proposed to demolish/remove an existing site office and implement shed from the site.
- 1.2 The new dwelling is a chalet bungalow style property which would be constructed by Scandia-Hus, a designer and supplier of Swedish energy-saving timber framed homes in the UK. The dwelling comprises of some 254 square metres of new floorspace, split over two levels, although 58 square metres of this floorspace at ground floor level would be allocated to ancillary nursery accommodation (nursery reception, office, staff room, storage rooms and WC). Although specific external materials details have not been provided at this stage, it is anticipated that local stock brickwork would be used at ground floor level, with tile hanging used for dormers and gable ends and clay tiles to the roof. The dwelling would be located in the north western corner of the site on generally higher land, allowing the dwelling to overlook the wider nursery site.
- 1.3 As outlined above, the proposals involve the removal of some 132 square metres of building footprint from the site; comprising an existing site office (47 square metres) and an implement shed (85 square metres).
- 1.4 The plant nursery activities at Crown Point, specialising in rhododendrons and azaleas, forms part of a long-established business (G Reuthe Limited). The application states that Reuthes Nursery is an internationally known centre for the propagation and growing of Rhododendrons and other acid loving plants. Reuthes Nursery was originally established at Keston, Bromley by Gustov Reuthe in 1902, with the Ightham branch opened in 1926. In the early 1980's Keston Nursery was closed and all production was moved to Ightham. The third generation of Reuthes sold the nursery to the current owners in 1992, with the Nursery winning awards for the quality of its rhododendrons in 1993, 1994 and 1995.
- 1.5 The application details that there is an urgent requirement to enable the proprietor of the business to propagate plants at the nursery. To live on the site to monitor the propagation unit is also said to be a necessity; a year's work could be lost

overnight due, to for example, power cuts, snow fall, strong winds, water leaks, rodents, pests, diseases and burglary/vandalism. The nursery has in the past tried to resolve the propagation problem by outsourcing it but this has proved to be unsuccessful, with high levels of plant failures during propagation attempts at growers in Sussex and in Belgium.

- 1.6 The owners are keen to maintain the long tradition of the nursery and are also interested in developing a centre for education and diversification at the site, using their knowledge and expertise to help educate future horticultural workers.
- 1.7 The site's planning history, with regards to proposed residential accommodation, goes back many years, with outline planning permission for an agricultural workers dwelling originally granted to the current owners in 1994 under application TM/94/00732/OA, after they took over the nursery in 1992. This permission was never implemented. A subsequent proposal to extend the time limit of the 1994 outline approval was submitted under application TM/99/01792/OA, but was refused.
- 1.8 It should be noted that the applicant currently operates a nursery in Edenbridge (Starborough Nursery), which is the registered office of G Reuthe Limited.

2. Reason for reporting to Committee:

- 2.1 The application relates to a case where there is a balance to be made between diverging and significant policy considerations.

3. The Site:

- 3.1 Crown Point Nursery is located on the south side of the A25 (Maidstone Road), just east of the Crown Point Inn. The Nursery has a narrow entrance from the main road situated within dense woodland, forming part of Fish Ponds Woods, an area of Ancient Woodland and part of a wider SSSI, although there would be no direct impact on the Ancient Woodland or SSSI.
- 3.2 The main plot occupied by the horticultural nursery is located some 250 metres back from the A25 road and forms a broadly speaking triangular shaped piece of land. The land within the nursery generally rises from north to south, with the area covered by existing rhododendrons, azaleas, together with a variety of other rare plants and trees. There are also a number of built structures within the nursery land, including polytunnels, various sheds/outbuildings, an office, raised planting beds and greenhouses.
- 3.3 The nursery site is located within the Metropolitan Green Belt (MGB) and North Downs Area of Outstanding Natural Beauty (AONB). The site is also located outside any defined rural settlement and is therefore, by definition, within the open

countryside. The south western boundary of the nursery forms part of the boundary between land within Tonbridge and Malling Borough and Sevenoaks District.

4. Planning History:

TM/86/10741/OUT Grant with conditions 28 November 1986

Outline application for supervisors dwelling.

TM/88/10419/FUL Grant with conditions 31 March 1988

Stationing of Portakabin (to replace existing office/prefab building) and Portaloo toilet.

TM/89/11893/FUL Grant with conditions 6 September 1989

Widening of entrance to nursery.

TM/90/10979/FUL Grant with conditions 18 May 1990

Detailed application for an agricultural dwelling

TM/94/00732/OA Grant with conditions 6 December 1994

Outline application for agricultural dwelling

TM/99/01792/OA Refuse 9 December 1999

Variation of conditions 2 and 3 (time conditions for submission of reserved matters and commencement of development) of permission TM/94/01320/OA: Outline Application for agricultural dwelling

5. Consultees:

- 5.1 PC: We support this thorough and well argued application for replacement of existing buildings with an attractive new horticultural dwelling.
- 5.2 KCC (Highways): Has no objection to this proposal.
- 5.3 KCC (Archaeology): Notes that the application site lies in an area which has revealed prehistoric activity, particularly Iron Age. There are some "fish ponds" identifiable on the 1st Ed OS Map and some of these still survive c.200m to the east. The early OS Field Drawings highlight some buildings to the west of the

nursery. Associated post medieval or medieval activity may be revealed during groundworks, therefore recommends a condition be imposed on any forthcoming consent securing the implementation of an archaeological watching brief.

5.4 Environment Agency: Has no objection to this proposal.

5.5 Private Reps: 5/0X/1R/2S + departure site and press notice. A total of 3 letters of representation have been received, raising the following matters:

Support

- If ever there was a planning application that made sense in both aesthetic and economic terms, this is surely it - it makes enormous sense for the manager to be on site in his own dwelling house, and from an aesthetic basis the proposed house blends well with the surroundings and involves the demolition of existing (much less attractive) buildings/structures; and
- We have used Crown Point Nursery for many years populating our gardens and woodlands with large quantities of first class specimen Rhododendrons, Azaleas and specialist trees. The Nursery has an international reputation for its quality stock, having won many Gold medals at the Chelsea Flower Show

Objection

- The access to the nursery from the A25 runs through land belonging to an adjoining property. When the nursery was owned by G Reuthe the neighbour was asked, because of traffic congestion, if they could agree to two lay-bys to be constructed on their land. This was subsequently agreed with a Licence Agreement drawn up at the time to cover the provision of the new lay-bys;
- I have written to the current owner of the nursery giving them 3 months notice terminating the lay-by agreement. In addition to the termination of the agreement, I propose to physically restrict the width of the access drive. With the removal of the lay-bys and because of the bend in the access road, it is impossible for vehicles, longer than 6.2 metres, to access the nursery;
- Having lived next door to the nursery for over 30 years, in this time it has changed ownership and with it, it has fallen into neglect and dereliction;
- The planning application submitted on behalf of the owner alludes to the reinstatement of the site into a productive propagating and growing on nursery. If the Council is minded to grant planning permission for this scheme in the Green Belt may I suggest that a decision is at least delayed until the owner first proves he can re-establish a viable nursery on the site then that horticultural jobs are created in the process; and

- Another point to consider is that the reputation of horticultural excellence built up at the nursery by the Reuthe family over decades has been totally destroyed and, as we all know, a reputation lost is very hard to regain.

6. Determining Issues:

- 6.1 The key determining issues in this specific case relates to the balance which needs to be struck between potentially diverging policy considerations; those being the acceptability of the proposals in Metropolitan Green Belt (MGB) terms; the current policy tests in relation to assessing whether there is an essential need for rural workers accommodation in the countryside; and the general thrust of national planning policy in supporting sustainable economic growth in rural areas.
- 6.2 Given that the application site lies within the Metropolitan Green Belt (MGB) the proposals for a new permanent agricultural workers dwelling must be assessed in relation to National Green Belt Policy as set out in the National Planning Policy Framework 2012 (NPPF) and Tonbridge and Malling Borough Core Strategy 2007 (TMBCS) Policy CP3. The NPPF states that the construction of new buildings is inappropriate development in the Green Belt except for (inter alia) buildings which are specifically for agriculture and forestry. With the exception of the dedicated nursery accommodation within the proposed residential dwelling (totalling some 58 square metres out of a total 254 square metres of the overall building) the overall purpose of the new building is not for agricultural use per se. The new dwelling is therefore not considered to meet with any of the Green Belt exceptions, and therefore should be regarded as inappropriate development. The NPPF states that inappropriate development is, by definition, harmful to the MGB and should not be approved except in very special circumstances. It also states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the MGB. Very special circumstances will not exist unless the potential harm to the MGB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.3 In terms of the policy tests in relation to assessing a need for rural workers accommodation in the countryside, the NPPF states (in paragraph 55) that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. Similarly, TMBCS Policy CP14 states that in the countryside development will be restricted to (inter alia) development that is necessary for the purposes of agriculture or forestry, including essential housing for farm or forestry workers.
- 6.4 Prior to the publication of the NPPF in March 2012, a proposal such as this would have fallen to be judged under the criteria of Annex A of Planning Policy Statement 7 (PPS7), the long-standing Government advisory statement on new

rural occupational dwellings which applied both a functional test and a financial test. PPS7 required an applicant to satisfactorily demonstrate as part of the essential need test for a new rural workers dwelling that: there is a clearly established existing functional need for a full-time worker; and that the unit and the agricultural activity concerned have been established for at least 3 years, have been profitable for at least one of them, are currently financial sound, and have a clear prospect of remaining so; and that the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area. That said, in light of the policy framework which we find ourselves faced with today, there is no further clarification nationally or locally to assist in deciding upon what is termed in the NPPF to be “essential need” in individual cases. There are individual cases where a Local Planning Authority and/or Planning Inspector has found that there is no good reason to presume against adopting the sort of functional and financial considerations that were set out in PPS7; on the other hand there are cases where it has been found that assessing applications against out of date policy considerations may leave a decision open to challenge. In the light of this new policy context, it is considered that the “essential need” of this new agricultural workers dwelling at Crown Point Nursery will need to be determined on its own merits, taking account of national policy guidance and adopted development plan policy in the round. It should be noted that the Council’s retained Rural Planning Advisor has assessed this application using the sort of functional and financial considerations that were previously set out in PPS7, and his views are summarised in an Annex.

- 6.5 The third key policy consideration is the presumption in favour of sustainable development which lies at the heart of the NPPF. This presumption includes the requirements to: support sustainable economic growth in rural areas (which includes supporting sustainable growth and expansion of all types of business and enterprise in rural areas and promoting the development of agricultural and other land-based rural businesses); requiring good design; protecting Green Belt land; and conserving and enhancing both the natural and historic environments.
- 6.6 The Nursery at Crown Point has a long-standing history of propagating and supplying high quality rhododendrons and azaleas (and other acid loving plants) to suppliers on a national and international basis, a reputation which was built up by the Reuthe family from 1926 onwards. The Nursery was taken over by the current owners, Mr and Mrs Tomlin, in 1992, who also operate a separate nursery (Starborough Nursery) in Edenbridge, some 16 miles away. In more recent years the Nursery at Crown Point, whilst remaining operational, has been operated on a low-intensity basis. The application states that the Nursery has struggled in recent years as a result of a lack of on-site accommodation to allow for full-time propagation, whilst there have been many instances of plant loss due to failure of watering or heating, and cases of vandalism.

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- 6.7 Financial accounts have been provided as part of the consideration of this application. The Council's Rural Planning Advisor has assessed this financial information and concluded that it demonstrates that, whilst profitable, the Nursery has not shown an existing sufficient level of income to support the additional cost of the dwelling proposed. That said, it needs to be borne in mind that the provision of detailed financial accounts for the Nursery is not explicitly required to meet the *essential need* test set out in the NPPF in the same way as would have been required under the old Annex A of PPS7.
- 6.8 The applicants claim that allowing new Nursery workers accommodation on site (either for the proprietor or for a site manager) would ensure that the Nursery once again becomes a viable rural business. Given the long-standing reputation of the Nursery at this location and the specific growing conditions which exist at the site (i.e. the acidic soil conditions), I consider there to be a case for arguing that the economic factors may outweigh any presumption against inappropriate development in this location.
- 6.9 Having visited the site I note that the Nursery is well screened from any wider or long-distance views across the MGB or North Downs AONB. Whilst the proposed dwelling would be located on a relatively high point of the site itself, the actual views of any new dwelling would be limited due to existing dense tree and vegetation screening around the site perimeters. The impact of the dwelling would also be limited due to the nature of the chalet bungalow and ensuring a clearly defined residential curtilage, beyond which domestic paraphernalia would be restricted.
- 6.10 The application states that foul sewage is proposed to be disposed of via a septic tank. Specific details have not been provided at this stage, although this method of disposal has been chosen owing to the distance which the dwelling would be located away from any mains drainage systems. Having consulted both the Environment Agency and the Council's own Environmental Protection Team on this indicative detail, neither have raised concerns with this element of the proposals. I therefore consider that specific details of foul and surface water drainage can be reserved for later consideration in this case.
- 6.11 On balance, taking account of current national planning policy guidance and adopted development plan policy, I consider that the applicant has been able to sufficiently demonstrate that there is enough of an essential need for new nursery workers accommodation at the site at this point in time. That essential need, together with other material considerations such as the long-standing history of the Nursery and its past national and international reputation, the removal of some 132 square metres of existing undesirable buildings from the site, together with general support in the NPPF for supporting sustainable rural enterprise, in my opinion amounts to a sufficient set of very special circumstances which, in this particular case, outweigh the general presumption against what is considered to be inappropriate development.

- 6.12 Whilst I note that concerns have been raised from an adjacent neighbouring property regarding the provision of lay-bys, this is a legal matter between the adjoining residential and Nursery owners, and not a specific planning consideration in this instance. Having consulted with Kent Highways on this application I note that it has raised no objection on highway matters to the additional new rural workers dwelling in this location. It should also be borne in mind that the highway considerations of this specific application relate solely to the provision of a new dwelling as opposed to other general concerns with the adequacy of vehicular access to the Nursery operation itself.
- 6.13 As outlined above, the application has been reported to Committee in recognition of the balance which needs to be struck between diverging policy considerations. Government guidance is currently silent at the national level as to what is specifically required to demonstrate an “essential need” for a rural worker to live permanently at or near to their place of work in the countryside and therefore this judgement needs to be made on a case by case basis by the decision maker. This specific judgement needs to be made in the round, taking account of other planning considerations as set out in the NPPF. For the reasons discussed above, I consider that, in light of the current national planning policy guidance, and subject to the imposition of the conditions set out below, planning permission should be granted in this particular instance.

7. Recommendation:

- 7.1 **Grant Planning Permission as detailed by:** Letter dated 08.05.2013, Validation Checklist dated 08.05.2013, Other FORM 1B dated 08.05.2013, Planning Statement dated 08.05.2013, Other FINANCIAL VIABILITY STATEMENT dated 08.05.2013, Design and Access Statement dated 08.05.2013, Schedule dated 08.05.2013, Other KEY TO PLANTING PLAN dated 08.05.2013, Planting Plan PLAN 1 56/12 dated 08.05.2013, Location Plan PLAN 2 dated 08.05.2013, Drawing PLAN 3 dated 08.05.2013, Site Plan PLAN 4 01S REV A dated 08.05.2013, Floor Plan PLAN 5 X01 REV C dated 08.05.2013, Floor Plan PLAN 6 X02 REV C dated 08.05.2013, Section PLAN 7 SO1 REV A dated 08.05.2013, Elevations PLAN 8 X03 REV C dated 08.05.2013, Letter dated 04.06.2013, Site Plan 01S Plan 4 Rev A dated 09.07.2013, Letter dated 30.07.2013, Details ADDITIONAL INFORMATION dated 30.07.2013 and Viability Assessment: MANAGEMENT INFORMATION dated 04.06.2013, subject to:

Conditions / Reasons

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

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

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2. The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry, or a dependant of such a person residing with him or her, or a widow or widower of such a person.

Reason: The site of the dwelling is outside any area in which development would normally be permitted if it were not required for occupation by a person employed locally in agriculture or in forestry.

3. 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.

4. No development shall take place until a plan indicating the extent of the residential curtilage around the dwelling hereby permitted has been submitted to and approved by the Local Planning Authority. The residential curtilage around the dwelling shall thereafter only include the land indicated on the approved plan and no domestic paraphernalia shall be located, or stored overnight, outside this curtilage.

Reason: To ensure that the size of the dwelling and associated curtilage relate to the functional requirement of the horticultural enterprise and to protect the openness of the Metropolitan Green Belt.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, B, D, E and F, 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 ensuring the size of the dwelling relates to the functional requirement of the horticultural enterprise and to protect the openness of the Metropolitan Green Belt.

6. The rooms at ground floor (as shown shaded as Nursery Office, Reception/Coats, WC, Nursery, Nursery Staff Room and CPD, which total 58 square metres) on approved plan X01 Revision C shall only be used for the purposes which are ancillary to the operation of the horticultural nursery and shall not be used for domestic residential purposes in association with the occupation of the house itself.

Reason: The application was determined on this basis, and to enable the Local Planning Authority to regulate and control any such further development in the interests of ensuring the size of the dwelling relates to the functional requirement of the horticultural enterprise and to protect the openness of the Metropolitan Green Belt.

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7. The dwelling hereby permitted shall not be occupied until the two buildings as shown on Plan 3 (drawing number 56/12/OV) have been demolished and the land reinstated to its original condition.

Reason: The application was determined on this basis and to protect the openness of the Metropolitan Green Belt.

8. No development shall take place until details comprising plans of the proposed and existing levels of the site have been submitted to and approved by the Local Planning Authority. The development hereby permitted shall be undertaken in accordance with these approved details.

Reason: In order to control the development and to ensure that the development does not harm the character of the locality.

9. No development shall take place until details of the new vehicular access to the dwelling hereby permitted (including location, levels, method of construction and surface type) have been submitted to and approved by the Local Planning Authority. The development hereby permitted shall be undertaken in accordance with these approved details.

Reason: In order to control the development and to ensure that the new vehicular access is appropriate in character and appearance for the rural setting.

10. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees shown to be retained on 'Proposed Site Plan' (drawing 01S Revision A and annotated as Plan 4/Rev A July 13'), 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. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

12. Prior to the commencement of development, details of a scheme to demonstrate that the development hereby approved will incorporate appropriate measures to contribute to a sustainable environment shall be submitted to the Local Planning Authority for approval. The scheme shall include measures to minimise waste generation, and to minimise water and energy consumption, having regard to the need for 10% of energy consumption requirements to be generated on-site from alternative energy sources and the potential for recycled water. The approved scheme shall be implemented prior to the first occupation of the dwelling hereby approved.

Reason: In the interests of ensuring a sustainable form of development.

13. There shall be no external lighting except in accordance with a scheme of external lighting submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.

Reason: In the interests of visual amenity.

14. The dwelling hereby permitted shall not be occupied until works for the disposal of foul and surface water drainage have been provided on site, in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of pollution prevention.

Contact: Julian Moat

Summarised views of the Council's retained Rural Planning Advisor

Notes that this proposal would have fallen to be judged under the criteria of Annex A of PPS7, the long-standing Government advisory statement on new rural occupation dwellings, prior to 27 March 2012. This has now been replaced by the new NPPF which simply states (in paragraph 55), in the context of sustainable housing development in rural areas, that local planning authorities should avoid new isolated homes in the countryside unless they are special circumstances such as the "essential need" for a rural worker to live permanently at or near their place of work in the countryside.

At present there appears to be no further clarification nationally or locally to assist in deciding upon "essential need" in individual cases. However there is nothing to suggest that paragraph 55 of the NPPF or TMBCS Policy CP14, are promoting any significant departure from the sort of functional and financial considerations that were set out in detail in Annex A, and there appears to be a general consensus amongst decision makers that the principles set out in Annex A continue to be broadly relevant to applications relating to isolated dwellings in the countryside.

In this case I am therefore applying the Annex A criteria in order to judge whether an essential need, amounting to very special circumstances, arises in this case.

The plant nursery activity here, specialising in rhododendrons and azaleas, forms part of a long-established business (G Reuthe Limited). The site's planning history, with regard to proposed residential accommodation, goes back many years, and indeed outline permission for a dwelling was originally granted to the current applicant in 1994 after he took over the nursery, but this was never implemented.

A proposal to extend the time limit of the 1994 consent was made in 1999 but refused. At the time, I advised the Council about the application, whilst employed by KCC. I noted therein that the applicants were also operating a nursery at Edenbridge where they lived, and this appears still to be the case today (the property being Starborough Nursery, Edenbridge, which is the registered office of G Reuthe Limited).

I also noted in 1999 that whilst the management of the nursery could clearly benefit from on-site residence, the applicants had been able to develop and sustain their business without residing on site, and I did not consider a dwelling was essential to its proper functioning. At the time propagation had been organised elsewhere, using material taken from Crown Point's stock plants, later brought back as young established plants for growing on, and this appeared to have been a cost effective arrangement.

Similar arguments are now advanced again as to the requirement to live at Crown Point, for re-introducing propagation on site, and to help security and general management. However the future continuance of the business for almost another 14 years, post 1999, without a dwelling at Crown Point, does call into question any essential need for permanent accommodation here, particularly since the advice in Annex A of PPS7 is that the functional need must be *existing*.

Also, whilst there have been some failures in sending material away to other growers (in Sussex and Belgium) for propagation, it is unclear why cuttings taken from Crown Point could not be propagated by the applicant himself at Starborough Nursery.

Even if it were clear that the re-introduction of propagation warranted accommodation at Crown Point, the most that would be indicated, under Annex A criteria, would be for some form of temporary dwelling unit until it was demonstrated that this new activity had been successfully introduced (usually over a period of at least 3 years). In that context, it would be expected that any such proposal would be supported by sound financial planning, i.e. a detailed business plan demonstrating how the changes to the operation would be cost effective and viable.

For the current application, for a permanent new dwelling, it is also necessary to consider if the existing unit at Crown Point Nursery is profitable, financially sound, has a clear prospect of remaining so, and can support the construction costs of the proposed dwelling.

The overall submitted business accounts, whilst profitable, do not show a sufficient level of income to support the additional cost of the large dwelling proposed. It is suggested that the cost of the dwelling could be largely funded from a recent sale of an investment property (understood to be in Devon), but it is the ability of the nursery unit itself to support the cost of the dwelling that is relevant, and there is no evidence that there are sufficient profits from Crown Point to warrant and afford a dwelling of this cost. Nor is it established that the dwelling would need to be so large, in function terms.

To summarise, therefore I do not consider it has been shown that the proposed development is needed to meet an existing crucial function requirement, nor that it is financially sustainable in relation to the current Crown Point Nursery operation. Consequently, in my view, no essential need, amounting to very special circumstances, has been demonstrated for the proposed dwelling.

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 30 October 2013

Ightham
Ightham

TM/13/01382/FL

Erection of new agricultural/nursery dwelling and demolition of existing buildings at Crown Point Nursery, Sevenoaks Road, Ightham for Reuthes Nursery

No additional representations have been received since the original report was published.

The applicant has, late this afternoon, submitted further financial information in support of the application. This appears to show that the operating profit for G Reuthe Limited for the year ended 31 August 2013 has increased significantly, compared to the previous year. However, given the lateness at which this information has been submitted, it has not been possible to give it detailed analysis. Moreover, it is far from clear whether this account relates solely to the operations at Crown Point Nursery, or whether it relates to the business as a whole which, as explained in my main report, also includes the Nursery at Edenbridge. Members will also note from paragraph 6.7 of my main report that, given the national policy context that now prevails, it is not considered that a detailed financial analysis is necessary in order to judge the planning merits of cases such as this, and my recommendation does not rely on this information.

DPHEH: I have given some further thought to the detailed nature of my recommendation on this case, particularly in the light of recent appeal decisions elsewhere in the country (i.e. following the introduction of the NPPF and the demise of PPS7). In view of the particular justification that is put forward by the applicants in support of this proposal, and also in the light of the detailed nature of the development itself, in terms of the size, detailed design and layout of the proposed dwelling, I think that this is a case where there is merit in considering whether it would be appropriate to require a S106 Planning Obligation (either an agreement or unilateral undertaking) tying the occupancy of the new dwelling to this particular agricultural unit, in addition to the more generic agricultural workers occupancy condition, as set out in condition 2 of my initial recommendation.

I am satisfied that, in this instance, a requirement for such an Obligation would meet the necessary legal tests (as set out in Regulation 122 of the Community Infrastructure Regulations) in terms of it being necessary to make the development acceptable in planning terms, being directly related to the development, and being fairly and reasonably related in scale and kind to the development. Such an approach would also be consistent with that adopted by the Borough Council in relation to other recent permissions granted for agricultural workers' dwellings of a similar nature in this locality in recent years.

I have therefore amended my recommendation to include a requirement for a S106 Planning Obligation to this end.

AMENDED RECOMMENDATION:

Grant Planning Permission as detailed by the plans and other documentation as set out in paragraph 7.1 of my main Agenda report, subject to:

- **The applicant entering into a satisfactory Planning Obligation (either a legal agreement or unilateral undertaking) to tie the occupation of the new dwelling to the operation of the agricultural unit (Crown Point Nursery) and**
 - **The conditions as set out in my main report.**
-

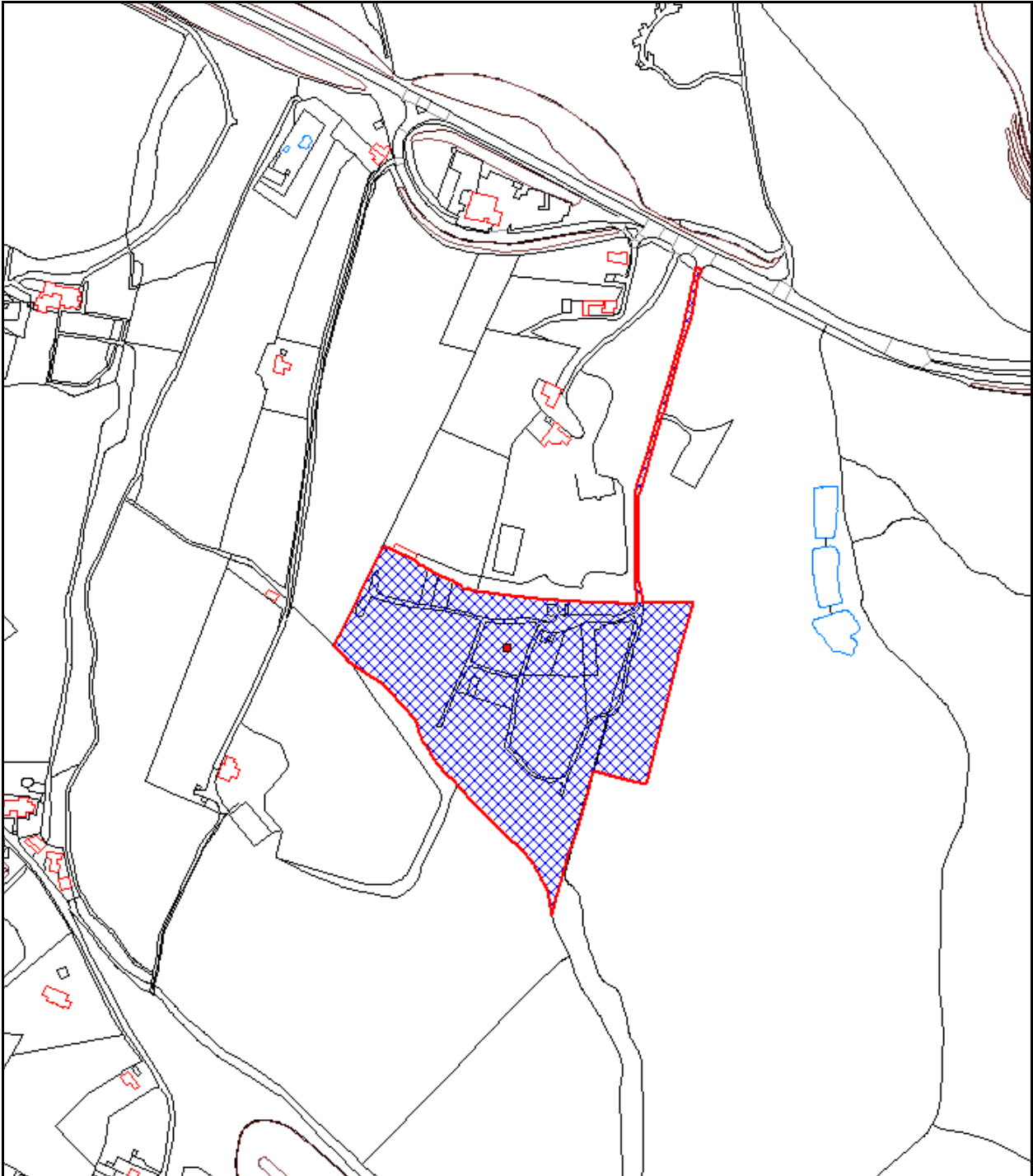
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TM/13/01382/FL

Crown Point Nursery Sevenoaks Road Ightham Sevenoaks Kent TN15 0HB

Erection of new agricultural/nursery dwelling and demolition of existing buildings

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3. The Site:

- 3.1 Four Seasons Park is located in the Metropolitan Green Belt, in the Kent Downs AONB, on a water gathering area and is subject to a Woodland TPO. A PROW (MR222) runs beyond the eastern boundary of the site.
- 3.2 It is set within the remnant of chestnut coppice woodland with a large central clearing. It measures approx. 130m by 60m, a total of 0.8 ha (2 acres). Access is via a single width winding track as permitted to be altered in 1998. It has a junction with Labour In Vain Road just north of "The Pheasants".
- 3.3 Labour In Vain Road is also single track to the north/northwest until it meets the junction with Plaxdale Green Road/A20.
- 3.4 The site currently has 32 concrete bases on which a number of lodge-style caravans are located. There are also a number of other miscellaneous bases and outbuildings within the application site.
- 3.5 A number of trees were felled and coppiced in September 2005, primarily in the central and northern part of the site. Some of these fell outside the TPO and other work was in accordance with the 2003 TPO consent but 4 protected trees were felled without consent.
- 3.6 Land to the north and east is open farmland. Land to the south is paddock. To the west is scrub/woodland glade with three bungalows fronting onto Labour In Vain Road. One of these bungalows used to be the site manager's property but there was never a condition linking the two and it is now in separate ownership from the caravan site.
- 3.7 The site has been a lawful caravan site since 1954 when an application for 10 holiday caravans was allowed on appeal (reference MK/4/53/444). Conditions were imposed limiting the period of that planning permission to 5 years, the number of caravans being limited to 10 units and the caravans having to be moved off the site from November to February and the layout of the caravans having to be approved. In 1963, a further renewal was refused planning permission due to a new Metropolitan Green Belt designation, but was subsequently allowed on appeal (reference MK/4/63/239).
- 3.8 Planning permission TM/83/376 was approved in 1983 subject to a condition (condition 1) which stated "*No caravan shall be occupied outside of the period 1 March to 31 October in any year*".
- 3.9 Planning permission TM/91/0198 was approved in 1991 for the variation of condition 1 of permission TM/83/376 to enable occupation of caravans for 10 months (i.e. 1 February to 30 November) in any calendar year. Condition 1 of permission TM/91/0198 states "*No caravan shall be occupied outside the period 1 February to 30 November in any calendar year*".

- 3.10 Planning permission TM/91/1267 was approved in 1991 for the variation of condition 1 of planning permission TM/91/0198 to enable occupation of caravans for 10 months (1 March to 31 December) in any calendar year. Condition 1 of planning permission TM/91/1267 states that *“No caravan shall be occupied outside the period 1 March to 31 December in any calendar year”*.
- 3.11 Planning permission TM/93/1370/FL was approved in 1993 for the variation of condition 1 of permission TM/91/1267 to enable occupation of the caravans for 11 months (1 March to 31 January) and closed in February each year. Condition 1 of planning permission TM/93/1370/FL states that *“No caravan shall be occupied outside the period 1 March to 31 January in any calendar year”*.
- 3.12 Planning permission TM/94/0931/FL was approved in 1994 for the variation of condition 1 of TM/93/1370 to enable occupation of caravans for 11 months each year from 15 February to 15 January (and closed between 16 January and 14 February). Condition 1 of planning permission TM/94/0931/FL states that *“No caravan shall be occupied outside the period 15 February to 15 January in any calendar year”*.
- 3.13 Planning permission TM/05/02247/FL was approved in 2006 for the variation of condition 1 pursuant to planning permission TM/94/0931/FL (variation of condition 1 of TM/93/1370 to enable occupation of caravans (mobile homes) for 11 months each year from 15 February to 15 January (closed between 16 January and 14 February)) to allow year round occupation of the warden’s cabin. This permission sought to impose a number of detailed controls, namely: 11 month occupation, a maximum of 10 caravans on the entire site, periods of occupation being no more than 8 weeks, a scheme of landscaping/boundary treatment, the layout and surfacing of service roads, drainage and removal of PD rights. Reserved details were submitted in 2007 but this 2005 permission was never implemented by the applicant. Therefore, on this basis, it is claimed that the site still benefits from an unrestricted number of caravans (subject to Site Licence requirements) and 11 months use between 15 February and 15 January.

4. Planning History:

MK/4/53/444 Refuse Allowed on Appeal 30.04.1954

Site for 10 Holiday/Touring Caravans

MK/4/58/306 Refuse 20 August 1958

10 Additional caravans (5 Seasonal and 5 Permanent).

MK/4/59/74	Grant with conditions	18 March 1959
Renewal of permission for 10 holiday caravans		
MK/4/60/193	Refuse	3 June 1960
Extension of seasonal caravan site from ten to twenty caravans		
MK/4/61/242	Refuse	Appeal Dismissed 07.03.1962
The continued use of land for the stationing of caravans after the 31st October 1963		
MK/4/63/239	Refuse	Appeal Allowed 25.09.1963
Extension of period for seasonal caravan site		
MK/4/72/889	Refuse	17 November 1972
Seasonal Caravan Site (increase in number from 10 to 20)		
MK/4/72/1076	Grant with conditions	12 April 1973
The continued use of land for the seasonal stationing of residential caravans		
TM/75/1011	Refuse	3 March 1976
Removal of condition (i) pertaining to consent reference MK/4/72/1076		
TM/83/376	Grant with conditions	20 May 1983
Continuation of use of land as caravan site		
TM/87/0601	Refuse	26 June 1987
Extensions to existing holiday caravan site		
TM/89/1279	Grant with conditions	9 October 1990
Detached bungalow for short let holiday use in place of site for ten static caravans		

TM/05/02247/FL Grant With Conditions 19 July 2006

Variation of condition 1 pursuant to planning permission ref. TM/94/00931/FL (variation of condition (1) of TM/93/1370 to enable occupation of caravans [mobile homes] for 11 months each year from 15 February to 15th January [closed between 16th January and 14th February]) to allow year-round occupation of warden's cabin

TM/07/00172/RD Approved 11 April 2007

Details of landscaping and boundary treatment pursuant to condition 4 and surfacing/drainage of parking and access pursuant to condition 6 of planning permission ref. TM/05/02247/FL (Variation of condition 1 pursuant to planning permission ref. TM/94/00931/FL (variation of condition (1) of TM/93/1370 to enable occupation of caravans [mobile homes] for 11 months each year from 15 February to 15 January to allow year-round occupation of warden's cabin)

TM/10/01976/FL Approved 29 October 2010

Retrospective planning application for decking around caravan (No.5)

TM/10/02351/TPOC Approved 11 October 2010

Cut back branches of Hawthorn, Field Maple and Oak to clear door entrance to new lodge (TPO ref. 12-24-09)

TM/13/00962/TPOC Approved 7 May 2013

Coppice three Ash stems and allow to regenerate

TM/13/02259/FL Application Withdrawn 15 October 2013

Variation of conditions 1 and 3 of planning permission TM/05/02247/FL to allow year round holiday use of the caravans on site

5. Consultees:

- 5.1 Wrotham PC: Object to this application. In summary, Wrotham PC are implacably opposed to this application because we know the local conditions and they are invariably harsh between mid January and mid February and it would be extremely unusual not to have frozen ground, ice and snow during this period. It is clear from the applicant's marketing that they seek to create 33 permanent residences for elderly and disabled people in a totally unsustainable location. *[DPHEH: This is a summary. The full text of the representation can be viewed on TMBC's website, or a copy supplied to Members on request.]*

- 5.2 Stansted PC: Objects to this application. Although the site is in the Wrotham Parish, the access is through Stansted Parish and the site is of concern to Stansted residents. The Parish Council supports wholeheartedly the views and comments of Wrotham PC. We do not see any need to expand on the main reasons for objection given by Wrotham PC, but would like to comment further on the road access. The road is a narrow country lane and is a no through road. This means there is no alternative route either for Stansted Parish residents who live along the lane, or for occupiers of or visitors to the caravans. This part of the North Downs is high and this area suffers particularly badly during adverse weather conditions. Indeed, due to the altitude there can be snow or fog when there is none elsewhere in this part of Kent. It is ill considered for the site to be kept open during the worst months in the year for bad road and driving conditions. If the interpretation about the age of occupiers of the site is correct, people over the age of 45 are more subject to health problems. If the site is open permanently, there is nothing to stop people being on permanent “holiday” on the site and as they age, they will be more in need of various types of care, such as home visits from doctors, ambulances, carers, home deliveries of all sorts and other visitors. This increase in traffic would be unacceptable and inappropriate on the road.
- 5.3 KCC Highways: I understand that this proposal does not include any increase in accommodation numbers and proposes use for an additional month between 15 January and 15 February which will allow a year round use. Whilst this proposal will give rise to an increase in total traffic over the course of a year, it will not generate any further intensification over that already experienced or approved. I therefore have no objection to this proposal.
- 5.4 Private Reps (23/0X/6R/0S) + Press/Site Notice (PROW/Article 13). The following key points of objection have been raised:
- Have been a resident close by to the park for over 30 years. I have seen the gradual extending and change of the licensing in this time. The character of the park has changed greatly from a true holiday park to a residential development. I can see that we all have to move with the times in this challenging climate but this is not what the original conception of its planning was granted for;
 - Access is a major problem to the park and there is not enough road width directly in this area to accommodate the traffic, let alone the removal and delivery of existing or new mobile units;
 - Labour In Vain Road is very narrow and will barely take a fire engine – it has no places for overtaking or passing other vehicles;

- The site is very open from nearby properties due to trees being removed. The site is higher up than surrounding properties and sound regularly travels to neighbouring properties. The rural peace and quiet will be further ruined with more people;
- I understand Government legislation wants to promote holiday parks being open longer, but granting 12 months of the year status to this development will just result in problems in the future. Who will have the time or finances to police this legislation that will be required to control this development?
- The applicant has not presented any evidence to back up its claim that this site is suffering to compete with other holiday parks due to the 11 month occupation requirements. Similarly, the applicant has not provided any proof to show that there would be an increase in tourism and the associated benefits that would outweigh the disadvantage to a small Parish and its local residents inflicted by a year round licence;
- “Yellow” housing directional signs have been erected at the entrance to Labour In Vain Road off the A20 (these are normally used for new housing developments) highlighting the park. Surely this shows the intention to run this site, not as a holiday park, but as a full time residential development “pretending” to be a holiday park;

6. Determining Issues:

- 6.1 The Good Practice Guide on Planning for Tourism (GPGPT) was published in 2006 and remains extant as national planning policy guidance on tourism following the introduction of the NPPF. The GPGPT is, therefore, currently a material consideration in the determination of planning applications for tourism related development.
- 6.2 The GPGPT identifies the economic importance of tourism. It acknowledges that appropriate development in the countryside for tourism is essential for both the local and national economy. However, such development will need to be sensitive to the local environment and local people. The GPGPT recognises the important role holiday and touring caravan parks play in the self-catering holiday sector. However, the need for such accommodation should be reconciled with the protection and preservation of the environments within which they are located.
- 6.3 Specifically, the GPGPT states (in paragraph 23) that Local Planning Authorities may attach conditions to planning permissions for holiday parks to ensure that they are used for holiday purposes only. However, with better caravan standards and the trend towards tourism as a year round activity, authorities should give sympathetic consideration to applications to extend the opening period allowed under existing permissions.

- 6.4 The GPGPT also sets out a number of best practice model conditions (in Annex B) for securing holiday use of caravan parks, stating that permissions for holiday caravan parks will normally be subject to the following conditions:
- the caravans are occupied for holiday purposes only;
 - the caravans shall not be occupied as a person's sole, or main place of residence; and
 - the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.
- 6.5 Annex B of the GPGPT advises that in some circumstances seasonal occupancy conditions (such as that currently in operation at Four Seasons Park) may be used, perhaps to protect the local environment. Suggested situations in which a seasonal occupancy condition might be used include, where the use of the premises or the site might affect an important species of bird during its breeding season or when it is winter feeding. Annex B goes on to state that Local Planning Authorities will need to balance the need to impose seasonal occupancy conditions with the wish to avoid exacerbating the seasonal nature of tourism in the locality and its possible adverse effects upon local businesses and jobs.
- 6.6 The applicant has submitted that there is no overriding requirement to maintain the seasonal restriction currently imposed on the Park and that allowing year round use will extend the economic benefits throughout the quieter part of the season, both through additional visitor spend and through the retention of jobs on the park for the whole 12 months of the year.
- 6.7 The NPPF sets out the Government's overriding economic, social and environmental policies. Specifically, the NPPF states (in paragraph 28) that to promote a strong rural economy, plans should support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.
- 6.8 Paragraphs 79-92 of the NPPF set out national Green Belt policy, essentially stating the importance of Green Belts and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence. Similarly, TMBCS Policy CP3 seeks to apply national Green Belt policy. It should be noted that the proposals presented here do not result in any operational development (i.e. any additional caravan pitches or caravans/lodges themselves), instead seeking to allow the caravan park to be open all year round as opposed to its current 11 month operations. On this basis, the proposed development in this

instance will not adversely impact upon the openness or visual amenity of the Green Belt and therefore accords with advice contained in the NPPF and the requirements TMBCS Policy CP3.

- 6.9 For the same reasons as discussed in paragraph 6.8 above (i.e. that no operational development is being proposed in this instance), there will be no adverse impact as a result of this proposal upon the wider landscape and scenic beauty of the Kent Downs AONB and, therefore, the development accords with the advice contained in paragraphs 115-116 of the NPPF and the requirements of TMBCS Policy CP7.
- 6.10 Members will note that local concerns have been expressed by both Wrotham and Stansted PCs, as well as a number of nearby residents, relating to the seemingly inadequate highway access (Labour In Vain Road) which serves the site. Having visited the site and noted the local conditions, as well as consulted with the County Council (as the relevant Highway Authority), I am well aware of the narrow site access road. That said, the development proposed in this instance does not seek any further development at the site per se; instead it seeks permission to use the caravan park on a continuous year round basis as opposed to the currently permitted 11 month usage.
- 6.11 Four Seasons Park was historically consented as a holiday caravan site, with the first planning permission dating back to 1954. The caravan park site area is capable of housing up to 32 caravan pitches (as dictated by current Caravan Site Licence requirements). The operation of the site for this level of usage is, in planning terms, already consented and, therefore, it is not possible to consider the merits of the access road in highway capacity or road safety terms afresh in this case despite the reservations held by the local community. In highway terms, whilst the proposals will give rise to an increase in total overall traffic using the site over the course of 12 months (as opposed to the currently consented 11 months), it will not generate any further intensification over and above that already consented. On this basis, I am of the view that an objection on highway grounds purely on the basis of one month's additional use cannot be sustained in this case.
- 6.12 Similarly, concerns raised regarding the allegedly unsustainable location of the caravan park, specifically in terms of proximity to local services, the way the caravan park has been developed in the past, and the general marketing of the caravan park, are all not matters which can be considered afresh in this case.
- 6.13 Members will note that a number of operational requirements were placed on the caravan park at the time when planning permission was granted in 2006 (application reference TM/05/02247/FL) as discussed in paragraph 3.13 above. That said, this permission is stated not to have been implemented and has since expired. In the case of the current application which is purely to extend the time period for occupation of the site, having considered the merits of placing fresh operational controls on the Park (such as the number of caravans,

landscaping/boundary treatment, layout, surfacing and drainage schemes and the removal of PD rights) I consider that under the requirements of Circular 11/95 relating to the use of planning conditions, the imposition of such operational controls on this Section 73 application would not meet the relevant legal tests for the use of planning conditions.

6.14 On the basis of the broader national support for allowing these types of facilities to be operational all year round, in recognition of wider changes in domestic tourism patterns and general support for rural economic development (as set out in both the NPPF and GPGPT), I have concluded that there are no overriding grounds for refusal of planning permission in this instance. I therefore recommend approval in accordance with the best practice conditions as set out in the GPGPT.

7. Recommendation:

7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 02.12.2013, Letter dated 05.12.2013, Location Plan dated 28.10.2013, Planning Statement dated 28.10.2013, Other APPENDIX 1 Appeal Decisions dated 28.10.2013 and Other APPENDIX 2 Correspondence dated 28.10.2013, subject to:

Conditions / Reasons

1. The caravans shall be occupied for holiday purposes only and not as any person's sole or main place of residence.

Reason: In order to ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation.

2. The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: In order to ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation.

Informative:

1. The register required in condition 2 shall normally be collected by the Caravan Site Licence holder or his/her nominated person.

Contact: Julian Moat

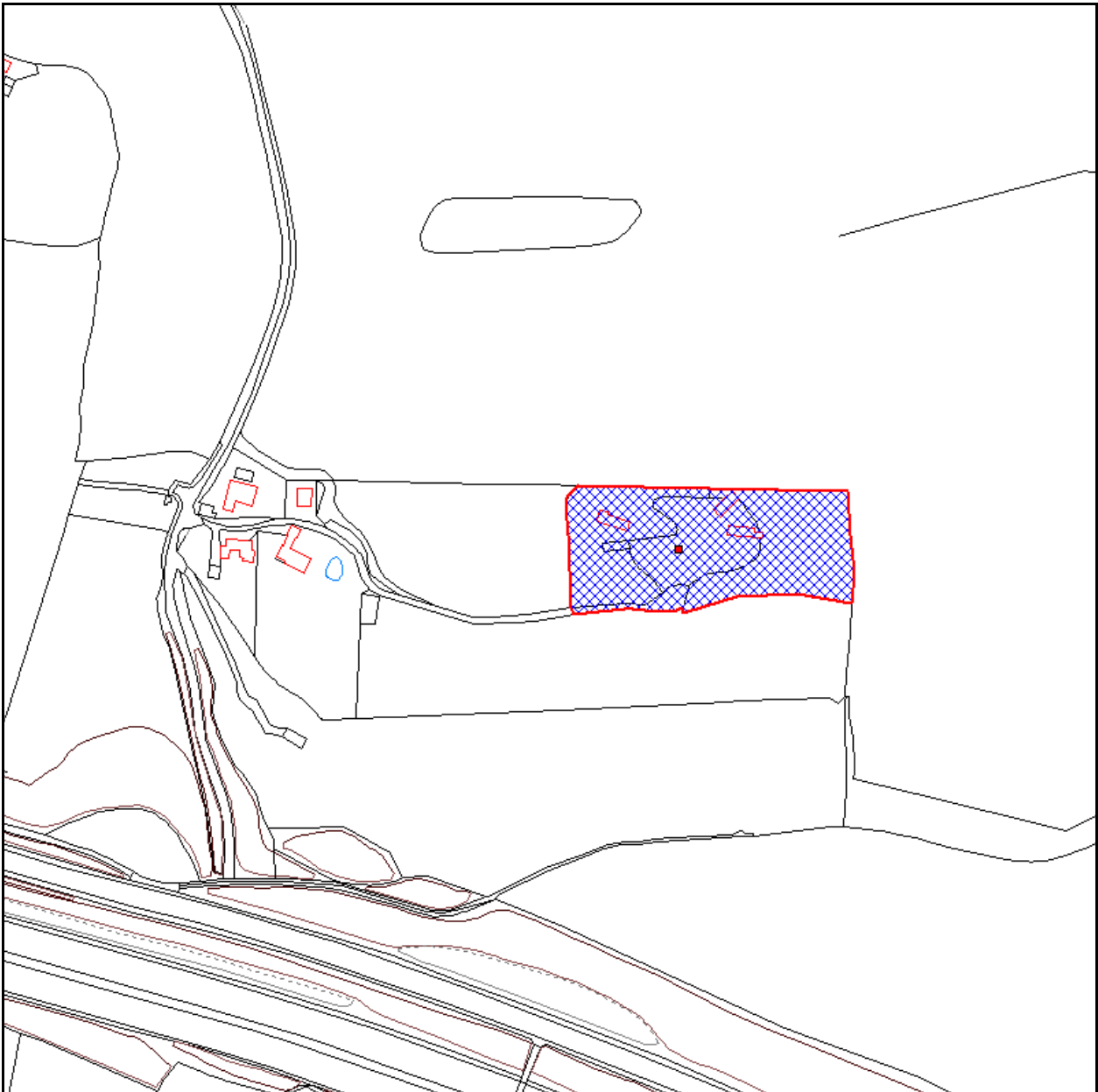
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TM/13/03329/FL

Four Seasons Park Labour In Vain Road Wrotham Sevenoaks Kent TN15 7PA

Removal of condition 1 of planning permission TM/83/376 (as last varied by permission TM/94/0931/FL) to allow year round use of the whole caravan park

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- 3.2 To the east of the application site lies the attached dwelling at 2 Mill Cottages which has previously been extended in the form of a two storey side extension.
- 3.3 The site lies within the built confines of Platt and sits on a classified road "A" road with the associated noise and traffic issues.

4. Planning History:

TM/49/10339/OLD grant with conditions 12 April 1949
(MK/4/49/92)
Addition.

5. Consultees: *Please note that the comments set out below were made in relation to the originally submitted scheme for extension and a detached house. Any additional comments received following the recently amended scheme for an attached dwelling will be included within the Supplementary Report.*

- 5.1 PC: Whilst we accept it is within the Rural settlement confines, we do not agree that this is a "minor" development or an infill (described as the completion of an otherwise SUBSTANTIALLY built-up frontage).
- 5.1.1 This proposes a reasonably large detached unit separated from the existing row of cottages that does not match the street scene. Historically these cottages were for the Mill workers and the Platt Mill development opposite has continued to reflect this, i.e. a row of cottages.
- 5.1.2 It proposes building on garden land that has not been previously developed and, as such, should be only allowed if exceptional circumstances are provided. This application again reflects the trend to extend and/or build larger properties and is not what we would call "sustainable" development in our village.
- 5.1.3 The parking spaces indicated are not acceptable. The original property (now Unit A) had a garage for 2 vehicles and ample turning space within the site curtilage. This proposes 1 space for Unit A and 2 spaces for Unit B. Neither are adequate for 3 bedroom houses and there is no alternative off-street parking.
- 5.1.4 The access road is a private road and very narrow, so to reverse either into or out of the spaces shown will cause nuisance to the other road users. They must manoeuvre within their own property. The access road is used for other residents and school children to access King George's playing field.
- 5.1.5 The access road adjoins the A25 on a bend at the top of a hill and is already dangerous. This proposal will only exacerbate the situation.
- 5.1.6 We would also question the final sentence on the applicants' design and access statement that "We believe that the scheme has been agreed in principal and anticipate officer support".

5.1.7 *PC Comments on additional information, being turning circles for parking spaces:*

Regardless of the additional parking space, we still object to this proposal, for the same reasons as previously recorded to you. It is still out of character with the street scene and will infill the remaining gap at the end of a row of old workmen's cottages. It still does nothing to match its surroundings. We would also maintain that "garden land" is garden whether or not it is at the rear or side of a property and as such requires exceptional circumstances to allow a large dwelling. We will still be presented with more traffic accessing and egressing via the A25, which is always a problem. The private road is access to a recreation ground, King Georges Field, used by families and schoolchildren and is not built for regular traffic use. Vehicles reversing and turning on this road will cause problems. All the other dwellings off this road can turn within their own curtilage. We would again request you refuse this application.

5.2 *KCC Highways: Comments on additional information, being turning circles for parking spaces:* The drawings indicate that 2 spaces are to be provided for each of the 2 properties and these are independently accessible in line with the guidance given in the Kent Design Guide Interim Guidance Note 3. Tracking diagrams have also been provided which show that cars can manoeuvre to and from the spaces without the need to reverse onto the A25 Maidstone Road. The application will not lead to any significant increase in traffic from the private road onto the A25. In view of the above, I can confirm that I do not wish to raise objection subject to the following conditions: Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.

5.3 *Private Reps (11/1X/5R/0S + Site Notice)* The 5 objection letters received originate from three households. Comments received are summarised below:

- Privacy – Unit B would overlook adjacent gardens and property.
- Concerns regarding upkeep of the private track which is maintained by private funds. The increased use would accelerate the deterioration of the surface.
- Unit B will cast a shadow over the track resulting in the track not drying out efficiently thereby having a negative impact on surface conditions.
- Turning of cars will impinge on land outside ownership. Cars must be able to egress on to the A25 in a forward motion.
- Plans detailing the access road are inaccurate. You cannot turn a car within the lane, it is too narrow.
- The exit from the private road on to the A25 is dangerous with limited sight lines.
- If approved, a condition should be attached to ensure no cars, builders lorries or vans may use the private road or park on the main road/pavement adjoining

the site. Any vehicle parking as such destroys the limited visibility splays for residents exiting on to the A25 as well as users of the pavement, particularly with children to the nearby school.

- Further comments relating to the amended parking and turning plans, being that they are inaccurate, and turning would not be able to occur in the manner shown. A new shared access off the A25 would be better.

5.3.2 One of the letters of objection raises no objection to the extension of the existing cottage aspect of the proposals.

6. Determining Issues:

6.1 The site lies within the built confines of Platt where policy CP13 of the TMBCS 2007 applies. Policy CP13 of the TMBCS allows for “minor development appropriate to the scale and character of the settlement.” The principle of minor development, such as a new dwelling, is therefore, in broad policy terms, acceptable.

6.2 Paragraph 53 of the NPPF states that Local Planning Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. The PC has raised objection to the proposal on the grounds of it being on garden land. Residential garden land is precluded from the definition of Previously Developed Land (PDL) as defined within Annex 2 of the NPPF. This preclusion does not, however, result in a presumption against development, as implied by the PC. The removal of garden land from the definition of PDL merely sets out that the presumption in favour of development on PDL does not apply on such land. The test, therefore, is whether the proposal would “cause harm to the local area”. As such, once the proposal has been assessed against design policies with the NPPF and the TMBC policy framework (as set out below in detail), if it is found to fail the various visual amenity and streetscene tests, thereby resulting in “harm to the local area”, it would also fail Paragraph 53 of the NPPF by forming inappropriate development of residential garden.

6.3 Policy CP24 of the TMBCS relates to achieving a high quality environment.

6.4 Policy SQ1(2) of the MDEDPD 2010 states that all new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area and the prevailing level of tranquillity, the distinctive setting of, and relationship between the pattern of settlement, urban form and important views.

- 6.5 Policy SQ8 of the MDEDPD relates to road safety, transport and parking. Policy SQ8 states that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can be adequately served by the highway network. Paragraph 32 of the NPPF relates to the traffic impacts of development.
- 6.6 Paragraphs 57 and 58 of the NPPF relate to high quality design that adds to the overall quality of the area and is visually attractive as a result of good architecture and appropriate landscaping.
- 6.7 Saved Policy P4/12 of the TMBLP requires residential extensions not have an adverse impact on “the character of the building or the streetscene in terms of form, scale, design, materials and existing trees; nor the residential amenity of neighbouring properties in terms of light and privacy, and overlooking of garden areas.” Policy P4/12 also has an Annex (PA4/12) which sets out further design guidance and amenity tests.
- 6.8 The proposed two storey side and rear extensions to Unit A (1 Mill Cottage) would, in effect, mirror the scale of extensions already added to the adjoining neighbour at 2 Mill Cottages. The eaves line, fenestration, materials and roof design all reflect those of the existing cottage and would, in my view, respect the site and its surroundings and the character of the area. The additional windows and the bulk and mass of the extension proposed to Unit A would not give rise to loss of outlook, overbearing impact, loss of privacy or light to neighbouring properties in my view. The two storey rear extension would not breach the 45 degree test for light and outlook. The extension, in isolation, would therefore accord with Saved Policy P4/12 of the TMBLP.
- 6.9 The proposed attached dwelling at Unit B would abut the (extended) side elevation of Unit A. The new unit has been designed to mirror the architectural style and form of the extended Unit A and perpetuate the materials, window size and rhythm. Accordingly, assess solely in aesthetic terms, I consider the proposed additional dwelling as now revised would not unduly impact on the character of the area or wider streetscene and goes some way to dealing with the PC’s concerns over streetscene impact.
- 6.10 The layout, siting, bulk and massing of Unit B would extend over garden land to the side of Unit A. In terms of the ability of the site to comfortably take the proposed new dwelling, I consider Unit B to be well sited within the limits of the site and it would not, in my view, result in a sense of overdevelopment. The new Unit B would retain a reasonably sized garden to the west side of the property and an acceptably sized garden and patio area to the rear. Accordingly, I consider the layout, siting, bulk and mass of Unit B would respect the site and its surroundings. Moreover, looking at the pattern of development in the immediate locally, encompassing 2 Mill Cottage, Platt Mill Cottage and across the A25 at Platt Mill

Close, the proximity of dwellings to their side boundaries is relatively tight. Comparably, the proposed Unit B would be sited well within the boundaries of the application site.

- 6.11 The proposed windows to serve Unit B would overlook Maidstone Road to the south and the gardens of the site and private road beyond. I do not consider the proposed Unit B would be close enough to neighbouring dwellings to directly overlook their built property, being some 21m away at an oblique angle. Some additional overlooking of garden area for Cloggatts to the northwest may occur, however this is mainly driveway area and the property has a large plot and ample opportunity for private areas elsewhere in its garden.
- 6.12 In light of the above considerations, I am satisfied the proposal would accord with the visual and residential amenity requirements of Paragraphs 57 and 58 of the NPPF, Policy CP24 of the TMBCS and Policy SQ1 of the MDEDPD. In turn, the proposal would be appropriate to the scale and character of the settlement, in line with Policy CP13 of the TMBCS. For the same reasons, I consider the proposal would not cause harm to the local area and is therefore an appropriate development of garden land, in accordance with Paragraph 53 of the NPPF.
- 6.13 The proposed access, parking and turning arrangements for the site have resulted in the greatest number of objections received to the original scheme. The shared private access road off the A25 has been proposed as the method of access, as is the case for the existing cottage. At present, 1 Mill Cottage has a gate on to the access road and a single detached garage on garden land to the side. Given the size of the garden and the location of the garage, there is arguably sufficient space to turn a car within the site, however the driveway on site is linear and narrow and would require reversing on to the access road. There is not a formal driveway with turning in front of the garage to demonstrate that such a manoeuvre on site could, or habitually does, occur. Notwithstanding the above, the proposal before Members is for four independently accessible spaces directly off the private drive. The spaces are close to the edge of the site and would require the use of the access road to turn. I appreciate the concerns of residents nearby and, whilst it may be preferable for all users of this road to have on-site turning, that is not the test before the Council. KCC Highways has been consulted on the re-surveyed plans for the access road and the turning circle information. The Highways Engineers are satisfied that turning can occur within the limits of the access road, i.e. it is wide enough, and they consider the number of parking spaces to be appropriate. They also consider the small increase in use of the access would not give rise to harm to highway safety. Paragraph 32 of the NPPF is clear in setting out that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Accordingly, the proposed access, turning and parking aspects of the proposal can be considered to accord with Paragraph 32 of the NPPF and Policy SQ8 of the MDEDPD.

- 6.14 The proposed dwelling, and the extension to the existing cottage, would lie close to the A25 and its associated traffic noise. The application has been submitted with an acoustic report which demonstrates that the site lies within NEC "C". Under Policy SQ6 of the MDE DPD, proposals within noise category C will not normally be granted. However, the specific noise attenuation measures set out within the acoustic report will ensure that internal noise levels will be acceptable. The scheme of mitigation includes acoustically screened mechanical ventilation where necessary. The scheme of mitigation accords with the second section of Policy SQ6 and, provided the scheme is required to be installed and retained by condition, the proposal can be considered acceptable in respect of its aural climate.
- 6.15 Due to the history of the site and its proximity to previous industrial uses, I recommend a condition be attached to any approval to safeguard against any the discovery of significant deposits of made ground or indicators of potential contamination during development works.
- 6.16 The existing hedge to the boundaries of the site is an attractive feature of the site and something which will greatly assist in softening the visual impact of the development within the streetscene. I, therefore, consider it reasonable to condition the retention of the hedge for a period of ten years and that, should the hedge be damaged or diseased within that period, the hedge shall be replenished with like-for-like standard stocks. A standard hard and soft landscaping condition would also be necessary.
- 6.17 I note the concerns from one of the neighbours regarding the potential hazardous highways implications should construction traffic park on the A25, even for a short period. I, therefore, recommend a condition be imposed which requires the submission of a management plan for construction traffic to and from the site.
- 6.18 In light of the above considerations, I recommend planning permission be granted, subject to the conditions listed below.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Other existing site images dated 04.12.2013, Acoustic Assessment dated 25.11.2013, Design and Access Statement dated 21.11.2013, Existing Elevations A670-E-004 dated 21.11.2013, Existing Floor Plans A670-E-006 dated 21.11.2013, Proposed Floor Plans A670-P-105 dated 21.11.2013, Proposed Elevations A670-P-109 dated 21.11.2013, Proposed Elevations A670-P-110 dated 21.11.2013, Email dated 13.01.2014, Email dated 16.01.2014, Email dated 17.01.2014, Location Plan A670-E-008A dated 17.01.2014, Proposed Layout A670-P-104C dated 17.01.2014, Drawing A670-P-500 dated

17.01.2014, Proposed Layout A670-P-104 D dated 14.02.2014, Drawing A670-P-106 D dated 14.02.2014, Parking Provision A670-P-500 A dated 14.02.2014, Proposed Elevations A670-P-109 D dated 14.02.2014, Email dated 14.02.2014, subject to the following:

Conditions:

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

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

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

- 4 The existing low mixed hedge to the front, side and rear of the site shall be retained, other than as specifically approved to be removed for access, for a period of ten years from the date of this permission. Any areas of hedge 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.

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.

- 5 (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/ remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

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

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

- 7 The scheme of noise attenuation hereby approved, as set out within Noise Report dated 22 November 2011 by F1 Acoustics Company Limited, shall be implemented in respect of Unit A prior to the first occupation of the extension to Unit A and in respect of Unit B prior to the first occupation of Unit B and in both instances shall be retained at all times thereafter.

Reason: In the interests of aural amenity of the occupants of the respective properties.

- 8 No development shall take place until a scheme for the management of demolition and construction traffic going to and from the site (including hours of operation and arrangements for the delivery of materials to the site and the associated parking of vehicles) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme unless any variation is agreed in writing by the Local Planning Authority beforehand.

Reason: To ensure that the development does not harm the amenities of the locality.

Informatives

1. Tonbridge and Malling Borough Council operates 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 relevant collection day.

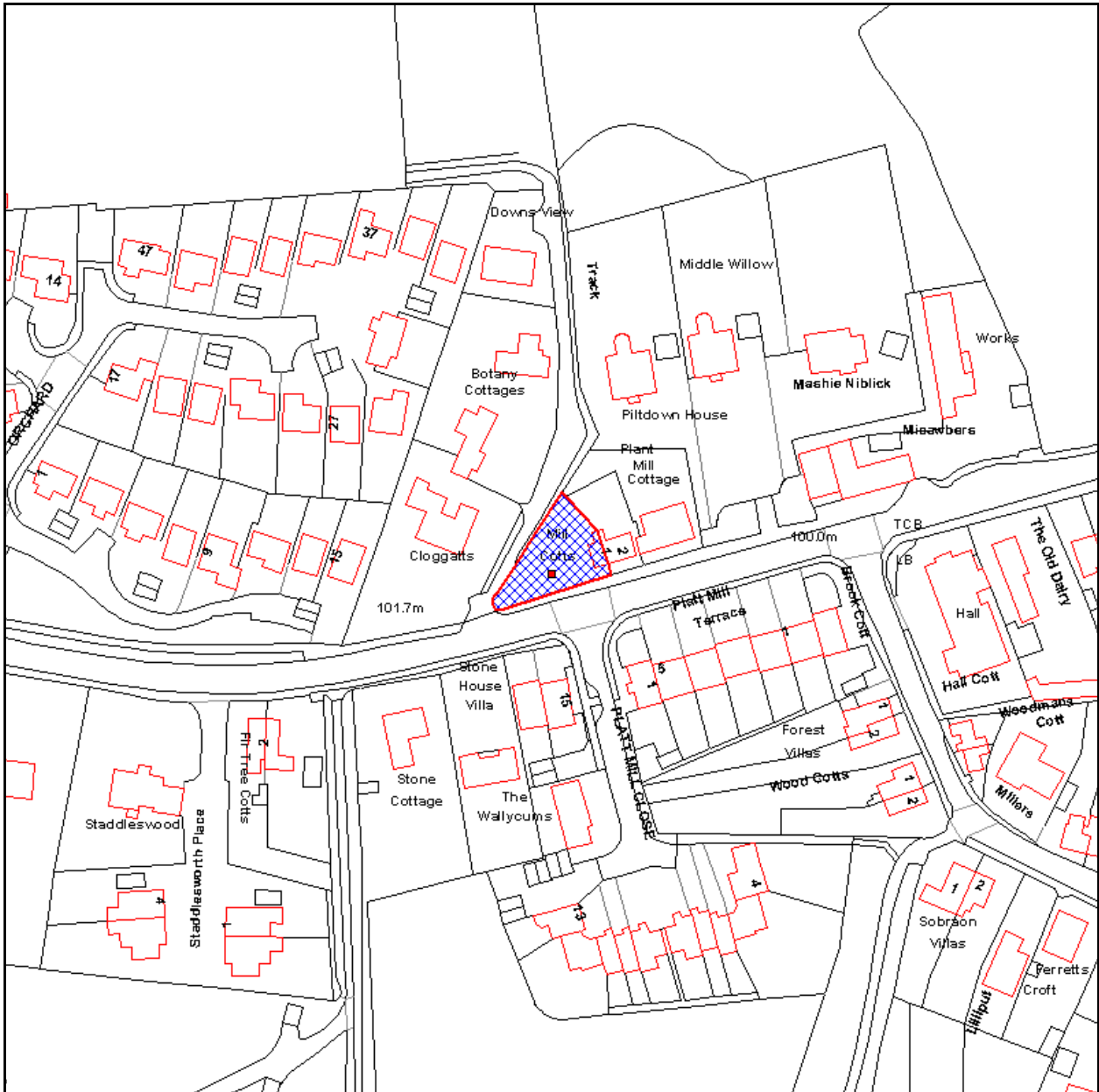
Contact: Lucy Harvey

TM/13/03598/FL

1 Mill Cottages Maidstone Road Platt Sevenoaks Kent TN15 8JE

Erection of one 3 bedroom (attached) dwelling with shared access and parking and 2 storey extension to existing house

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West Malling West Malling And Leybourne	568093 157783	11 July 2013	TM/13/01952/FL
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Proposal:	Development comprising 4 no. two bedroom town houses and one retail unit plus associated parking and external works
Location:	Mill Yard 26 Swan Street West Malling Kent ME19 6LP
Applicant:	Bedlars Holdings (UK) LLP

1. Description:

- 1.1 Planning permission is sought for redevelopment of existing vacant land to the rear (south and south east) of Mill Yard Craft Centre, to the rear (south) of the Post Office and 30a, 30b and 32 Swan Street, to the north of the shared Tesco and TMBC public car park, to the east of Listed properties on the High Street and to the west of the grounds of St Mary's Abbey.
- 1.2 The proposal represents four, two bedroom, town houses and a single retail unit with associated parking and external works to form a private shared courtyard, amenity space and separate pedestrian route from the public car park and Swan Street.
- 1.3 The proposal would utilise existing changes in ground level and would appear as slightly above two storeys from the car park view; however the maximum storey height is proposed at three storeys (as viewed from the internal courtyard). Along the boundary with the Abbey the buildings are reduced to two storeys with the first floor being entirely within the roofspace with no windows proposed within the eastern roof slope (i.e. in to the Abbey grounds).
- 1.4 Materials are proposed to be Kent Peg tiles, stained timber boarding, rendered panels, painted timber joinery with aluminium rainwater goods. Granite setts with concrete tegular paving is proposed for the hard surfacing, with some areas being bonded gravel to tie in with the existing accessible areas within the Mill Yard. Balustrading is proposed to be stainless steel wiring with stainless steel upstands.
- 1.5 The proposal would affect the parking layout on the public car park to the South (owned and managed by TMBC). The number of car parking spaces is not proposed to change; they would, however, require slight amendment to their siting i.e. they would need to be re-painted.
- 1.6 The single storey retail unit (with vaulted roof space) is proposed on the western end of the development measuring 35sqm in floor area.
- 1.7 4no. parking spaces are proposed, one to serve each two bedroom unit which would be accessed via Swan Street and Mill Yard.

- 1.8 The private courtyard amenity space will be enclosed by a gate, details and location of which are to be determined at a later date.
- 1.9 The application has been submitted with an Acoustic report in relation to noise from the adjacent public car park and recycling facilities. The report measured LAeq levels during the daytime and nighttime and LAm_{ax} levels measured at nighttime. The report concludes that an acceptable noise climate can be achieved within the proposed residential properties with a 2.5m high acoustic barrier in place for a 6.5m run on the boundary line. This climate would be achieved with standard 4-16-4 double glazing. The highest recorded LAm_{ax} during the Friday monitoring was 83.8dB. However, with the combined attenuation from a partially opened window and the acoustic fence, this would give a level of approximately 62dB L_{max} inside, which would equate to conversation speech, being an acceptable level.

2. Reason for reporting to Committee:

- 2.1 The application was called-in by Cllrs Luker, Shrubsole and Luck due to its location within the centre of West Malling and concerns regarding car parking.

3. The Site:

- 3.1 The application site is situated at the southern end of Mill Yard, off Swan Street in West Malling. The site is within the central area of West Malling which is a district centre as defined by Policy CP22 of the Tonbridge and Malling Borough Core Strategy 2007. The site also lies within a retail policy area as defined by Policy R1 of the DLADPD 2008. The site lies within the West Malling Conservation Area. The site is also situated within the historic core of West Malling and in an Area of Archaeological Potential.
- 3.2 Mill Yard is currently a small collection of commercial units with a variety of different occupiers. The buildings comprise traditional single and two storey weatherboarded buildings that are stained black. Adjoining Mill Yard and the northern boundary of the application site is the West Malling Post Office.
- 3.3 The site currently comprises unused land around the existing Mill Yard building, that are largely unkempt and overgrown, This land is either hardsurfaced and used as informal private car parking or forms the footpath route through the site between the public car park and Swan Street. The site is also edged to the south by a band of trees and shrubs, these trees are covered by a Tree Preservation Order.
- 3.4 Directly to the west of the site are the rear yards of properties in the High Street. These buildings are between two and three storeys in height and most of them are Grade II listed or of local interest. Most of these buildings have also been

significantly extended with small rear yards serving the commercial uses that occupy the ground floor. There is some residential accommodation on the upper floors.

- 3.5 To the south of the site and forming the southern boundary of the proposed development is a public car park (managed by TMBC); this car park is heavily used and also forms the main car parking serving the nearby Tesco store on the High Street. There is also a local recycling centre adjacent to the south eastern corner of the proposed development. A pedestrian route used by the public also runs across the site and links the car park to Mill Yard and Swan Street; this is closed by a gate overnight.
- 3.6 To the east of the site are the gardens of residential properties on Swan Street. These also adjoin the northern boundary of the application site. There are five residential properties adjoining the site (3 dwellings and 2 flats). Further east and within close proximity are the grounds of St Mary's Abbey, which is a Scheduled Ancient Monument, and also a Grade I listed wall that adjoins the south eastern corner of the application site.
- 3.7 The levels on the site vary, resulting in a steep drop behind the existing car park wall on the southern boundary of the site. The drop in level can be appreciated by the relatively steep ramped section of pathway.

4. Planning History (most relevant):

TM/10/00991/FL Approved 14 June 2011

Erection of a mixed use development comprising 7 no. ground floor retail units, 5 no. 2 bed apartments with associated car parking and public space

5. Consultees:

- 5.1 PC: Members had no objections but expressed concerns about the possible impact of deliveries: they suggested that the start and finish time for deliveries should be set so as to minimise disruption and inconvenience to residents. Comments on amended information: No objections.
- 5.2 KCC Highways: I have no objection to the application. The car parking numbers proposed are within standard for this central location and egress onto Swan Street is not materially intensified. Some new car parking, deliveries and construction is proposed to be undertaken via the Borough Council's car park. It is anticipated that these elements will require some co-ordination and management input from the Borough Council (such as control of the height barrier at the entrance to the car park) and that the applicant will not be able to undertake this work in isolation or independently. A formal agreement or agreements may therefore be required. The formation of a permanent sustainable link to integrate parts of West Malling is welcomed.

- 5.3 KCC Heritage: The site lies within the historic core of West Malling which is considered to have been an early medieval community focused around the abbey of St Marys. During the Medieval Period the settlement thrived as an important local market town and trading centre. Remains associated with this activity may survive on site. It should be noted that the Scheduled Monument boundary of St Mary's Abbey adjoins the site on the south east corner. I recommend a timetable of archaeological works and safeguarding measures are required by condition.
- 5.4 English Heritage: We do not wish to comment in detail, but offer the following general observations.
- 5.4.1 West Malling conservation area is characterised by a pattern of linear road-fronting shops lining the High Street. Mill Yard lies behind the West Malling High Street within a rear service area and is adjacent to St Mary's Abbey. The Abbey complex is recognised as being of exceptional interest by virtue of holding designations as scheduled ancient monument and listed at grade I. The proposed development at Mill Yard seeks to create four two bedroom houses and one retail unit.
- 5.4.2 Whilst we do not object to development within an area to the rear of the High Street, we do have concerns about the height and form of the proposals. We feel that a three storey building would conflict with surrounding buildings and not respond to the existing grain of the rear of the High Street. This is contrary to NPPF guidance where Local Planning Authorities should look for opportunities for new development within conservation areas to enhance or better reveal their significance (NPPF paragraph 137). Similarly, in our view, the proposed height and gabled roof design will impact on the significance of St Mary's Abbey by the way in which the proposed modern roof line will be visible from within the enclosed complex of the Benedictine Abbey and alter the way in which the purposely secluded Abbey grounds are experienced. NPPF paragraph 132 stresses that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. We also feel the current application fails to assess the impact on the setting and significance of St Mary's Abbey as outlined in NPPF paragraph 128.
- 5.4.3 In determining this application we draw your Council's attention to English Heritage guidance, The Setting of Heritage Assets (2011), and suggest consideration should be given to the way in which the new proposals will impact on the significance and alter the setting of West Malling conservation area and in particular St Mary's Abbey.
- 5.4.4 Although English Heritage does not have a locus for possible impact on archaeology as there is no nationally designated archaeology on the site, this does not necessarily imply that there are no archaeological impacts to consider. We therefore advise you to contact your archaeological advisors at Kent County Council for further advice particularly as the site is adjacent to the scheduled ancient monument of St Mary's Abbey.

English Heritage Recommendation

5.4.5 We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

5.4.6 Following this, the applicant submitted a further photographic study in relation to the impact on St Mary's Abbey and English Heritage now concludes that there will be minimal impact on the setting and significance of the Abbey.

5.5 Private Reps: 42/0X/1R/0S + site and press notices (DEPART/LB/CA). One letter of representation has been received and objections have been raised on the following grounds (in summary):

- Swan Street is very narrow and is frequently blocked by traffic, particularly since the buses have been rerouted down this street.
- There is not enough room for a bus and a lorry to pass. Buses have knocked down scaffolding on two occasions because there is insufficient room to pass.
- Lorries carrying building materials will add to the situation. If lorries use the public car park this will further reduce spaces.
- The occupants of the units may have two cars per dwelling which will add to traffic congestion. Lack of turning.
- There is not sufficient room for these buildings in the space proposed.
- The proposal will result in overlooking.
- West Malling is a small medieval village/town and modern housing in this Conservation Area is not in keeping with the general surroundings.
- The buildings are not an appropriate use of the land.
- Concerns raised over fire engine access.

6. Determining Issues:

6.1 Members will recall the previously approved scheme for redevelopment of part of the Mill Yard, under reference number TM/10/00991/FL, which was heard at APC2 on 25 May 2011. The application was subsequently approved by decision notice dated 14 June 2011. The previously approved scheme was for a mixed use development of 7no. ground floor retail units, 5no. 2 bedroom apartments and associated car parking and public space.

6.2 The 2011 decision established the principle of a mixed use retail and residential development on this site: access, parking, contemporary design approach and impact on the character and appearance of the Conservation Area.

- 6.3 The current application is very similar to the approved scheme in terms of access, parking, scale and massing, and overall aesthetic approach. The main difference is the mix of retail to residential as there is only one retail unit proposed under the current application, compared to seven small units previously (280sqm). The residential scheme is now proposed as 4 two bedroom town houses and a single retail unit (35sqm).
- 6.4 In terms of the privately operated pedestrian route, this would be maintained via a new route through the site. The existing car parking numbers on the public car park side of the site would be slightly reconfigured and no loss of spaces would occur. Within the site, 4 car parking spaces are proposed, one to serve each two bedroom house. As stated above, the principle of one space per 2 bedroom unit was established in the approval of the 2011 decision, and conforms with current Kent Design Standards and IGN3.
- 6.5 Since the previous approval in 2011 the NPPF has been published by Government (March 2012). The NPPF consolidated the previous set of PPG's and PPS's in to a single compact document. The overall thrust of policy relating to residential and retail development, impact on heritage assets, parking and design has not materially changed.
- 6.6 Paragraphs 23 to 27 of the NPPF relate to the viability of town centres. At paragraph 23 it is stated that Local Authorities should recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites. Paragraph 69 of the NPPF is concerned with promoting healthy communities and states that decisions should aim to achieve places which, *inter alia*, promote mixed-use developments, strong neighbourhood centres and active street frontages which bring together those who work, live and play in the vicinity. Paragraph 17 of the NPPF which sets out the core policies of the Framework also promotes mixed use development.
- 6.7 Paragraph 131 of the NPPF requires Local Authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and, *inter alia*, the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.8 At a local level, the Council's Core Strategy (TMBCS), MDEDPD and DLADPD all remain in force. The relevant policies are CP1, CP12, CP22 and CP24 of the TMBCS and policies CC1, NE4 and SQ1 of the MDEDPD. Policy R1 of the DLADPD defines the retail area within the wider confines of West Malling. Under the terms of Policy R1 West Malling is defined as a District Centre in respect of retail hierarchy.

- 6.9 Policy CP1 relates to sustainable development and promotes mixed use developments, where appropriate, in town and rural service centres. Policy CP12 allows for the principle of housing and employment development in rural service centres, and CP24 is the general policy in relation to the design of new buildings.
- 6.10 The principle of the mixed use redevelopment of the land to the rear of the Mill Yard site is supported by Policy CP12 of the TMBCS and paragraphs 17, 23 and 68 of the NPPF.
- 6.11 The level of retail development proposed is relatively small, being 35sqm, and, as the site lies within a defined retail area, the appropriateness of the mix of retail to residential within the scheme needs to be considered. The retail policy boundary extends out to the east of the main bulk of High Street properties to include the Mill Yard site. The site is therefore on the extremities of the retail boundary and is bounded by residential properties to the north and east. As Members are aware, the purpose of defining a retail area through Policy R1 of the DLA DPD is to protect existing retail uses from changes of use, it does not prescribe that only retail development can be promoted. The "parent" policy in the Core Strategy (CP22) seeks to resist development proposals that might harm the vitality or viability of an existing centre or undermine the balance of uses, harming their amenity. Looking at the wider retail offering, along with other services provided within the District Centre, the overall vitality and viability of West Malling would not be harmed by the proposed development in the sense that no retail uses or other key services would be lost as the site is currently vacant. The inclusion of an element of retail floor space will ensure that the retail offer in West Malling is improved overall by the proposal. Accordingly, in my view, a development with a low proportion of retail is in fact more appropriate for this location on the edge of the retail area. The use of the site for a predominantly residential development would complement the other residential dwellings on Swan Street, as well as the first floor residential accommodation within the High Street. The proposal can be considered to accord with Policies CP1, CP12 and CP22 of the TMBCS and paragraphs 17, 23 and 68 of the NPPF.
- 6.12 The design of the proposed development is broadly the same, in aesthetic terms, as the previous scheme and has been designed to reflect the character of West Malling, the character of the Conservation Area and to respect the amenity and historic value of adjoining buildings and structures. It is of a scale, form and materials that are in keeping and appropriate for this form of development, although it has a contemporary appearance/edge to the fenestrations. It is considered that this proposal is an example of thought out design on a very restricted site.
- 6.13 The application site is situated in West Malling Conservation Area, as identified above. It is considered that this design is appropriate for the context of the site and the Conservation Area. The key test in terms of the impact on a conservation area is whether it preserves or enhances the character and appearance of the

Conservation Area. In my opinion this development will enhance the character of the Conservation Area as it is bringing largely underused land into use and enhancing the built form of the locality. Some concern has been raised over the loss of the trees along the south western side of the site. However a tree survey has identified that these trees are all of poor quality and have not been appropriately maintained over the last 15 years. Consequently the trees' quality and amenity value is limited. Therefore, although there will some loss of a green aspect to this part of the Conservation Area and the public car park, the overall impact on amenity and value within the wider Conservation Area is limited. The proposed development therefore complies with Paragraph 131 of the NPPF.

- 6.14 There are a number of Listed Buildings adjoining and within close proximity to the application site, as well as the Scheduled Ancient Monument of the Abbey. The nearby buildings are both Grade I and Grade II listed. There is also a Grade I listed wall abutting the south east corner of the proposed development. The proposed development has been assessed in respect of its impact on these buildings.
- 6.15 In terms of the impact on the Listed Buildings in the High Street, the impact of the development is considered to be limited due to the distance between the existing and proposed buildings. Also most of the Listed Buildings on the High Street are commercial properties with commercial uses extending to the rear, consequently the impact on residential amenity is minimised. It is considered that the form of the proposed buildings is similar in scale to the properties in the High Street and therefore of a scale that is in keeping with those buildings. It is not, therefore, considered that there is a detrimental impact on these listed buildings, thereby complying with Paragraph 131 of the NPPF.
- 6.16 The Conservation Officer has been involved in the design, siting and assessment of the proposed development throughout the application process and is satisfied that the proposed development will not affect the setting of the listed buildings due to the context of the site. In addition, English Heritage has been consulted on the application and is now satisfied with the scheme as proposed. Consequently all measures have been taken to ensure any impact on Listed Buildings or structures and their setting has been fully assessed. I am therefore satisfied that the proposed development complies with national guidance within the NPPF.
- 6.17 In terms of the impact on the Scheduled Ancient Monument of the Abbey, this is sited a significant distance away from the application site. The grounds and setting that contribute to its significance are unaffected by the proposed development and therefore the relationship with the proposed development is acceptable. EH is satisfied that the scheme will not adversely affect the Abbey.
- 6.18 The final street scene issue that will have an impact on the locality is the loss of trees along the southern boundary, adjoining the public car park. These trees are also covered by a Tree Preservation Order. The impact of their loss on the

Conservation Area has already been discussed above. However, their condition has been fully and appropriately assessed and it is clear these trees have not been maintained appropriately and are therefore of poor quality. Consequently they do not contribute as much to the locality as mature native trees would and, on balance, their loss is considered acceptable in the circumstances of this particular site. Some minor landscaping adjoining the 24 hour public access point through the site is proposed to soften this boundary and will be discussed later. The loss of the trees however has been addressed as required under policy NE4 of the MDE DPD.

- 6.19 The site is situated within an Area of Archaeological Potential and therefore there is the potential for significant archaeological remains. It is recommended by KCC Heritage that the required archaeological investigations are secured by way of conditions. I am satisfied that, with the imposition of appropriate planning conditions, the potential for any significant archaeological finds can be dealt with appropriately and on this basis I am happy to recommend approval without a further investigative survey prior to determination.
- 6.20 In terms of potential overlooking or loss of privacy to neighbouring properties, most of which are residential with residential gardens adjoining the application site, there is considered to be a limited impact. This is because all elevations proposed within the current scheme which adjoin existing residential properties will either have high level windows only or none at all. This ensures there will be no overlooking or loss of privacy to the adjoining residential properties and their gardens. Moreover the catslide roof to the eastern building minimises the impact further as no openings are proposed within the roof slope. The north eastern building (Unit 4) also has no windows on the elevation facing towards Swan Street (north) to reduce the impact on those properties in Swan Street. Notwithstanding the above, a condition is required to ensure no additional windows are inserted in the elevations or roof slope of the development which adjoin residential properties. Therefore I find the relationships between the existing and proposed buildings acceptable and the development complies with polices CP1 and CP24 of the TMBCS and policy SQ1 of the MDEDPD and paragraphs 57 and 58 of the NPPF.
- 6.21 In line with Policy CC1 of the MDEDPD, a comprehensive assessment of the ability to incorporate sustainable design and construction elements within the buildings is required. Notwithstanding this, the applicants have stated that the design and location of the buildings does not lend itself to the incorporation of such features. I agree with this view and consider that renewable energy generation measures are not appropriate for this development. Normally renewable energy is in the form of solar panels, a wind turbine or a ground source heat pump. In some cases biomass generators are proposed. However the design of the buildings does not lend itself to solar panels or a wind turbine, due to the sensitive location of the proposed development and also the specific design of the proposed buildings. A ground source heat pump is not possible due to the potential archaeology and the development is not large enough for a biomass generator to

be viable. For these reasons I am of the view that, on this occasion, it would not be appropriate to request the provision of renewable energy requirements within the scheme. I do, however, see no reason why all other sustainable construction and design measures cannot be incorporated and these can be dealt with by planning condition. On this basis the development will comply with most of the requirements identified in policy CC1 of the MDE DPD.

- 6.22 In terms of highway issues, a number of matters need to be considered that all interrelate: these include access to the site, car parking provision, refuse and bin collection, servicing and also the matter of construction traffic. Clearly this is a restricted site in a busy location and adjacent to a heavily used public car park. These aspects have all been considered acceptable and approved previously through TM/10/00991/FL which is still live.
- 6.23 KCC Highways has assessed the traffic and car parking issues in relation to the proposed development and, due to the adjoining public car park and traffic control measures along surrounding streets, KHS is satisfied with the approach taken and considers it is acceptable in highway terms. The car parking provision proposed, although at the minimum, is also acceptable for this site under current Kent Design standards.
- 6.24 Refuse collection has also been addressed with a proposed bin collection area sited in close proximity to the Swan Street entrance, that would serve all the residential and commercial units and this removes any need for a refuse vehicle to enter the site. Consequently the issue of refuse and recycling bin storage and collection has been adequately addressed. Notwithstanding, a condition has been imposed to provide further details in respect of the bin collection area and its management, to ensure this matter is fully addressed in all respects.
- 6.25 In terms of pedestrian access to and across the site, this will be improved overall as a result of the proposed development as the route would become available 24 hours a day. The proposal represents an improvement to pedestrian access in terms of its availability which should be encouraged.
- 6.26 The control of construction and construction traffic is also necessary due to the restricted nature of the site and access to and from the locality. Therefore, although not normally controlled by condition, it is considered that due to the sensitive nature of the site, the existing uses and the potential for serious disruption to be caused to the locality, a condition also needs to be imposed in this regard. Therefore a comprehensive condition is proposed that deals with all matters in relation to construction traffic and the management of the site whilst construction work and clearance of the site is taking place. Although informatives would normally be imposed in this regard, on this occasion I feel a condition is appropriate to safeguard adjoining uses and access to and from the site.

6.27 In respect of the control of the different uses within the site and the protection of existing and proposed residential amenities, a number of conditions have been suggested to ensure the mix of uses is appropriately safeguarded. The retail element can be controlled by the imposition of a condition to restrict the use to Use Class A1. This is largely to ensure that cafes or office uses do not take over the proposed retail element of the development. For similar reasons a condition has been suggested to ensure the units are not amalgamated, subdivided or a new floor inserted. Finally, an hours of use condition for the commercial unit is also required to protect residential amenities. It is considered that 08.30-18.00 Monday to Saturdays and no opening on Sundays and Public/Bank Holidays would be sensible hours of opening within this location, however Members may wish to further consider the hours of opening.

6.28 A number of other conditions have also been suggested to further control the use and development of the site. In particular, a contamination condition is necessary as there is some potential for contamination to be present on the site and this needs to be adequately controlled. Tree and landscaping conditions have been imposed to ensure the protection of trees within close proximity to the site and to provide details of the small landscaped private amenity space proposed within the courtyard to serve the residential units.

6.29 In light of the above considerations, I recommend that planning permission is approved.

7. Recommendation:

7.1 **Grant Planning Permission**, in accordance with the following submitted details:

To be confirmed in a Supplementary Report.

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 in writing 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 No development shall take place until details of any joinery to be used have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

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

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

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

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

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

- 6 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of

(i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

(ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure appropriate assessment of the archaeological Implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- 7 No development shall take place until details of the access gate to the public space have been submitted to and approved in writing 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 appearance of the existing building or visual amenity of the locality.

- 8 No development shall take place until details of the bin collection area to include its designation and if necessary screening have been submitted to and approved in writing 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 appearance of the existing building or visual amenity of the locality.

- 9 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.

- 10 All work shall be carried out to the standards set in BS 3998 (or EU equivalent).

Reason: In the interests of good forestry practice and the amenity of the locality.

- 11 The noise attenuation measures to protect the residential properties from noise from the public car park and recycling centre set out within MRL Acoustics Noise Impact Assessment dated October 2013 shall be completed before any of the permitted buildings are occupied and shall be retained at all times unless otherwise approved by the Local Planning Authority.

Reason: In the interests of the residential amenity of the new development.

- 12 The retail business hereby approved shall not be carried on outside the hours of 08.30 to 18.00 hours Mondays to Saturdays with no working on Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

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

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

- 15 The proposed retail unit shall be used for purposes within Use Class A1 and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument amending, revoking and re-enacting that Order).

Reason: The protection of the retail core of the proposed development.

- 16 (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted for approval by the Local Planning Authority relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development prior to first occupation of the building hereby approved.

Reason: In the interests of amenity and public safety.

- 17 No development shall take place until details of foundations designs and any other proposals involving below ground excavation have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation *in situ* of important archaeological remains.

- 18 No development (including demolition of the existing building) shall take place until details of a management plan to address the physical practicalities of carrying out the demolition and construction work on this tightly constrained site have been submitted to and approved in writing by the Local Planning Authority. The plan shall specify access routes into the site for construction traffic and contractors' vehicles, areas to be set aside for materials storage and maximise vehicle parking within the site and measures to protect adjoining properties whilst the development is under way. In addition, the plan shall specify pedestrian safety measures across and adjoining the site. The development shall be carried out in strict accordance with the details approved.

Reason: In the interests of the historic environment.

- 19 Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or the Town and Country (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), the layout of the development shall not be varied by means of sub-division or amalgamation of any units, nor by the insertion of additional floors, without the prior permission in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to assess the impact of such variation in the interests of the safe and free flow of traffic and the protection of residential amenities.

- 20 Prior to the commencement of the development, a scheme shall be submitted to the Local Planning Authority for approval to demonstrate that the development hereby approved will adopt and incorporate practicable and appropriate sustainable construction standards and techniques. The scheme shall take account of the need to minimise: waste generation; water and energy consumption; and the depletion of non-renewable resources. The approved scheme shall be implemented prior to the first occupation of the building hereby approved, and retained thereafter.

Reason: To comply with the sustainable design and construction requirements identified under policy CC1 of the Managing Development and the Environment Development Plan Document.

- 21 Means of vehicular access to the designated residential parking within the site shall be derived solely from Swan Street. The access from Swan Street shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved parking spaces.

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

- 22 No development shall take place until details of a pedestrian link strategy have been submitted to and approved by the Local Planning Authority, and the pedestrian access shall be retained in accordance with those details.

Reason: To accord with the terms of the Design and Access Statement.

- 23 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no antenna development shall be carried out within Class A of Part 25 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of visual amenity

- 24 No development shall be commenced until details of a scheme setting out all the alterations to the layout of the adjoining car park and recycling centre, required as a consequence of the development hereby approved, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timescale for the carrying out of the necessary works and any other related measures. The approved scheme shall be fully implemented in accordance with the timescale set out.

Reason: To ensure that the development access to the south hereby approved minimises any consequential impacts on the capacity of the adjoining public car park and on the facilities and operation of the recycling centre in the interests of safeguarding community facilities.

- 25 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C, D, E and G of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of the character and amenity of the locality and to protect the site from overdevelopment.

- 26 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A-F of Part 40 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of the character and amenity of the locality.

- 27 No development shall take place until details of a scheme for an acoustic barrier for the construction of the party wall between the retail unit and Unit 1 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 residential amenities of the adjoining property.

- 28 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class D of Part 4 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of preserving the limited retail floorspace incorporated within the proposal and to respect the vitality and viability of the retail area.

- 29 The retail unit hereby approved shall not install any air conditioning system or extraction/ventilation system without the prior approval of the Local Planning Authority. Any approved scheme shall be installed in strict accordance with the approved details and, if replacement is required a further detailed approval will be required to be approved and implemented in the same way.

Reason: In the interests of the residential amenity of the adjoining property.

- 30 No development shall take place until details of external lighting 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 or amenities of the locality and in the interests of limiting light pollution.

- 31 No development shall take place until details of any street furniture, including all bollards and the gate to the private houses, 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 or amenities of the locality and in the interests of limiting light pollution.

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. Tonbridge and Malling Borough Council operates a wheeled bin, kerbside refuse collection service. In addition the Council also operates a fortnightly recycling box/bin service. This would require an area approximately twice the size of a wheeled bin per property. On the day of collection, the wheeled bin from each property should be placed on the shared entrance at the bin collection area adjacent to the adopted KCC highway. The Council reserves the right to designate the type of bin/container. The design of the development must have regard to the type of bin/container needed and the collection method.
3. The applicant must liaise with KCC Highways prior to and during the construction phase to ensure that safety of all users of the public highway is maintained at all times.

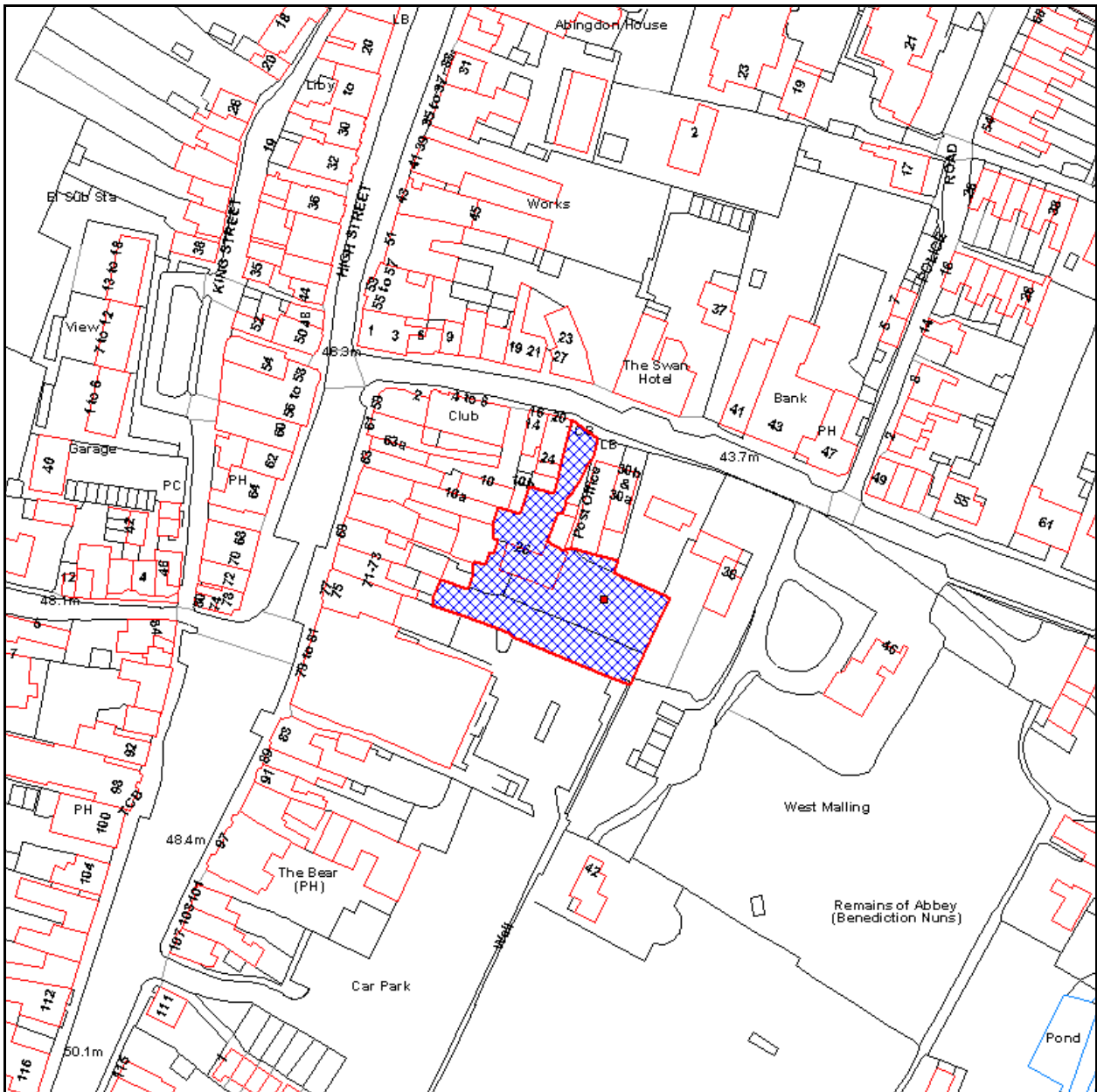
Contact: Lucy Harvey

TM/13/01952/FL

Mill Yard 26 Swan Street West Malling Kent ME19 6LP

Development comprising 4 no. two bedroom town houses and one retail unit plus associated parking and external works

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