

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

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

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

2 December 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, 10th December, 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

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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

12. 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

13. 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, 29th October, 2014

Present: Cllr Mrs F A Kemp (Chairman), Cllr Mrs E M Holland (Vice-Chairman), Cllr Mrs J A Anderson, Cllr M A C Balfour, Cllr F R D Chartres, Cllr M A Coffin, Cllr B J Luker, Cllr Mrs S Murray, Cllr H S Rogers, Cllr A G Sayer and Cllr M Taylor

Apologies for absence were received from Councillors C Brown, S R J Jessel, Mrs S Luck and Miss J L Sergison

PART 1 - PUBLIC

AP2 14/56 DECLARATIONS OF INTEREST

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

AP2 14/57 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 2 Planning Committee held on 17 September 2014 be approved as a correct record and signed by the Chairman.

AP2 14/58 MINUTES

RESOLVED: That the Minutes of the extraordinary meeting of the Area 2 Planning Committee held on 14 October 2014 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 14/59 DEVELOPMENT CONTROL AND SUPPLEMENTARY REPORTS

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

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

AP2 14/60 TM/14/02861/FL AND TM/14/02877/FL - REYNOLDS RETREAT, BASTED HOUSE, HARRISON ROAD, BOROUGH GREEN

- (A) Application to vary condition 4 of planning permission TM/11/03518/FL (Proposed change of use of buildings from offices to health spa with proposed extensions and new roofs) to allow use of the bar and dining facilities to remain open until 12.30am Monday to Friday and at weekends/Bank Holidays; and
- (B) Retrospect application to retain infill of rear courtyard area on two floors providing kitchen, food preparation area and cold store at Basted House ('Reynolds Retreat'), Harrison Road, Borough Green.

APPLICATIONS WITHDRAWN FROM THE AGENDA**AP2 14/61 TM/14/02941/FL - BIRCHIN NAPPS FARM, LONG MILL LANE, PLATT**

Demolition of existing dwelling and garage and construction of a replacement two storey dwelling with basement and a new detached double garage at Birch Napps Farm, Long Mill Lane, Platt.

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

[Speaker: Mr Louca - Applicant]

AP2 14/62 URGENT ITEMS

The Chairman advised that she had agreed to accept the following matter as an urgent item of late business under section 50B Paragraph 4(b) of the Local Government (Access to Information) Act 1985 in that it appeared that properties were being occupied before planning conditions had been satisfied.

IMPLEMENTATION OF PLANNING PERMISSION FOR 171 DWELLINGS AT ISLES QUARRY WEST

The report of the Director of Planning, Housing and Environmental Health provided an update on the implementation and monitoring of land contamination in the development at Isles Quarry West, Borough Green.

RESOLVED: That officers be instructed to take any appropriate action necessary to prevent further occupation of any unit until all relevant outstanding matters have been resolved regarding potential contamination of the garden areas.

AP2 14/63 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 8.15 pm

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TONBRIDGE & MALLING BOROUGH COUNCIL

AREA PLANNING COMMITTEES

Report of the Director of Planning, Housing & Environmental Health

Part I – Public

Section A – For Decision

DEVELOPMENT CONTROL

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

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

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

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

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

Borough Green
Borough Green And
Long Mill

Location: Henry Simmonds PH 4 Wrotham Road Borough Green
Sevenoaks Kent TN15 9DB

1. Purpose of Report:

- 1.1 Elsewhere on this agenda Members are asked to consider and determine a planning application for single storey side and rear extensions and other related and consequential alterations to an existing building currently the Henry Simmonds Public House in Borough Green. That application has been made by Sainsbury's in connection with a project to convert the building to retail use.
- 1.2 The change of use of the Public House to retail use, in itself, has the benefit of planning permission granted by virtue of The Town and Country Planning (General Permitted Development) Order 1995 (GPDO), Schedule 2, Part 3, Class A. This enables the use of a building to change from a public house (Use Class A4) to a retail use (Class A1) without further permission from the Local Planning Authority. Physical works to alter or extend buildings are not affected by this provision and require planning permission in their own right in the conventional way, although, as the report later in the agenda sets out, should the building first be converted to a retail use it would then benefit from 100 sq m of permitted floor-space expansion.
- 1.3 The GPDO also makes provision for Directions to be made to restrict such 'permitted development' in circumstances where the Secretary of State or the appropriate Local Planning Authority consider it expedient that development should not be carried out unless permission is granted for it on application (an 'Article 4 Direction').
- 1.4 In connection with the Henry Simmonds, I have received representations submitted by one of the local Borough Council Members, which I believe is submitted on behalf of the Borough Green Parish Council, asking that consideration be given to the prospect of serving such a Direction. I have attached the text of that representation to this report in order to outline the concern that is held.
- 1.5 I have also received a letter from planning consultants acting on behalf of Sainsbury's who put forward reasons why the Borough Council should not serve an Article 4 Direction. I have also attached that letter to this report

2. Determining Issues:

- 2.1 As is often the case with planning matters, the Order requires a test of expediency to be applied to any consideration of serving a Direction to restrict permitted development. Importantly, however, the test is not simply whether it is expedient to make a direction, but whether the Local Planning Authority is satisfied that it is

expedient that development within a given Permitted Development class or paragraph should not be carried out unless permission is granted for it on application. The general importance of this is that the expediency "test" applies to both the principle of the use and to whether the circumstances would indicate that the particular development might only be considered acceptable in planning terms if subject to conditions.

- 2.2 That test of expediency falls to be considered in the important context that, in general, Parliament has considered it appropriate to grant planning permission for a change of use of a building as in this case, and has had such rights on the statute books since at least 1988. Clearly that is a matter of fact that must not be considered lightly.
- 2.3 In terms of expediency, the advantages and disadvantages of an Article 4 Direction can only properly be weighed in the further context of the prevailing Development Plan policies, The National Planning Policy Framework (NPPF), supported by The National Planning Policy Guidance (NPPG) and any other material considerations. In that context the test to be applied needs an examination of the general merits of the prospective change of use to the extent to enable the Council to determine if an Article 4 Direction is justified in this case.
- 2.4 Bearing in mind that the intent of national statute is to enable such changes of use to take place without further permission, the NPPF makes it clear that the removal of permitted development rights should be *"limited to situations where this is necessary to protect local amenity or the wellbeing of the area"*.
- 2.5 The NPPG also makes it clear that the removal of national permitted development rights must be justified in terms of the purpose and extent of a potential Direction and that *"the potential harm that the direction is intended to address should be clearly identified"*.
- 2.6 In Paragraphs 23 to 27 of the NPPF the thrust of policy towards retail and other town centre proposals is set out. (For the avoidance of doubt town centres are defined in the NPPF as including district centres, which is the status given to Borough Green in the LDF). It provides positive support for proposals within identified centres. Indeed, it says that planning authorities should require town centre uses to be located in centres as opposed to other locations such as edge or out of centre. Within identified centres there is a strong presumption in favour of retail proposals where no impact assessment is required. Paragraph 23 of the NPPF expressly states that that Local Authorities should *"promote competitive town centres that provide customer choice and a diverse retail offer...."* and *"retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive"*.
- 2.7 With this up to date national policy position in mind, a key consideration in this case is the location of the site within an adopted retail policy boundary in the Local Development Framework, as defined by Policy R1 of the DLA DPD 2008 that lies

within what can be considered to be the district centre of Borough Green. In such a defined area Policy CP22 of the Tonbridge and Malling Borough Core Strategy 2007 (TMBCS) sets out the approach to retail proposals and gives priority and presumption in favour of sites located within the defined limits of town, district or local centres. This reflects the thrust provided by Paragraph 24 of the NPPF.

- 2.8 It is acknowledged that Policy CP22 also requires that all proposals for new retail development must maintain or enhance the vitality and viability of the existing centre. Vitality and viability of such proposals is tested through retail impact assessment, but in this case the scale of the building is significantly below the threshold that would give rise to the need for such an assessment, even if a conventional application were to be required. The impact test only applies to proposals exceeding 2,500 square metres gross floor-space unless a different locally appropriate threshold is set by the Local Planning Authority, which is not the case here. There is no other evidence that can be advanced in this respect that would amount to impact on the vitality and viability of the centre. Indeed it could be argued that to prevent the permitted change of use of the premises would in itself hinder the vitality of the centre that could be gained from another retail use available for local residents of Borough Green and adjoining areas. It is appreciated that some concern has been raised locally about the effect of a new retail use at this site and its impact on some existing business. Whilst that concern is understood it is not a matter, in the context described here, that should weigh significantly in considering whether an Article 4 Direction should be made.
- 2.9 Consequently, there seems no sustainable case to pursue an Article 4 Direction on the basis of the retail use and the vitality and viability of the centre in terms of amenity or wellbeing of the area.
- 2.10 Looking to other amenity considerations and any other material matters, the permitted change of use to retail would stand to be judged against the characteristics of the maximised use of the existing public house were it to be the subject of a conventional planning application. In terms of traffic generation and any impact related to noise and general disturbance, whilst a retail use would have different characteristics it would be difficult to substantiate any appreciable general detriment to amenity, particularly bearing in mind its District Centre location. In this respect there does not seem to be sufficient reason to justify removing permitted development rights on the basis of protecting local amenity and wellbeing.
- 2.11 Insofar as the loss of the public house itself is concerned, there is some support for retaining community facilities at policy CP 26 of the LDF Core Strategy, where they are controllable by the Council and in themselves play an important role in the social infrastructure. In terms of testing the potential restriction of permitted development rights, the test is whether they are *necessary for the wellbeing of an area* rather than more general desirability and convenience. In view of the strong presumption in favour of retail use in this location and the fact that there would still be one other traditional Public House in Borough Green, the weight of this factor would not amount to an adequate reason to override established permitted development rights.

- 2.12 The existing Public House is the subject of an application to be registered as an Asset of Community Value. That matter remains under consideration against the set criteria that must be applied in those cases and an update will be given at the meeting.
- 2.13 **Summary of planning considerations**
- 2.14 We have considered the merits of an Article 4 Direction against the tests set out in the General Permitted Development Order and considered those in the context of prevailing policy and other material planning considerations. On that basis it seems clear that the Council should not seek to restrict the permitted development rights granted in respect of the change of use of the existing Henry Simmonds Public House to retail use. To do so would be in the face of the will of national statute as expressed in the GPDO and contrary to the prevailing policy position. There are no overriding matters that weigh significantly against those considerations.
- 2.15 **Compensation and financial implications**
- 2.16 In the case of potential Directions restricting permitted development compensation may apply and is capable of being a material consideration in the Council's determination of its way forward.
- 2.17 In cases where a local planning authority makes an Article 4 direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn if it then subsequently refuses planning permission for development which would otherwise have been permitted development or grants planning permission subject to more limiting conditions than the general permitted development order.
- 2.18 The grounds on which compensation can be claimed relate to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.
- 2.19 In this case if an Article 4 Direction was made and an application for planning permission subsequently refused, the Borough Council would be liable for compensation in respect of the financial implications of the loss of value and other costs. Also in the particular circumstances of this case and the general appraisal of the planning merits, there would be considerable risk of incurring the costs related to the refusal of planning permission and subsequent appeal.
- 2.20 The precise financial implications are difficult to appraise at this stage but would be significant if that course of action were to be followed by the Council. Indeed it is important that we advise the Committee that if it were minded to take the view that an Article 4 Direction was appropriate the matter would need to be deferred to the Cabinet for further consideration bearing in mind the potential financial implications.
- 2.21 Article 4 Directions are subject to statutory procedures governing consultation with local residents, and must be notified to the Secretary of State.

3. Recommendation:

- 3.1 The Committee are recommended not to make an Article 4 Direction.

Adrian Stanfield, Director of Central Services

Steve Humphrey, Director of Planning, Housing and Environmental Health

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Steve Humphrey - Henry Simmonds - Sainsbury Application

From: Mike Taylor [REDACTED]
To: 'Steve Humphrey' <Steve.Humphrey@tmbc.gov.uk>, 'Lindsay Pearson' <Lindsa...
Date: 18/10/2014 13:07
Subject: Henry Simmonds - Sainsbury Application
CC: [REDACTED]
Attachments: Community-Right-to-Bid-Guidance-note.pdf; 14 10
18CAMRA_Guide_to_Nominating_Pubs_as_Assets_of_Community_Value_2013.pdf;
14 10 18 Article 4 Direction.doc

Dear Steve,

The possible loss of the Henry Simmonds has severe implications for Borough Green and its neighbours, not just the loss of a pub, but also the impact of a new aggressive retailer on the fragile economic balance of our existing Rural Retail Centre, but some of that is a matter for the impending Planning Application.

The loss of the pub has triggered much concern locally:

1. Over the past few years, Borough Green has lost the Rock Tavern, the Red Lion and the Fox & Hounds to housing developers, Platt has lost the Brickmakers, Ightham the Chequers, Wrotham the Three Postboys and the Horse & Groom. I am sure there are many others that have slipped past this teetotaler's vision.
2. This loss comes at the same time as a steadily increasing population, often housed on the lost sites, and places like Isles Quarry, need a growing supply of these assets for their fostering of community spirit & entertainment value. Pubs are very often the village social hub where community events, charity and sporting challenges develop, where newcomers make friends, they are the engines of a vibrant village life.
3. It is understandable when a landowner wishes to repurpose a failing or closed pub, but the Henry Simmonds is demonstrably a viable community asset, albeit somewhat starved of investment and good stewardship.
4. Borough Green is your designated Rural Service Centre for a wide area, a huge area that is bereft of the night time entertainment economy that exists in our towns, so pubs should be viewed as an important element of infrastructure as are schools, doctors and sewers.
5. Whilst a Sainsbury will undoubtedly provide some jobs, the impact on the retail centre, and consequent job loss, will far outweigh any gains.

The community therefore intend to pursue two paths:

The first we can get underway ourselves, which is to get the Henry Simmonds listed as an "Asset of Community Value", and to register a "Community Right to Bid". To that end we are publicising an Emergency Meeting of the PC for Friday, to provide the required minute for the application. This is to keep you up to date with our thinking, we obviously need the goodwill of T&MBC to bring these to fruition

The second is where we need your help, and that is to change the Permitted Development Rights with an Article 4 direction. As we understand it, this mechanism is within the gift of the LPA, and I attach some of the notes we have found.

Looking forward to your thoughts,

Mike Taylor



Our Ref: A088839-3

Date: 20th November 2014

Tonbridge and Malling Borough Council
Planning Department
Gibson Building
Gibson Drive
Kings Hill
West Malling
Kent
ME19 4LZ

Dear Sir/Madam,

THE HENRY SIMMONDS PUBLIC HOUSE, BOROUGH GREEN, TN15 8DB – PROPOSED ARTICLE 4 DIRECTION

Introduction

Please accept this letter as a formal representation against the proposed direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the GPDO) on behalf of our clients, Sainsbury's Supermarkets Ltd and JEMP Property Invest.

The proposed direction, if made and confirmed by Tonbridge and Malling Borough Council, would result in an application for a change of use from Use Class A4 (Drinking Establishments) to Use Class A1 (retail) being requiring for the proposed development to take place. Such an application would result in a substantial delay and would, in our view, be entirely unnecessary given the site's location and planning policy status.

National Guidance

Paragraph 200 of the National Planning Policy Framework (2012) (NPPF) is clear that *the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area.*



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The National Planning Policy Guidance (2014) (NPPG) explains that there must be justification for both the *purpose and extent* of an Article 4 direction (para. 037) and that *the potential harm that the direction is intended to address should be clearly identified* (para. 038).

There is no evidence that the potential change of use of the site from A5 (drinking establishments) to A1 (retail) would cause harm to local amenity or to the wellbeing of the area. Indeed a retail use would not carry with it some of the impacts associated with the use of the site as a public house that might harm amenity or wellbeing, like noise and disturbance late in to the evening. The ability of the site to be used in different ways is important in its ability to respond to market conditions flexibly so that it can easily continue to meet local needs and make a positive contribution to the amenity and wellbeing of Borough Green.

In that context, there would be no justification for either the purpose or the extent of an Article 4 direction removing certain Permitted Development rights at this site. To do so would conflict with the national guidance contained within the NPPF and NPPG.

Permitted Development

Permitted Development rights allow certain types of development to take place without the need to apply for and obtain planning permission beforehand. These types of development are, by their nature, not contentious. As the NPPG explains, *Permitted Development rights are subject to conditions and limitations to control impact and to protect limit amenity* (para. 016) and so the legislation intrinsically minimises the impacts of development that is permitted.

Over recent years, the Government has introduced a raft of legislation and guidance aimed and taking many more types of development out of the planning application process. There can be no doubt of the national direction in this regard. To impose an Article 4 direction at this site would fully conflict with that direction of travel with no justification.

The designation of the site

The site is designated as a District Centre by Policy R1 of the Development Land Allocations Development Plan Document (DPD) (2008). This policy notes that uses which do not justifiably require a shopping centre location or do not provide an appropriate service for the day-to-

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day needs of the local community will not be permitted in retail centres.

Policy CP22 (Retail Development) of the Core Strategy (2007) states that the Borough has *a range of urban and rural district centres which offer retail facilities to meet the day-to-day needs of their local communities* (6.3.46) and *the key to delivering this will be in maintaining and enhancing the role of the Borough's existing retail centres which act as a focal point for the communities they serve* (6.3.47).

Clearly, a retail use is a wholly appropriate one in a District Centre. It is vitally important for the health of centres like this one that they are able to flexibly respond to changing market requirements so as to be able to properly meet the needs of the communities that they serve in line with the Council's policy aspirations.

By imposing a direction under Article 4, the Council would be introducing a barrier that would undermine the ability of the centre to respond quickly and flexibly to market demands and the needs of the community and such a direction would seem to conflict with the thrust of the Council's policies.

Compensation

The Town and Country Planning Act 1990 notes that if a local planning authority makes an Article 4 direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn where planning permission is subsequently refused for development that would have been permitted or where limiting conditions are imposed. Although we would expect planning permission to be granted (with costs on appeal) if the Council is contemplating that there are reasons for refusing consent (which it must be in order to justify the proposed direction) then it should be aware of, and calculate, the likely level of compensation. Members should be aware of the financial consequences.

Summary

This representation constitutes an objection to the proposed imposition of an Article 4 direction that would restrict Permitted Development rights at 4 Wrotham Road, Borough Green. Such a direction would conflict with the national guidance contained within the NPPF and NPPG, would undermine the objectives of the General Permitted Development Order and the national drive towards removing developments from the planning system, would conflict with the Council's policy aspirations and would likely result in abortive expenditure for our clients.





We respectfully request that this direction does not come in to force.

Please contact me if you would like to discuss any aspect of this letter.

Yours Sincerely,



Gary Morris
Director

For and on behalf of WYG



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creative minds safe hands

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Borough Green	560992 157458	17 October 2014	(A) TM/14/03560/FL
Borough Green And Long Mill			(B) TM/14/03570/AT

Proposal: (A) Single storey side and rear extensions to existing building, installation of ATM, changes to elevations, installation of plant machinery and reconfiguration of access to the existing residential accommodation above
 (B) 3 no. internally illuminated fascia signs, store entrance sign, ATM surround, Totem sign (externally illuminated) and various car park/parking signage

Location: The Henry Simmonds 4 Wrotham Road Borough Green
 Sevenoaks Kent TN15 9DB

Applicant: Sainsbury's Supermarkets Ltd And JEMP Property Investments

1. Description (A) & (B):

- 1.1 Planning permission is sought for a single storey side and rear extension of 110 sq m to the existing public house to form a storage area and staff facilities pursuant to the change of use of the premises from a public house to a shop (which it is intended should take place under permitted development rights granted by Parliament) of gross floor area 357 sq m (a 45% increase). (It should be noted that if the change of use took place first then the building may be extended by 100sqm under permitted development rights – these rights are currently temporary until May 2016 but there is an indication that such rights may be made permanent in due course. If these rights are not continued, then there would still be a right to extend by 50 sq m under normal permitted development rights.) The application also seeks consent for changes to the elevations, installation of ATM, plant and machinery and the reconfiguration of external rear access to the 2 flats of residential accommodation above which are being retained.
- 1.2 An advertisement application has been submitted for 3 no. internally illuminated fascia signs (text being fret cut), store entrance sign, ATM surround, totem sign (externally illuminated) and various car park/parking signage.
- 1.3 The building is currently being operated as a public house at ground floor with a manager's flat and separate flat at first floor and above. The General Permitted Development Order 1995 (as amended in 2005) permits the change from A4 (drinking establishments) to A1 (shops) without the need for a planning application, this provision being carried-forward from the 1988 Order. Accordingly, had the applicant not required an extension that exceeds the permitted floor area by only 10 sq m, they could have occupied the building for retail purposes without referral to the Local Planning Authority. Separate consents are required for the works comprising the ATM, Plant and other external works.

- 1.4 An approach has been made suggesting that the building be subject of an Article 4 Direction to bring the retail use of the ground floor of the building under direct planning control of the Council. A separate report on this matter is to be found earlier on the Agenda.
- 1.5 In addition, a nomination to list the building as an Asset of Community Value (ACV) has been received and is currently under consideration. An update on the progress of this matter will be reported to Members at the meeting. The status as an ACV is capable of being a material planning consideration, should such a nomination be accepted.
- 1.6 The submitted floor plans show the existing ground floor area of the PH would be altered to allow for one open plan shop with supporting pillars. This aspect of the application does not require a planning application as explained above. The proposed rear extension would provide back of house facilities including roller cage storage, freezer and chiller storage, staff room, WC and office. The extension would equate to approximately one third of the proposed floorspace of the unit.
- 1.7 The majority of the rear extension would be flat roofed with a parapet wall whilst the side extension would have a false pitch on the front elevation. The proposed plant would be sited on the flat roof of the rear extension and enclosed by fencing 1.8m high. A replacement black metal railing staircase is proposed to provide improved access to the residential accommodation above. Minor changes to fenestration are also proposed with many of the existing ground floor openings being lined internally with vinyl film.
- 1.8 The existing vehicular access is proposed to remain with a clockwise one-way system introduced within the site. The raised planting area forward of the PH would be removed to facilitate the new layout. A dedicated loading bay, capable of use by HGVs, is proposed at the front of the store. HGV access and turning has been detailed on a swept path analysis and additional information has been provided to KCC Highways to seek to demonstrate that access and manoeuvrability can be achieved within the site and that suitable visibility is achievable when exiting the site.
- 1.9 Parking is proposed for 10 car spaces for shoppers, one of which would be a disabled bay. Two residential spaces are proposed to serve the first floor accommodation. Nine spaces are proposed to remain to serve the 5 no. A1/A2 business units along the north of the site.

2. Reason for reporting to Committee (A) & (B)

- 2.1 Called in by Councillor Mike Taylor as a result of the controversial nature of the application and wider public interest.

3. The Site (A) & (B):

- 3.1 The site lies on the eastern side of the A227 Borough Green Road, directly north of the London to Maidstone railway line, to the south of 10 Western Road and to the west of some commercial units within Bourne Enterprise Centre. To the west of the application site, on the opposite side of Maidstone Road, lies the Borough Green and Wrotham Railway Station and Co-op store, both of which are served by Station Approach. A small parade of shops lies on the junction of Station Approach with Wrotham Road.
- 3.2 The application site includes 5 existing A1/A2 units which lie on the northern boundary on the site between 10 Maidstone Road and the Henry Simmonds PH.
- 3.3 The site lies within the built confines of Borough Green and an Area of Archaeological Potential. The site is within the retail policy boundary for Borough Green as defined by Policy R1 of the DLADPD 2008.
- 3.4 The site is relatively flat with vehicular access off Maidstone Road toward to the north west corner of the site. There is a pedestrian access off the Wrotham Road footway in the south west corner. A zebra crossing lies outside the site serving the Railway Station.
- 3.5 The existing building, previously known as the Railway Hotel, is not a listed building but is an attractive building with decorative gable design and intricate timber barge boards. It is a currently a public house with 2 self-contained flats at first floor level.

4. Planning History (A) & (B):

TM/82/10686/FUL grant with conditions 3 September 1982
(TM/82/110)
Construction of new car park.

TM/87/10278/FUL grant with conditions 16 July 1987
(TM/87/845)
Conversion of part storage building to shop units 2 and 3 (amendment to ground floor windows previously approved) and workshop - unit 4 for the servicing and repair of lawn mowers.

TM/87/10740/FUL grant with conditions 19 November 1987
(TM/87/1326)
Rear extension to provide kitchen and toilet facilities for (Unit 3) and workshop (Unit 4).

TM/88/11854/FUL grant with conditions 30 November 1988
(TM/88/705)
Layout for construction of car park.

TM/88/11959/FUL grant with conditions 7 October 1988
(TM/88/1046)

Change of use from shop to light industrial/office.

TM/89/11442/ADV grant with conditions 25 January 1989
(TM/88/1950)

One illuminated standing sign and one partially illuminated hanging sign.

TM/91/10580/FUL grant with conditions 3 July 1991
(TM/89/1010)

Extension to provide additional toilets, internal alterations to kitchen and new porch.

TM/93/00204/RM grant with conditions 23 December 1993
(TM/93/1154)

Submission of details pursuant to condition 3 of TM/89/1010 and being a scheme of landscaping and boundary treatment incorporating details of planters and posts on frontage of site

TM/96/00883/AT Grant With Conditions 11 October 1996

externally illuminated double sided pole sign

TM/97/01371/FL Grant With Conditions 23 October 1997

two storey extension to office

TM/03/01372/FL Grant With Conditions 7 July 2003

First floor extension and new external staircase to southern elevation and change of use of part of first floor to form a one bedroom self-contained flat

TM/05/03296/FL Grant With Conditions 22 December 2005

Convert existing toilet block into office space with new first floor over for office

TM/11/02098/FL Approved 3 October 2011

Minor works including the installation of 3 new shop fronts

5. Consultees (A) & (B):

- 5.1 Borough Green PC: After prolonged discussion of all the issues at our Emergency PC Meeting on 24th October, and at our November meeting on 3rd November,

and mindful of overwhelming Public Consultation and Opinion, the Parish Council objects to these applications on the grounds set out below:

1. Financial impact on existing Rural Service Centre (PPS4)
2. Out of town (village) centre development
3. Loss of Nominated Community Asset
4. Traffic Growth
5. Highway safety on a dangerous junction
6. Cumulative impact on existing adjacent AQMA, possible leading to extended AQMA
7. Strong Public Opinion

5.1.1 We would also like the hearing deferred until Officers have had a full opportunity to investigate invocation of an Article 4 Direction requiring a full application. Whilst the general view of those consulted was that the development would destroy our existing retail centre, the Sainsbury view is that this would generate an economic benefit and increase footfall generally. Unfortunately the only way to test Sainsbury's hypothesis is to allow the change of use, and if Sainsbury's are wrong, the experiment has failed and we have lost our retail centre, and T&MBC have lost their Rural Service Centre.

5.1.2 For that reason, BGPC believe that an Article 4 Direction would require Sainsbury to submit a full application where the full rigour of the Planning Process can be applied. This is simply too important an application for it to be approved on what is actually a technical loophole, and we believe Article 4 exists for that exact purpose.

5.1.3 We set out in greater detail below the reasons for the above conclusions.

5.1.4 Financial Impact & Out of Centre Development: NPPF para 26 When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of: the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made. NPPF 23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local

Plans, local planning authorities should: recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. NPPF 27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused. PPS 4 EC.1 (c) & (f) are particularly apt in this case, and there are elements of the T&MBC Core Strategy that require this application to be refused on the grounds of the damage to the sustainability and viability of this community

5.1.5 Loss of an Asset of Community Value. This public house has been allowed to run down over many years, starved of investment and innovation by the owner. Its situation, catchment area, and proximity to the station mean that it should be a goldmine. The loss of this Public House will mean that the Rural Service Centre of Borough Green will have just one public house, and a wine bar of dubious reputation to serve the needs of the immediate village and the surrounding area, some 16,000 people. A single public house cannot supply the choice that the area requires. A public house in a rural area is not just a place to drink, it is one of the engines of social cohesion, knitting together the various strands of the community, a seedbed where charitable and other informal local events gell and grow. NPPF 70 requires delivery of the social, recreational and cultural facilities and services the community needs, planning policies and decisions should protect against that loss.

5.1.6 Traffic Impact, Parking and Highway Safety: The applicant avers that there will be no impact on the Local Retail Centre, because their market position is aimed at preventing trips to out of town centres such as Sevenoaks and elsewhere, so is clearly attracting car drivers. But their Transport Plan suggests their customers will have no traffic impact because they will be walking. We believe there is a Highway formula for calculating retail parking spaces based on the retail floor space, but the applicant is suggesting a far lower car usage. Put simply we do not believe the 10 parking spaces to be adequate for the level of customers needed to make this a financially viable enterprise. The applicant proposes using the existing access, which feeds directly onto an existing very busy junction on a moderately blind bend/hill brow. This junction, Station Approach, already handles many distinct phases of traffic through the day, contributing to the recorded 9000 vehicles per day on the A227 Wrotham Road. As well as the through traffic, the Station Approach houses the busy Co-op store generating traffic all day, the commuter traffic during rush hours, the traffic from the Roman Court business centre, and sheltered accommodation, and Primary School parents who are allowed to use the Station car park. There are taxi companies and a takeaway restaurant. Immediately adjacent to the entrance is a pedestrian crossing, and 75m to the north is the crossroads of the Bourne Trading Estate, and the Fairfield Estate incorporating the A-Z factory, where an application is set to add 41 houses to the existing sole road access to another 240 properties.

- 5.1.7 Air Quality The proposed development is immediately adjacent to the Borough Green AQMA, and it is inconceivable that the attracted traffic and the consequent added congestion cannot increase Air Quality problems. MDE-DPD Policy SQ4 clearly forbids development that has a cumulative impact on an existing AQMA, or that could trigger a new one. This satisfies both conditions, and must be refused on those grounds alone. The cumulative impact of this and other developments satisfies the legislation.
- 5.1.8 Public Opinion In order to ensure that a balanced view was solicited, BGPC advised local groups on the wording of a consultation, ensuring that both sides of the argument were presented to those canvassed. There was a bias introduced by allowing the Sainsbury view two benefits, and placing their support vote first. Despite these adjustments there are 1000+ signatures against the Sainsbury proposal, and none in favour. We must report 3 members of the public who supported the proposal, but declined to sign, but deemed their views relevant. We attach a copy of the consultation as material evidence.
- 5.2 Platt PC: Platt Parish Council would endorse all the objections made by Borough Green Parish Council as submitted to you. Platt and other adjoining villages use Borough Green as a local hub for shops, railway station, surgery etc and there is already sufficient number of large stores within easy access by car or local transport. There is no need for another one. There is very strong local objection as can be seen by the number of people registering their concern, as per the local poll in your possession, and not all these people come from Borough Green. It is felt that this proposal would cause suffering to all the existing retailers, who serve the village adequately. The argument that the Public House is not viable is not accepted. This and other public houses owned by the same family group have suffered from a lack of investment and interest for years. One could presume that this may be deliberate, to run down their viability, to placate the planning tsars into changing their usage. We would refer to similar attempts within our village, namely The Chequers at Crouch and the Plough at Basted. To state that only one public house (the other is a wine bar) will serve the whole of Borough Green is ridiculous. If managed properly this is a valuable community asset. To propose access and egress on to the Wrotham Road is an accident waiting to happen. It is on a blind bend approaching the Village and opposite access to the station, Co-operative stores, offices and flats. It cannot be argued that this access already serves the Public House, as most people now do not drive to a pub, they walk. This proposal will massively increase traffic flow, both from customers and deliveries. We can also see that this store will be most popular at rush hour times, i.e. people going to and from work by car. This will cause more congestion, delays and air quality issues in an already overused infrastructure layout. We would urge you to reject this application.
- 5.3 Wrotham PC: The TMBC Local Plan seeks to protect the “Vitality and Viability” of an existing commercial village centre and this is particularly important for a regional (*sic*) service centre. There are currently three medium sized convenience

stores/supermarkets in Borough Green and a variety of good quality specialist shops that make Borough Green unique for food retail. This sector expanded approximately six months ago when a third convenience store opened where only two were viable previously. Presumably this was timed to capitalise on the expansion of housing due to new consents within Borough Green.

“Policy CP22.2 proposals which might harm the vitality or viability of an existing centre either in terms of retail impact, or in the case of smaller centres, undermining the balance of uses or harming their amenity, will not be permitted.”

- 5.3.1 Given that the convenience store offering has only recently increased by 50% and that there is also a significant array of competing specialist food retailers like green grocery, butchery, a baker and several delicatessens then a fourth store that competes with all of these is both ‘unbalanced’ and certain to harm both the vitality and viability of the existing centre. Borough Green has a unique and inter-dependant commercial centre with a range of top quality specialist food retailers and they have flourished simply because there has not been over provision from large chains.
- 5.3.2 WPC refutes the assertion that the Public House is unviable and notes that the claim is unevicenced. It is undoubtedly true that the company who own the freehold have had a deliberate policy over decades of under investment and in the case of other owned pubs there have been repeated attempts to convert the buildings to other more profitable uses by using the lack of investment as ‘evidence’ of unviability. Policy CP26 3. Proposals for development that would result in the loss in whole or part of sites and premises currently or last used for the provision of community services or recreation, leisure or cultural facilities will only be proposed in the LDF or otherwise permitted if: (a) an alternative facility of equivalent or better quality and scale to meet identified need is either available, or will be satisfactorily provided at an equally accessible location; or (b) a significant enhancement to the nature and quality of an existing facility will result from the development of part of that facility; or (c) the applicant has proved, to the satisfaction of the Council, that for the foreseeable future there is likely to be an absence of need or adequate support for the facility. In the rural environment there is only limited access to more urban pursuits like cinema, theatre, ten pin bowling and a host of other forms of entertainment that are taken for granted by young and old in more urban environments. In this context the humble village pub has a far greater importance than the equivalent in urban areas. It is often the only form of informal community entertainment and social release and transport is difficult with late night public transport limitations and responsible driving choices. Borough Green, with a population around 4,300 on completion of consented development will only have one pub and a small bar serving non ‘Ale’ drinkers that regularly appears to be ‘For Sale’.

5.3.3 The NPPF Planning Guidance for 'Local Plan' making stresses the importance of sustainability as a concept and focuses on three important pillars, one of which is addressing an area's social needs. Often this is condensed down to local housing by LPA's because this is a government target, but social well-being is a combination of many aspects and the opportunity to socialise informally with friends is paramount. This can take the form of village halls that are available for hire for parties and social gatherings but nothing can replace a local pub where anyone can drop in for a chat over a pint or a coffee, a place which might host a band on a Saturday Night or a Quiz Night on Thursday and you cannot beat their fresh fish and chips with mushy peas as a Friday Night staple! An LPA cannot justify consenting developments like Isle Quarry West and then strip out all local opportunities for informal leisure and recreation for a population approaching 4,700 when the developments are completed.

5.3.4 Design: Policy CP24 and Policy SQ1 both require high standards of design for new development that 'respect and integrate with their surroundings'. New development should protect, conserve and where possible enhance the character and local distinctiveness of the area including historical and architectural interest. The Borough Green Character Area SPD cites Clokes Store, Henry Simmons and the railway station as a distinctive group of late Victorian buildings built on a grander scale and with more ornate details than elsewhere in the area. The SPD also confirms Henry Simmonds Pub as a 'local landmark' due to its scale, prominent gables, decorative ridge tiles and finials, half timbering and tall chimneys. It therefore seems perverse that the applicant is proposing to eradicate much of this noted detail in the end elevation and replace it with a sign. Refer to 'SIGNAGE ZONE' in the left hand drawing of the end elevation. In addition the "Hit and Miss" Picket type fence perched incongruously on top of a flat roofed extension would not make a positive contribution to the local character or distinctiveness of the area, but would cause harm to a venerated local landmark.

5.3.5 Policy CP24 1. All development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings. 3. Development which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement or the countryside will not be permitted. An array of fans and refrigeration condensers are to be located behind the picket fence and directly in front of residential flats that remain lessees of the freeholder, refer above. The proposal will impact on the amenity of the lessees in terms of light into their property and unwanted noise of refrigeration & air-conditioning. The design of the rear extension with machinery exposed on the roof, hidden behind a picket fence is of very poor quality and detracts from late Victorian character of the area.

5.3.6 Development Proposal: The applicant's claims regarding the increased employment opportunities are in our view overstated. The over provision of four convenience stores competing with a variety of specialist food retailers would

inevitably cause unviability in the sector with its attendant redundancies. The applicant's assertion that paragraph 2.5.13 of the Core Strategy which states there 'may' be scope for 'limited' retail development is outdated. At the time of writing the Core Strategy in 2007 that may have been justified, given the new housing developments but with the recent opening of the third such shop there is now over provision of food retailing.

5.3.7 Highways: WPC is concerned about servicing the proposal. There will be fourteen HGV movements daily and Kent Highways are concerned about visibility for lorries emerging from the site. In addition the junction is poor and apt to become log jammed at times, particularly during the school peak periods.

5.3.8 Summary: 1) The recent increases in convenience store floor space has made the current sector over provided for. It is anticipated that the new housing currently being built will take up this slack in due course. A fourth convenience store however will make the current balance unviable and cause harm to the retail centre of Borough Green. 2) When the LPA consents large housing developments in an area there is a duty and requirement to provide adequate opportunities for informal relaxation and leisure. If this were to be consented then it would leave only one public house for a population of 4,300, which would be lamentably inadequate. 3) The design of the extension with the bizarre rooftop enclosure is detrimental to a cited late Victorian landmark and part of an important small group of such buildings. The signage proposals will also obliterate a proportion of the fine detail of the cited building. 4) The noise emitting equipment to be located immediately adjacent to existing residential units will affect the personal amenity of all the occupants. It will also impact on the amount of light that the residences currently enjoy. 5) Servicing of the proposal by fourteen HGV vehicle trips has implications both for safety of the junction and the ability of the junction to support through traffic, particularly during school peak periods. 6) Wrotham Parish Council objects for all of the listed reasons.

5.4 Network Rail: No observations.

5.5 KCC Highways: This is for a convenience food store of gross internal area 357m². The Transport Statement submitted is correct that the maximum car parking permitted for this type of use is at a ratio of one per 18m² equating to 19 spaces. This is a maximum standard and 10 spaces dedicated for this use and signed accordingly are proposed. This site is situated at a sustainable location i.e. with good access to local services. I would agree with the Transport Statement that the level of use will self-regulate as patrons become accustomed to convenient opportunities to shop and will be encouraged to shop whilst walking or if need be go to another store when in a car.

5.5.1 This property could trade as a convenience store without a planning permission if no extensions were included. It is interesting to note that the Co-op store opposite comprises in my estimation a larger floorspace and that this store includes (to my

understanding) 2 car parking spaces plus one disabled space. I consider and conclude that the car parking allocation proposed with this application is within County standards and acceptable.

5.5.2 Turning to road safety, there have been two slight injury crashes in the vicinity of the site in the last 5 years. One involved injury to a pedestrian's ankle whilst approaching the pavement at the adjacent zebra crossing (vehicle did not stop); and the other involved a vehicle making a late decision to turn left into Station Approach causing a 3 car shunt. I consider that this level of crash history is not exceptional and that the junction of Wrotham Road with Station Approach and the access opposite does indicate that this arrangement does in fact operate well. It is further considered from these records that there is no indication that the proposal would exacerbate or create an injury crash pattern.

5.5.3 I note that the applicant proposes that deliveries are made with the smallest HGV available (18 tonne, 9.9m rigid delivery vehicles). It is further noted that it is expected that at least seven deliveries for various goods are to be made daily (paragraph 9.5 of the Transport Statement). I also note that swept path analyses have been provided for these manoeuvres. The swept path analyses provided in do not include the car parking allocations to the rear/east of the site and I would be grateful if swept path analyses could be provided which includes this to ensure that there is no conflict with parked vehicles here.

5.5.4 Finally the most critical point of concern from a highways view is the egress of delivery vehicles onto Wrotham Road. I note the swept path analysis that has been provided. I would be grateful however if a static or snapshot position for emerging half way to the centreline of Wrotham Road when turning right could be provided. The concern here is the position of the cab and the ability for a driver to view south to northbound traffic. I would be grateful if the applicant's consultant could look into this in some detail to ensure that a potentially hazardous road safety issue is not instilled or inherently introduced. I hope that these comments are helpful and that these issues can be addressed.

5.5.5 Additional Comments on additional information. I am grateful for the cab and visibility details that have been provided. I note that some reversing is now required in the site to assist exiting and that the swept path sweep has been modified from that originally submitted to enable a delivery driver to exit in a safer manner.

5.5.6 It may be helpful for the applicant to consider providing a yellow box junction. This is considered as a possible aid for traffic management and movement but not a requirement. It may also be helpful, in the context of the observed crash record and for the benefit of the planning authority to understand how dray lorries operated serving the public house.

5.5.7 It would be preferable within the site for car parking space SSL5 to be provided lengthways to the boundary. Fundamentally, I do not consider that the Highway Authority is in a position to sustainably object to this proposal and I confirm I have no objection to this application.

5.5.8 KCC Heritage: The site lies within an area of Romano British and Post medieval activity. Roman cremations were found to the north off Fairfield Gate and a post medieval kiln was found c. 25m to the north. In addition, the PH itself is identifiable on the 1st Ed OS map and may have been built as a hotel to serve the railway customers. The building is of local heritage interest and features and fittings relating to its use as a hotel and inn would be of local interest. Remains associated with this activity may survive on the site of the current PH and I recommend the following conditions are placed on any forthcoming consent: (Watching Brief including a written program and specification and a programme of Building Recording).

5.6 Private Reps (250/1S/0X/17R + Press/Site Notice): The Borough Council has received 17 formal objections to the application from local residents (one letter being from the local school) and one letter of support. In addition, a Poll (i.e. generic petition) of local residents from local shopkeepers was submitted which has received 1539 responses against the application and 3 in support. The letter from Borough Green Primary School is summarised at paragraph 5.6.3 below.

5.6.1 Comments in support (in summary):

- A Sainsbury's will be very good for the village.
- Borough Green is a growing village and the more facilities we have that will encourage villagers to shop in the village the better.
- I try to shop in the village but do have to go to the larger supermarkets because I can't get everything in the village.
- Many of the villagers I speak to are in favour of the development and look forward to it getting the go ahead.

5.6.2 Comments raising objection (in summary):

- Loss of Public House which is a community asset, locals should be given the chance to develop it as a community pub for all ages.
- No need for additional multi-national supermarket.
- Existing retail offer in Borough Green is sufficient. The high street is individual with a variety of shops to choose from.
- Existing retail stores will be at risk (butcher, newsagent, bakery).

- Traffic impacts as a result of additional vehicular movements.
- Conflict of traffic movements at the site with existing traffic from the station, Fairfield Housing Estate, Enterprise Industrial Estate [DPHEH – Bourne Enterprise Centre], the Primary School and Nursery.
- Harmful to the welfare/character of the Village.
- Danger to local children and pedestrians. There are already too many lorries on this road and any more would make the walk to school even more dangerous. This is a route to the Secondary school and at the entrance to the primary school.
- Increase air pollution, already an air quality issue in Borough Green.
- People will use the car park for school drop off bringing more cars to the school gates.
- The village and surrounding road systems are too small to cope with this.
- Station Approach is opposite the proposed access and already provides for Co-op delivery trucks, station drop off and collect, station car park, taxi rank, bus turning point, old peoples sheltered accommodation and Station Court office parking.
- Adding 124 vehicle movements per hour to the existing queues at this junction at peak times is unsustainable.
- The existing zebra crossing is already in a compromised position. Traffic is already reluctant to stop.
- It is stated that “bollarding off the spaces opposite the disabled bay” is necessary “to allow access to the loading area” for seven deliveries a day. This is a tacit admission that the site too small for the proposed change. The site clearly cannot cope with the amount of trucks and cars necessary for it to function.
- The site should be used for an extra medical centre/dental practice to support the proposed developments already going on in the village including the 171 houses being built [DPHEH – Isles Quarry West], the Red Lion Development, the 41 houses proposed near the station, the redevelopment of the police houses, and the development opposite 31 Station Road.

- The proposal is contrary to the Council's Local Development Framework, Core Strategy Policy CP22 which relates to Retail Development within the Borough. CP22 states that "proposals which might harm the vitality or viability of an existing centre either in terms of retail impact or, in the case of smaller centres, undermining the balance of uses or harming their amenity, will not be allowed."
- Sainsbury's presence will seriously affect all the existing stores thus affecting the "vitality and viability" of this retail centre.
- The new store is intended for top-up shopping and will only carry a small range of goods. They are not therefore offering any new or providing a service that is not already available from the existing retailers.
- The proposal will reduce footfall to the High Street and significantly impact on takings of the existing independent retailers.
- Objection to the proposed location of the bin store in front of Unit 1 (Corals) and adjacent to the driveway of 10 Wrotham Road. This position could affect the desirability of my property, be unsightly, noisy to empty and smell unpleasant.
- Objection to the late opening hours and suggest the store is closed at 9pm or 9.30pm similar to other food retailers in the village.
- The persistent noise from traffic to the store late at night is also intrusive and unnecessary.
- The proposal would lead to traffic lights or a roundabout being required.
- The Henry Simmonds site would be better used as car parking for the school – the school parking area could then be re-used for additional site facilities.
- Sainsbury's state they would create 20-25 new jobs. They would in fact be replacing some of the jobs lost by the economic impact on the High Street and other local businesses. The first job losses will be the staff of the Henry Simmonds PH and there will invariably be a knock on effect to the Corals bookmaker. Other businesses locally will suffer and jobs lost accordingly.
- Delivery vehicles will not be able to access the site if another delivery is taking place.
- The positioning of the site is just far enough away to discourage customers from going further in to the village.
- Sainsbury's will undercut the smaller shops forcing them out of business.
- Money counts and not people's quality of life.

5.6.3 Borough Green Primary School: Borough Green Primary School would like to raise its concerns regarding the planned Sainsbury's Local store which is to be opened on the existing site of the Henry Simmonds Public House. These concerns relate specifically to the welfare and safety of the pupils, parents and teachers of Borough Green Primary School and the anticipated increase in traffic flow that inevitably will be generated at this end of the village.

- At present, we feel that the existing volume of traffic, combined with the lack of available parking surrounding the school, is challenging enough. Every day we experience issues with congestion between the two crossings in Borough Green where parents are entering and exiting the school, or trying to find a place to park so that their children can safely enter the school grounds. This is further compounded when delivery vehicles are servicing the Nisa convenience store in the High Street and commuters are using the village as a rat run to get to Sevenoaks or the M20.
- There is a significant risk of accidents occurring due to the obscured sight lines of parents and teachers when exiting School Approach to join the A227 Wrotham Road. The same applies to motorists approaching the High Street from the A227 Wrotham Road as they are unable to see vehicles exiting the school due to the wall that protects pedestrians when traversing the railway bridge. Should the volume of traffic increase further due to the presence and location of the Sainsbury's Local store then the risk of injury or even worse, a fatality, in our opinion is greatly enhanced.
- Pupils of Borough Green Primary School who live on the Fairfield Road estate are most at risk when walking to school due to the lack of footpath/pavement on the west side of the road. Whilst there is a zebra crossing opposite the Henry Simmonds Public House, this unfortunately does not service those pupils who live on the Fairfield Road estate. Any increase in traffic heightens the risk for these pupils.
- As a community, we have continued to suffer from traffic and road safety related issues due to the failure to establish the Borough Green Bypass. Any additions to the volumes of traffic, irrespective of the nature or cause is extremely worrying.
- We have reviewed the Transport Statement produced by Mayer Brown on behalf of Sainsbury's (dated: Oct 2014) and note its findings. Whilst the tick box exercise of compliance has been met, we still remain of the opinion that the positioning of this site, adjacent to the school, coupled with the dangers of poor visibility and heightened traffic flows will increase the risk of accidents and injuries to our pupils and their families.

- No viable commercial business would invest the time, money and effort to establish a presence if it did not feel it could increase profits year on year. Sainsbury's is not a lifestyle business like the majority of stores in the High Street. Its shareholders expect to benefit from increased dividends due to larger profits. We are not suggesting for one moment that the Borough Green store is going to make a significant impact on the P&L of J Sainsbury plc. but we do expect that their business plan projects increased revenues due to an increase in footfall and trade from surrounding villages. Will this additional trade be arriving at the store via foot, cycle, bus or train as opposed to personal car? The Transport Statement suggests that there are sufficient alternatives to the personal car, which is true, but whether people choose those alternatives is questionable and as of yet, unproven.
- The Headteacher and Governors of Borough Green Primary School have been approached by concerned parents regarding the siting of the store and the risks associated with increased traffic flows. They want to understand what we as a school are prepared and able to do to increase safety around the entrance of the school. As mentioned previously, ingress and egress to the school is suboptimal.
- Borough Green Primary School is not opposed to Sainsbury's as a business. Whilst we do have concerns regarding the impact on the local community and the effect on the village a major brand will have (especially since we already have one major brand in the village, albeit discreetly positioned away from the High Street), our primary concern is that of the safety and welfare of our pupils, parents and teachers. The local community is extremely important to the school as is the support of local stores and businesses.
- We remain of the opinion that for this store to be successful, considering its location, will depend heavily on customers travelling by car which will have an adverse impact on traffic within the village. It is this concern, coupled with the poor visibility around the entrance to the school and the heightened risk to our pupils from the Fairfield Road estate that we base our concerns on.

6. Determining Issues (A) & (B):

- 6.1 It is important to reiterate that the change of use from A4 (drinking establishments) to A1 (shops) is permitted by the Government through the General Permitted Development Order 1995 (as amended in 2005). A similar right has been in existence since at least 1988. If those rights were to be taken-up before the determination of this current application, the applicant would then have the right, without the need for a planning application to be made, to occupy the existing building as a shop and thereafter erect limited extensions (up to 100 sq m – until May 2016 when the limit would return to 50 sq m) that would comply with permitted development rights for shops. The retail impact in terms of vitality and viability of such a change is not for the LPA's consideration as the development of

that nature/scale would not be controllable from a planning point of view – in light of the guidance in NPPG that retail impact assessments are required for development of over 2500 sq m. Similarly, the loss of a public house, increased vehicle movements, parking provision, opening hours, turning/loading, visibility, impact on pedestrians, noise impacts, bin storage etc would not be under the Council's planning controls for an extended shop of that size. It should be emphasised that it is the will of Parliament for such changes of use to allow for flexibility within Use Class A to adapt to market circumstances and this provision has been in place for many years.

- 6.2 It is acknowledged that the proposed extension would be erected for the purposes of retail storage/admin and the additional 10sq m floor space over and above *retail PD* does, in the present circumstances, require planning permission from this Council. The public house could, in itself, be the subject of an application for an extension of 110sq m of a scale, form and bulk which would be acceptable in principle. Once built, under the current application, the extension that would form part of the public house and *then* be available for a permitted change to A3 (café), A2 (professional services) or A1 (shops) without the need for a planning application to be submitted. This latter set of fallback circumstances could realistically occur and they are a material planning consideration in my view.
- 6.3 Irrespective of the permitted fall back positions set out above, the principal consideration is the location of the site within the adopted retail policy boundary as defined by Policy R1 of the DLA DPD 2008. In considering the nature of the extensions to facilitate retail use, the principle of retail development within the retail boundary of a District Centre is acceptable and compliant with adopted Policy. The preamble to Policy R1 states that:
- “the extent of these areas includes within the definition of the retail centres.... as areas suitable for business and other town centre uses (use classes B1, A1, A2, A3, A4 and A5.”*
- 6.4 Policy CP22 of the TMBCS sets out the sequence for considering retail proposals and prioritises sites located within the defined limits of the town, district or local centres. This policy then goes on to consider edge-of-centre and out-of-centre sites. Paragraph 24 of the NPPF supports the priority of retail development within the defined centre. It is acknowledged that all proposals for new retail development must also maintain or enhance the vitality and viability of the existing centre.
- 6.5 Paragraph 23 of the states that Local Authorities should “*promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres*”; “*retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive.*”

- 6.6 It might be helpful to make the point that even if the retail use of the public house itself were to come into the control of the Council, the amount of floorspace concerned is far below the NPPF threshold to require a retail impact assessment, which is a clear indication of the Government's approach to such relatively small retail facilities. (There is no Core Strategy policy that applies a different threshold and no evidence base for such a different threshold.)
- 6.7 I accept that many of the representations of the local residents, including the results of the Poll, raise concerns in relation to harm to the existing retail centre, local businesses and, in turn, potential loss of jobs. However, in the light of the permitted development regimes which apply, in theory, only the additional 10 sq m of ancillary shop floor space to the rear of the existing building is controllable for the purposes of Policy CP22 in terms of impact on vitality and viability. This is not a "loop-hole" as expressed by some residents as the ability to move between certain classes in the Use Class Order has been expressly permitted by Parliament since at least 1988, in the interests of commercial flexibility.
- 6.8 It is my view that the additional shop floor space to the rear of the building cannot be regarded to cause harm to the viability and vitality of the District Centre. The proposal would promote a competitive centre and provide customer choice as promoted by Paragraph 23 of the NPPF. Moreover, should the entire change of use be controllable and the whole retail floor space require permission (as a result of an Article 4 Direction for example) I am of the view that the location of the site, within a retail area, closely related to the existing retail offer, could not reasonably be regarded to be unduly harmful to the existing centre. I do not therefore consider there to be grounds to refuse the application on the basis of retail impact. I therefore consider the proposal complies with Policy R1 of the DLA DPD and Policy CP22 of the TMBCS and paragraphs 23 and 24 of the NPPF 2012.
- 6.9 The PC's nomination of the building to be listed as an Asset of Community Value is being considered by the Council. Whilst a formal listing as an ACV, if confirmed, has some materiality, it is limited and would not, in my view, override the permitted development fall back nor the allocation of the site within the District Centre and retail policy area of Borough Green.
- 6.10 It is proposed to use the existing access point onto Wrotham Road and form a one-way system within the site in a clockwise direction. HGV deliveries in the form of 18 tonne lorries would occur approx 7 times daily and a dedicated HGV parking space is proposed at the front of the site (roller cages etc would need to be moved from the front of the site, around the north (flank) of the building to enter at the storage area doors). It is proposed that HGVs will approach the site from the north only and leave towards the north only to ensure turning is achievable. KCC Highways and Transportation (KCC H&T) requested some additional swept paths and visibility information and is now satisfied the proposal would not result in a severe impact and has raised no objections. KCC H&T suggested there may be some benefit in providing a yellow box junction at the entrance to the site to

facilitate traffic management and movement. I also consider it reasonable and necessary to require by condition a traffic management plan intended to ensure that HGVs access the site only from the north and to exit in the same direction. The applicant has already stated this would be the case from an operational point of view as well as the limitations of the highway and all submitted tracking shows this to occur. It must be remembered that brewers' drays have to service the current public house and if the public house were to be far more actively marketed/used, as some commentators suggest should happen, then dray deliveries would increase over current levels.

- 6.11 In terms of parking provision, the application details 10 parking spaces would be retained for Sainsbury's, 2 for the residential units and 9 for existing A1/A2 units at the north of the application site. The maximum requirement for a shop of this size would be 19 spaces. However, KCC is satisfied that due to the location of the site within the District Centre with the associated bus and rail services, and other public car parks, the provision of 10 spaces is acceptable. As explained above, should Sainsbury's have chosen to occupy the building with a very slightly smaller extension of 100sq m, the LPA would have no control over car parking provision, access, turning or visibility. The provision of 10 spaces is therefore a good outcome for the site in my view as there is the potential for no provision if permitted development rights were to be taken forward by the applicant or another retail occupier. Similarly, the impact on pedestrians using Wrotham Road for the proposed scheme is unlikely to be much higher than the permitted fall-back position. In any event, KCC has not raised an objection in relation to pedestrian safety. In light of the above considerations, I am satisfied the proposal would not give rise to severe harm to highway safety, including pedestrian safety in and around the site. The proposal would therefore accord with Policy SQ1 of the MDEDPD 2010 and Paragraph 32 of the NPPF 2012 which requires safe and suitable access to the site being achieved for all people and any improvements should be those that cost effectively limit the significant impacts of the development; development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.12 The design of the proposed side rear extension is simple and would be flat roofed with a perimeter parapet wall at the rear with a false pitch over the side extension to face the street. Rendered walls are proposed for the extension with a painted finish. A large single storey flat roof extension with fenced plant area above, whilst not ideal, is not visible from public vantage points and cannot be argued to cause harm to the streetscene. The use of the false pitch over the re-built side extension would ensure that the front elevation of the building remains largely unchanged in terms of built form. and the scheme would accord with Policies CP1 and CP24 of the TMBCS, Policy SQ1 of the MDE DPD and Paragraphs 57 and 58 of the NPPF 2012.

- 6.13 The replacement staircase proposed on the northeast corner of the building to serve the retained residential units above would be an improvement to the existing staircase as it would be wider and safer. The proposal would also brick up or add vinyl film to a number of existing ground floor openings. Two windows on the front elevation would be removed and replaced with double entrance doors. I do not consider these alterations to be detrimental to the streetscene or visual amenity provided the vinyl does not include advertisements. I consider it informative to remind the applicant that no consent has been given for signage on the vinyl film (unless expressly given for the welcome sign for example) and, accordingly, advertisement consent would be required. I therefore consider the design of the staircase and the proposed alterations to existing ground floor openings to accord with the local and national design policies listed above.
- 6.14 The proposed ATM machine would be located on the front elevation which is a commonplace for such developments and would ensure maximum natural surveillance. There are other banks in close proximity to the site which also have ATMs so I do not consider this location is of concern. It is therefore my view that the proposed ATM would accord with TMBCS Policy CP24 and Paragraph 23 of the NPPF which supports competitive town centres.
- 6.15 I note the objection raised by one of the local residents which stated that the proposal would not respect the Borough Green Character Areas SPD which lists the Henry Simmonds PH as a local landmark due to its scale, prominent gables, decorative ridge tiles and finials, half timbering and tall chimneys. The objector feels that the proposal would eradicate the features of the building. It should be noted that the Henry Simmonds PH is not a listed building. However, the current application seeks to retain the building and its interesting roof design and detailing. The fears of the objector are unfounded in my opinion in regard to the scheme subject of this application. I therefore consider the proposal would accord with the Character Areas SPD. Various local representations, including that of the Parish Council, have raised the loss of the Public House in principle as an objection. One neighbour goes further to state that the loss of the PH would be contrary to Policy CP26 of the TMBCS (Community Services and Transport Infrastructure). The loss of a PH can sometimes be controllable through planning, such as in schemes to convert them to dwellings. When such applications are being determined, the viability of the PH can be a material planning consideration and the proximity of other PHs in the locality is equally relevant. However, as stated previously, the change of use from A4 to A1 does not require a planning application to be submitted in light of nationally set permitted development rights and, therefore, the loss of the PH (viable/last remaining or otherwise) is not, in the current circumstances, a material planning consideration in this particular case.
- 6.16 The addendum noise report details the residential accommodation above the proposed shop as being the nearest Noise Sensitive Receptor (NSR) and bases further calculation upon that. Achieving a level of 30dB LAeq at the nearest NSR will also achieve NR35 at the same location. Without knowing the Octave

Spectrum of the plant designed to be attenuated, it is not possible to confirm that it will in fact be effective. Additional information to confirm the Applicant's data has been sought and will be included in a supplementary report. It is known that in similar circumstances elsewhere in the Borough acceptable living conditions have achieved in respect of noise from plant and equipment.

- 6.17 The proposed opening hours are 06.00 – 23.00 seven days per week including Public and Bank holidays. As a result of the permitted fall back for the existing floor space to be converted to a shop without limitations on opening hours, there are no grounds to limit the hours proposed. However, I do consider there to be grounds to limit deliveries as the extension, which is controllable, would house the new storage area for roller cages etc. I consider it reasonable, given the proximity of 10 Wrotham Road to the HGV parking bay and the location of the two residential units above the proposed shop, to limit the hours deliveries can be carried out within the site. I consider deliveries should be restricted to 07.00 – 22.30 Monday to Friday, 08.00 – 21.00 on Saturdays with no deliveries on Sundays or Public and Bank Holidays in the interests of residential amenity.
- 6.18 There is not currently a full scheme of external lighting for the site and I consider it reasonable to condition such a scheme to be submitted and approved prior to the use being commenced.
- 6.19 In terms of soil contamination, the site is not identified as a site of potential concern, however a condition regarding a watching brief and suitable mitigation of contamination if found during groundwork would adequately deal with any risks to amenity and public safety.
- 6.20 The site lies approximately 80 metres from the boundary of the Borough Green Air Quality Management Area (AQMA). As the proposed HGV movements are indicated to enter the site and exit in a northerly direction, the AQMA should not receive additional HGV movements. In addition, cycle stores are proposed to facilitate customers travelling by bike and it is expected that much of the customer base would travel to the shop on foot either from the commercial and residential areas within the village/surrounding villages or using linked trips with visits to the District Centre by bus/car. I do not therefore consider the proposal would worsen air quality within the AQMA, especially bearing in mind that the site can legitimately generate traffic at present (both HGV and car) and the predominant change in traffic arise from the various permitted development rights and fall-back rights.
- 6.21 The proposed location of the bin store to the front (west) of the Corals betting shop and adjacent to the front boundary of 10 Wrotham Road would result in a visual intrusion to the street scene and the potential for noise and smell nuisance to the residential neighbour. I consider the location of the bin store can be amended and a suitable position agreed without compromising the overall layout of the site. I

therefore consider it reasonable to condition the submission of details of outside storage and screening of refuse.

6.22 The site lies within an Area of Archaeological Potential and there is the possibility of finds during the course of the groundwork on site. KCC Heritage has requested a condition requiring a written specification of a watching brief and a scheme of building recording prior to internal demolition works. I consider the need for a watching brief to be reasonable as the site falls within a designated AAP. However, whilst I understand KCC Heritage's intent in requesting a scheme of building recording, I do not consider I can reasonably require such a condition as the building is not listed. I consider it reasonable to put forward an informative to advise the applicants of KCC's interest in the internal layout, fixtures and fittings of the former Railway Hotel and, should they wish to do so, they may carry out such an exercise and submit their information to KCC Heritage.

6.23 The proposed scheme of signage for the intended end user includes the company colours for Sainsbury's being orange and burgundy. The signage is internally illuminated but with fret cut text which is sufficiently subtle. An externally illuminated totem pole sign similar in design to a hanging pub sign is proposed for the southwest corner of the site and final dimensions have not been provided. The principle of a Totem sign and the overall aesthetic proposed is acceptable in my view. However I consider a condition is required to determine the final size of the totem prior to occupation of the extension hereby approved. The other signage proposed is reasonable in scale, with internal illumination on the fascias only. It is my view that the signage details proposed are acceptable for this site within the district centre and situated on an A-class road in a well illuminated position. The Co-op Totem sign opposite the application site is externally illuminated with the fascia signs being internally illuminated. I therefore consider the proposed signage to not harm amenity or highway safety.

7. Recommendation:

(A) TM/14/03560/FL:

7.1 **Grant Planning Permission** as detailed by: Letter dated 17.10.2014, Waste Management Strategy dated 17.10.2014, Schedule dated 17.10.2014, Transport Statement dated 17.10.2014, Noise Assessment dated 17.10.2014, Existing Floor Plans P-121603-101 dated 17.10.2014, Proposed Floor Plans P-121603-102 Rev C dated 27.11.2014, Floor Plan P-121603-111 dated 17.10.2014, Drawing P-121603-115 B dated 17.10.2014, Elevations P-121603-201 dated 17.10.2014, Elevations P-121603-202 dated 17.10.2014, Elevations P-121603-203A dated 27.11.2014, Elevations P-121603-204A dated 27.11.2014, Elevations P-121603-210 dated 17.10.2014, Drawing P-121603-221 dated 17.10.2014, Drawing P-121603-300 dated 17.10.2014, Location Plan P-121603-100 dated 17.10.2014, Email dated 21.11.2014, Details SSLBOROUGHGREEM(LOCAL).1/TK06 Tracking dated 21.11.2014, Details

SSLBOROUGHGREEM(LOCAL).1/TK05 Tracking dated 21.11.2014, Viability Assessment SSLBOROUGHGREEM(LOCAL).1/01 dated 21.11.2014, Email Acoustic matters dated 21.11.2014, Noise Assessment Additional Info dated 21.11.2014 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 on the extension hereby approved until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

- 3 The A1 (shop) floor space shall not be used or operated outside the hours of 06.00 to 23.00 Mondays to Sundays including Public and Bank Holidays.

Reason: To protect the aural environment of nearby dwellings.

- 4 Retail deliveries shall not take place outside the hours of 07.00 to 22.30 Monday to Friday, 08.00 to 21.00 on Saturdays with no deliveries on Sundays or Public and Bank Holidays.

Reason: To protect the aural environment of nearby dwellings.

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

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

- 6 The use of the extension hereby approved shall not be commenced until details of a scheme 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 and appearance of the existing building or visual amenity of the locality.

- 7 (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.

- 8 Notwithstanding the submitted plans, the use of the extension hereby approved shall not be commenced until a scheme for an alternative location for the commercial bin store, along with a scheme of screening where necessary, have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

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

- 9 The use of the extension hereby approved shall not be commenced until a scheme for an alternative screening for the proposed mechanical plant, has been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

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

- 10 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.

- 11 The extension hereby approved shall not 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.

- 12 The plant equipment hereby approved shall not exceed a Noise Rate Level of 35 as measured from any noise sensitive premises.

Reason: To protect the residential amenities of adjoining properties.

Informatives

- 1 It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- 2 The applicant is reminded of the requirement to organise traffic routes and segregate vehicles and pedestrians as they move around the car park – Regulation 17 Health and Safety (Workplace) Regulations 1992 (as amended).
- 3 Prior to any internal refurbishment or building works taking place, an asbestos refurbishment survey must be carried out and the findings acted upon as required by the Control of Asbestos Regulations 2012.
- 4 The applicant is advised to consider securing the implementation of a programme of building recording to ensure that historic building features are properly examined and recorded. Any final record/report/photographs should be sent to KCC Heritage Group, Kent County Council, Maidstone, ME14 1XX.

(B) TM/14/03570/AT:

7.2 **Grant Advertisement Consent** in accordance with the following submitted details: Letter dated 17.10.2014, Schedule dated 17.10.2014, Location Plan P-121603-100 dated 17.10.2014, Drawing P-121603-115 B dated 17.10.2014, Elevations P-121603-201 dated 17.10.2014, Elevations P-121603-202 dated 17.10.2014, Elevations P-121603-203 dated 17.10.2014, Elevations P-121603-204 dated 17.10.2014, Signage Drawing P-121603-221 dated 17.10.2014, Elevations 210 dated 17.10.14 subject to the following:

Conditions

1. This consent shall expire at the end of a period of five years from the date of consent.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. No advertisement shall be sited or displayed so as to -
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water, or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. Where any advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

7. Prior to the occupation of the extension hereby permitted, details of the final dimensions of the totem sign shall be submitted to the Local Planning Authority for approval and the work shall be carried out in strict accordance with those details.

Reason: In the interests of amenity.

Informative

- 1 The applicant is reminded that the grey vinyl film to be applied to existing windows is not to include advertisements. Any adverts on vinyl film would require separate Advertisement Consent. Similarly, any banner signage attached to the building would require formal consent.

Contact: Lucy Harvey

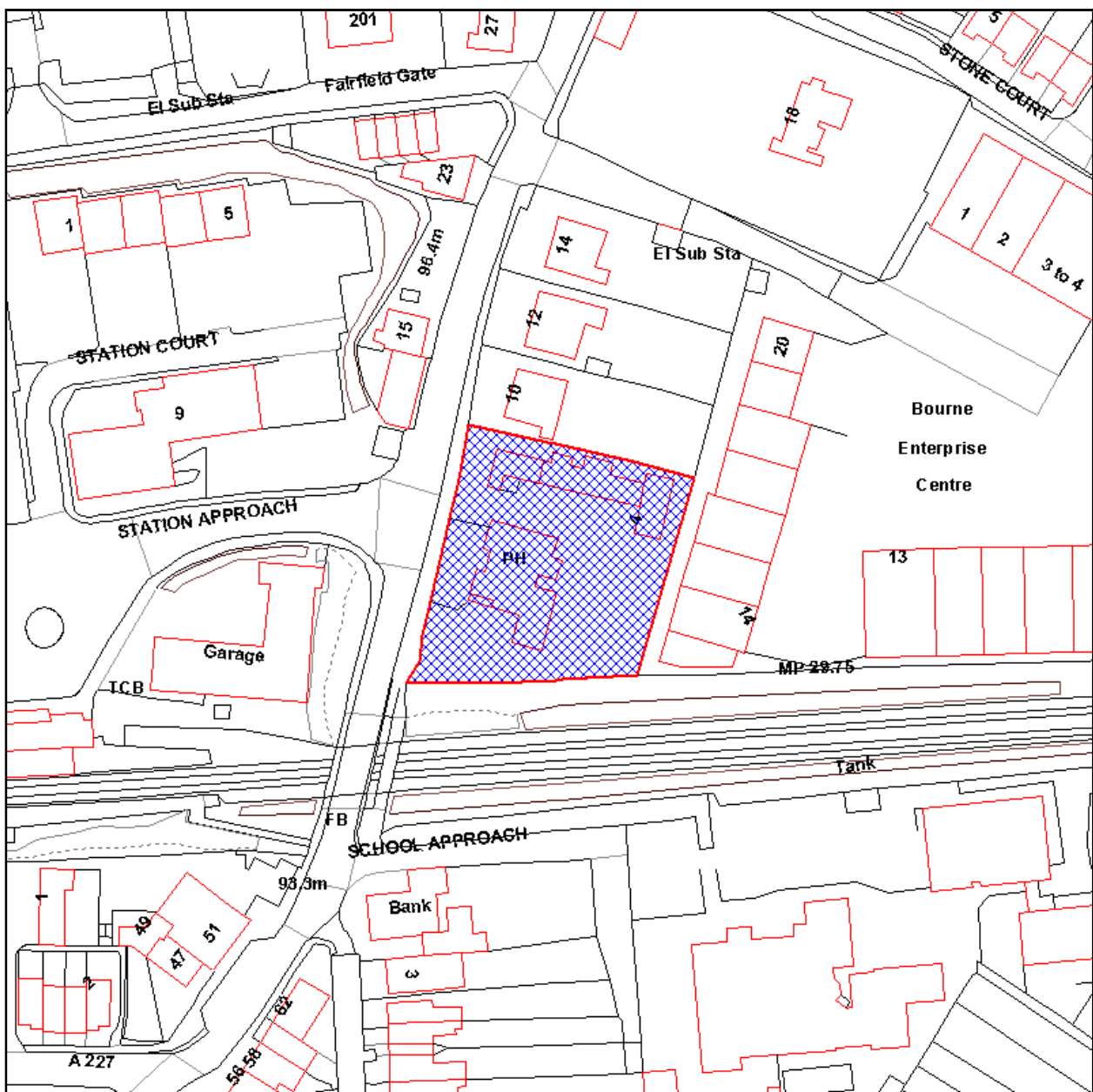
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(A) TM/14/03560/FL & (B) TM/14/03570/AT

The Henry Simmonds 4 Wrotham Road Borough Green Sevenoaks Kent TN15 9DB

(A) Single storey side and rear extensions to existing building, installation of ATM, changes to elevations, installation of plant machinery and reconfiguration of access to the existing residential accommodation above & (B) Advertisement Application: 3no internally illuminated fascia signs, store entrance sign, ATM surround, Totem sign (externally illuminated) and various car park/parking signage

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Borough Green **560851 157593** **25 September 2014** **TM/14/02992/FL**
Borough Green And
Long Mill

Proposal: Demolition of the existing Geographers A-Z buildings on the site and for the erection of 41 residential units with associated car parking, access, footways, associated infrastructure works, and landscaping
Location: A To Z Geographers Ltd 173 - 199 Fairfield Road Borough Green Sevenoaks Kent TN15 8PP
Applicant: Fernham Homes

1. Description:

- 1.1 The proposed development consists of the demolition of the printing works with ancillary offices/storage (Class B2) and redevelopment of the land for residential purposes. The new development is to provide 41 dwellings in total comprising 3 x 2-bedroom, 19 x 3-bedroom, 8 x 4-bedroom and 2 x 5-bedroom houses, and an apartment block of 9 x 2-bedroom flats.
- 1.2 The dwellings are arranged in a mix of detached, semi-detached and terraced houses and an apartment block. The houses are to be 2 storeys in scale, with some units having second floors accommodated in the roof space. The apartment block is to be 3 storeys high.
- 1.3 The proposed affordable housing provision totals 16 dwellings comprising 9 x 2-bedroom flats for Affordable Rent (but not maximised to 80 per cent of local private rents) (the apartment block) and 7 x 3 bedroom houses for Shared Ownership (there is potential for some units to be available for wheelchair users).
- 1.4 The layout of the development provides 2 small groups of terraces, a pair of semi-detached dwellings, a detached dwelling and the standalone apartment block across the front of the site with one of the terrace buildings facing side on to Fairfield Road. A new internal road will extend to the northwest from Fairfield Road, bending around to the south where it forms a cul-de-sac. All of the dwellings within the rear 2/3 of the site front the new access road providing relatively linear residential plots that back onto the perimeter boundary of the site. A children's Local Area for Play (LAP) is to be provided within the front southwest corner of the site adjacent to Fairfield Road itself. A private secondary access will run down the east side of the play area to a parking area for 7 terraced dwellings.
- 1.5 The buildings are to be relatively traditional in form and design. The two storey dwellings would have an eaves height of between 5 - 5.4m and ridge heights of between 8.1 - 9.7m. The 3 storey apartment block would have an eaves height of about 7.4m and a ridge height of 11.4m. External materials are to consist of a

mixture of red face brick, clay hanging tiles and white weather boarding to walls, artificial slate and clay tiles to roofs, UPVC double glazed windows and timber doors.

- 1.6 Parking for the affordable units (houses and apartment block flats) is to be in the form of open spaces within two communal parking areas. A mix of detached and integral garages and carports and associated open parking totalling 87 spaces are proposed.
- 1.7 Details of soft and hard landscaping have been submitted as well as plans showing the swept paths for refuse freighters and fire service vehicles.
- 1.8 A Transport Statement, Ecological Appraisal Report, Phase I Desk Study Report and Phase II Ground Investigation Report, Air Quality Assessment, Archaeological Desk Based Assessment, Level 1 Flood Risk Assessment, and a Sustainability Statement have also been submitted, along with a Design and Access Statement and Planning Statement.

2. Reason for reporting to Committee:

- 2.1 The application has been called in to Committee by Councillor Taylor due to the development being contrary to Development Plan policy

3. The Site:

- 3.1 The application site is located on the north side of Fairfield Road about 60m to the west of Wrotham Road (A227), in Borough Green. It comprises an area of approximately 1 hectare and contains a 2-storey rectangular office building situated relatively centrally on the site with a large printing works/warehouse to its west side. Large parking areas cover the southern and eastern sections of the site with the area to the rear of the buildings and access road down the western side of the works consisting mainly of concrete hardstanding. The premises were occupied by Geographers A-Z Map Company Limited from the early 1990s until quite recently when they relocated to Dunton Green in Sevenoaks.
- 3.2 The level of the land slopes down from east to west and the ground level of the application site has been altered in the past to provide a relatively flat site. The site is enclosed by a palisade steel security fencing across the front boundary with a mix of close-boarded fencing, hedges and mature and semi-mature trees along the side and rear boundaries.
- 3.3 Residential properties consisting of small groups of terraced dwellings back on to the western boundary of the site. Areas of woodland lie to the north and an area of countryside land separates the site from a small number of detached dwellings to the east that front Wrotham Road. Commercial premises lie to the south across Fairfield Road.

3.4 The site is within the settlement confines of Borough Green and relatively close to the centre of the settlement. An Area of Archaeological Potential (AAP) extends across the southern half of the site. The Metropolitan Green Belt (MGB) lies immediately to the north and east. The site is also within a Water Gathering Area. The site is designated in the Council's 2008 DLADPD as Safeguarded Employment Land - E1(o).

4. Planning History (selected):

TM/64/10897/OLD grant with conditions 23 March 1964

Factory, office and access road, for Messrs. Novello & co. (as amended by plan forwarded with letter dated 10th March 1964).

TM/69/10877/OLD grant with conditions 9 June 1969

Extension to form additional productions, canteen and office area, for Novello & Co. Ltd.

TM/89/10063/FUL grant with conditions 6 December 1989

Demolition of existing premises and erection of Class B1 'High Tech'/Light Industrial Development with associated parking facilities.

TM/90/10615/FUL grant with conditions 4 December 1990

Refurbishment of existing factory/storage building. Demolition of existing office buildings and construction of two storey office/ancillary building.

5. Consultees:

5.1 PC: The Parish Council objects to the proposed development for the following reasons:

- The development would result in the loss of employment land that would be a departure from the Local Development Framework.
- The speculative development would represent a departure from all recent Parish Plans and the Borough Green Character Area Appraisal.
- The need for more market and affordable houses has not been justified as they are already met by Isles Quarry and elsewhere.
- The development would result in a significant increase in traffic at a dangerous junction during peak times where driver visibility is poor impacting on highway safety.

- The cumulative effect of the development on air quality from traffic generation should be considered in conjunction with the Isles Quarry West development.
- Although the property has been marketed for some time without success it is considered that the £3.5m asking price was too high.

5.2 Environment Agency (EA)(Original): Objection as there is insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable. The previous commercial use of this site may have left contamination which could impact on the proposed development. An assessment into the past uses of buildings/land and any potential risks arising from the buildings/grounds for the proposed end use should be carried out prior to the change of use and/or development works proposed. In particular investigations should take account of any oil/fuel storage tanks, septic tanks, drainage systems, and materials storage. Any identified risks should be fully evaluated, if necessary by intrusive investigations, and appropriately addressed prior to the commencement of the development.

5.2.1 EA (Re-consultation on submission of Phase 1 Desk Study Report): The preliminary site report or phase 1 investigation has been carried out in line with relevant guidance. The recommendations for further investigations at the site to determine any required appropriate remediation works should be carried out and relevant proposals agreed with the Local Planning Authority before any site clean-up works are commenced. We accept the recommendations in section 6.4 of the Phase 2 report which indicates that further analysis is required for groundwater. The report also recommends that remediation is required. Sufficient information has been provided to satisfy the required preliminary risk assessment.

5.2.2 The site is located in a highly sensitive location with regards to groundwater in that it is underlain by a principal aquifer and within a Source Protection for a potable water supply. Conditions relating to contaminated land and surface water have been suggested.

5.3 KCC (Highways & Transportation): The existing access is designed for commercial use, measuring approximately 18m in width at its junction and this could be reduced to improve pedestrian safety across the access, subject to tracking. Additionally dropped kerb crossings with tactile paving should be provided to improve accessibility for the mobility impaired.

5.3.1 The main access is 4.8m in width with footways from Fairfield Road leading into the site and to a shared surface. Turning areas are provided and tracking diagrams have been submitted indicating that there is sufficient space to manoeuvre within the site. A pedestrian link is provided between the main site access and the new private drive.

- 5.3.2 Fairfield Road is marked out with on street parking spaces opposite the proposed access which may lead to difficulties in turning in and out of the access. I would recommend that tracking diagrams are provided to illustrate that sufficient space is available for turning movements to take place when parking occurs. Any alterations to the parking bays would be subject to discussion with Parking Services.
- 5.3.3 Advice on residential parking is given in the Kent Design Guide Interim Guidance Note 3. The layout provides adequate parking in line with this guidance however please note that spaces between boundary walls should be a minimum width of 2.7m. I would also recommend that the entrance drives are increased to 4.8m where needed for ease of access. Additionally the 2nd space for plot 10 (2-bedroom property) could be either allocated to plot 12 (3 bedroom property) as a second space or unallocated. Cycle parking arrangements are found to be satisfactory. Bus stops and train services are available within walking distance of the site.
- 5.3.4 The crash database has been interrogated and there have been no reported injury crashes on Fairfield Road or at its junction with the A227 Wrotham Road within the 3 year period to 31 March 2014.
- 5.3.5 The traffic generation from the existing use of the site has been compared to that generated by the residential development of the site using the TRICs database. The traffic generated by the previous use on site is estimated to be 61 two way movements during the AM peak hour and 64 during the PM peak. This compares with an estimated traffic generation for the residential use of 28 two way movements during the AM peak and 28 during the PM peak. The proposed residential development would therefore generate fewer traffic movements than the B1/B2/B8 use and fewer good vehicle movements.
- 5.4 KCC (Heritage): No comment to make.
- 5.5 KCC (Economic Development): The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution. Justification has been set out for the infrastructure provision/development contributions requested.
- 5.5.1 Community Learning – The current adult participation in the District in both Centres and Outreach facilities is in excess of current service capacity.
- 5.5.2 Youth Services – There is a proportionate cost of providing additional youth services locally to mitigate the impact of this proposed development.

- 5.5.3 Libraries and Archives – There is an assessed shortfall in provision for this service with both overall borrower numbers exceeding local area service capacity, and the bookstock is below the County average and both the England and total UK figures respectively.
- 5.5.4 Social Services – Facilities for Kent Social Care (SC) (older people, and adults with Learning or Physical Disabilities) are fully allocated. The proposed development will result in a demand upon social services which are a statutory obligation to meet but no additional funding to do so.
- 5.5.5 Superfast Fibre Optic Broadband – To provide: ‘*fibre to the premise*’ (Superfast fibre optic broadband) to all buildings (residential, commercial, community etc) of adequate capacity (internal min speed of 100mb to each building) for current and future use of the buildings.
- 5.6 Kent Police: The applicant/agent has considered crime prevention and has mentioned and given consideration to Secure By Design (SBD) they have also incorporated some but not all the seven attributes of CPTED in their Design and Access Statement (D&AS).
- 5.6.1 Conditions and informatives have been suggested if planning permission was to be granted relating to the incorporation of measures to minimise the risk of crime. (The applicant has since consulted Kent Police on the scheme)
- 5.7 NHS (Property Services): The proposed development is expected to result in a need to invest in local surgery premises: Borough Green Medical Practice. This surgery is within a 1 mile radius of the development and would be considered the most appropriate in terms of investment due to the limited choice within the vicinity. This contribution will be directly related to supporting the improvements within primary care by way of extension, refurbishment and/or upgrade in order to provide the required capacity. A specified financial contribution has been sought.
- 5.8 Kent Fire & Rescue Services: It should be ensured that fire appliances can get to within 45m of the furthest point of the dwellinghouses. A copy of Guidance Note 07 is provided.
- 5.9 Private Reps: 4/0X/1S/5R + site notice and departure press notice. The 5 objections submitted raise the following concerns:
- Further pressure on social services and infrastructure.
 - Loss of local modern employment facility.
 - Noise and pollution from the additional traffic generated.
 - Land contamination may contaminate underground water.

- Loss of amenity to local residents from potential building works and site remediation.
- The apartment block would be high and bulky and out of character with the local housing stock.
- Possible archaeological artefacts on the site.

5.9.2 One letter of support states that if the site remains employment land large vehicles would impact on the junction especially if occupied by multiple industries whereas there would be no such large vehicles with a development for houses.

6. Determining Issues:

- 6.1 The settlement of Borough Green is defined as a rural service centre where housing and employment development is permitted, as stated in policy CP12 of the Tonbridge and Malling Borough Core Strategy (TMBCS).
- 6.2 The application site is listed under policy E1 of the DLADPD 2008 as land to be safeguarded for employment purposes, in this case for business use (B1) only. The proposed redevelopment of the site for residential would therefore be contrary to this policy.
- 6.3 Paragraph 22 of the NPPF advises that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Applications for alternative developments should be treated on their merits, having regard to market signals and the relative need for different land uses to support sustainable local communities.
- 6.4 Paragraph 51 of the NPPF also advises that planning applications should normally be approved for change to residential use from commercial buildings (currently in Use Class B) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.
- 6.5 The applicant has provided copies of advertisements and marketing of the site for B1 business use on several websites and a summary of email hits. These are attached to the planning statement as an appendix. It appears from the information submitted that the site has been on the market for over a year with no interest for B1 business use being expressed and that the main interest came from haulage operators.
- 6.6 The Parish Council has expressed concern that the asking price of the premises during the marketing period was too high. The Borough Council's economic consultants have reviewed the asking price for the site and concluded that it is

likely to have been marginally in excess of the current market value but, although the asking price appears overstated, it would not have deterred serious interest in the form of offers being expressed.

- 6.7 Members will be aware that the Council is currently undertaking an Employment Land Review, as the last review was conducted in 2005. A draft study has been completed by Council's preferred consultants which has identified that there is surplus office space and a relatively small shortfall in industrial space in the Borough as a whole.
- 6.8 Whilst ordinarily valuable as an employment site and designated as such (for B1 use), the site is effectively a non-conforming use in an otherwise residential area and its last use generated HGV traffic into the centre of the village. As the premises has a lawful B2 use (as a map printing premises), its use as a going concern for general industry (or with use of permitted development rights up to 500sqm of warehousing) or redevelopment into smaller units for general industry would not be desirable in terms of the character and amenities of the locality. This would principally be due to the issues over the nature and volume of traffic that could be generated with an intense use of the site. Members will note that the interest in the site for employment seemed to be centred on haulage which certainly would be unacceptable at this location in amenity and traffic terms in my view.
- 6.9 There has been no serious interest in the site for B1 use for a reasonable period of time. The NPPF postdates the DLADPD Employment allocation by 4 years and it now places a renewed and significant emphasis on boosting the supply of housing and there is a continued under provision of affordable housing throughout the entire Borough, bearing in mind the findings of the Strategic Housing Market Assessment. The location of the site also provides an ideally sustainable location for additional residential development close to public transport and local facilities.
- 6.10 Whilst TMBC **currently** has an adequate supply of housing sites, Members will be aware that officers have indicated that to maintain a 5 years +5% pipeline supply it is necessary to continue to grant permissions This factory in a residential area is the type of brownfield site that would ordinarily be highly suitable for enhancing housing supply in an environmentally sustainable location and would be consistent with the general principle of "brownfield" first (TMBC achieves some 95% of permissions on such sites)..
- 6.11 Accordingly, I am of the view that the loss of allocated employment land and redevelopment of this site for residential together with 39% affordable units and associated contributions towards commensurate community facilities justifies the principle of its redevelopment for new homes.
- 6.12 The development utilises the existing access to the site. This site entrance provides a width of about 18m which provided access for HGVs for the previous commercial use of the site. The new access road provides a width of about 4.8m.

A pedestrian path links the end of the access road to the private secondary drive and LAP. The Highway Authority (KCC Highways & Transportation) has reviewed the scheme and, after requesting additional tracking diagrams has advised that the turning and manoeuvring on the site, (including that for refuse and fire service vehicles) is acceptable.

- 6.13 A total of 87 parking spaces are to be provided consisting of a mix of garage/carport and open spaces for the dwellings and allocated and visitor parking spaces for the affordable houses and flats. The Highway Authority has advised that the layout provides adequate parking in line with the Kent Design Guide Interim Guidance Note 3 being an average of 2.12 spaces per dwelling. Cycle parking provisions have also been provided by way of a cycle store for the apartment block and timber garden/storage sheds for the dwelling. These arrangements are considered to be acceptable. In addition, the development is in a sustainable location within easy walking distance of the town centre and bus and mainline train services to London/Maidstone/Ashford.
- 6.14 In respect to traffic generation, it has been advised in the submitted Traffic Statement that the new residential use would provide an estimated 28 two-way movements during the morning and evening peak periods. This would be substantially less than the 61 two-way movements estimated for the previous B1/B2/B8 use of the site. The previous use also involved movements of HGVs and other goods vehicles. It has therefore been shown that the development would generate much less traffic than the previous use and the vehicles using the redeveloped site would be predominantly cars.
- 6.15 The Highway Authority has advised that dropped kerb crossings with tactile paving should be provided in order to improve accessibility for the mobility impaired. This can be secured by imposition of a condition on any permission granted. I am therefore of the view that the development would not result in any significant harm to highway safety and that any residual cumulative impacts on the transport network would not be severe. The proposal therefore accords with policy SQ8 of the MDEDPD and paragraph 32 of the NPPF.
- 6.16 The layout of the site would reflect the general pattern of the established residential area of Fairfield Road to the west. The proposal will provide a varied mix of dwellings, with private garden areas of a suitable size, other than the Plot 8 dwelling and the flats. A small Local Area for Playing (LAP) is provided within the southwest corner of the site and recreation ground and sport fields are located within 500m of the site. These provisions are considered adequate for those dwellings without private gardens. A mix of open and covered parking spaces is proposed. The apartment block is well located within the front southeast corner of the site which is well linked to the development overall but also provides an appropriate level of functional separation.

- 6.17 The designs of the houses are varied but at the same time relatively traditional in their size, scale and form, and use of materials. I am of the view it would be a visually interesting development. The use of red facebrick, hanging tiles, weatherboarding, artificial slate and clay roof tiles reflect traditional materials used in the local area and within the Borough more generally. I also consider the dwellings proposed would be complementary to the established residential area to the west, resulting in a substantial improvement to the visual amenity and character of the area.
- 6.18 The apartment building is a larger building form than the remainder of the units on the scheme. However, this building is well separated from the dwellings within the development and effectively relocates an existing large building further east in the streetscape. The building has been designed to provide an appropriate level of articulation and use of materials to assist in breaking up its visual size and mass. I am therefore of the view that the apartment building would be visually complementary to the development and would not dominate the street-scene.
- 6.19 The existing commercial development, although providing some link to other office development opposite on the south side of Fairfield Road, is sandwiched between residential development either side and provides little in the way of visual continuity within the street-scene. I am of the opinion that the new residential development will provide a more visually logical connection between the dwellings to the east fronting Wrotham Road and the existing residential area further to the west.
- 6.20 Soft landscaping is proposed providing a good level of tree planting in front of the apartment block, on the west side of the entrance, around the LAP, and either side of the access road and within rear gardens. Existing boundary landscaping is to be removed and will be replaced by new hedges. A large number of semi-mature trees are to be planted along the western boundary to provide screening to the west. Three existing birch trees are to be retained adjacent to the LAP which is welcomed. Hornbeam hedging will surround these trees. Generous areas of grass are also proposed. I consider these soft landscaping proposals to be comprehensive and would add to the overall aesthetics of the scheme.
- 6.21 Hard landscaping proposals have also been submitted which are generally acceptable. However, the paving and driveway surfacing will be a prominently visible part of the scheme and therefore a schedule of hard surfacing materials should be submitted for approval. A condition can be added to this effect.
- 6.22 Accordingly, subject to conditions requiring details of external materials and hard surfacing, I am satisfied that the proposed development would not harm the street-scene or character of the area would enhance the visual amenity of locality. The proposal would therefore satisfy policies CP24 of the TMBCS and SQ1 of the MDEDPD. I am also satisfied that the development would accord with Part 7 of the NPPF relating to good design.

- 6.23 Measures to contribute to a sustainable environment have been outlined in the submitted Sustainability Statement. These include modern construction techniques, improved levels of insulation and possible installation of roof mounted solar thermal or photovoltaic panels. I consider these measures show sufficient intent to positively contribute to a sustainable environment and therefore the development would satisfy policy CC1 of the MDEDPD.
- 6.24 The application site is relatively close to a number of noise sources, including the main railway line, Wrotham Road (A227) and the local quarry. I am of the view though that with the provision of appropriate noise insulation/attenuation for the dwellings/buildings noise from these sources could be effectively mitigated such that noise impact would not be harmful to the living conditions of the new residential occupiers. A condition requiring a noise assessment and proposed scheme of noise attenuation to protect future residents can be required by condition on any permission granted.
- 6.25 The layout of the development provides a traditional linear relationship with neighbouring residential development to the west providing a mutual rear to rear outlook where levels of overlooking are generally considered accepted. In this case, the dwellings for Plots 9 - 17 are situated about 10m from the rear boundary with the neighbouring dwellings being 10-20m back from the rear boundary. Semi-mature trees are to be planted along the rear boundary within many of the rear gardens to provide additional screening. The flank of the Plot 7 dwelling is sited more or less opposite the side flank of No.171 Fairfield Road. I do not consider there to be any adverse relationships between the dwellings within the development site. I am therefore satisfied that the proposed development has been designed to ensure that the amenities of occupiers of existing neighbouring residential properties would not be demonstrably harmed, satisfying policy CP24 of the TMBCS.
- 6.26 The development will provide 16 affordable houses which represents a level of 39% of the number of dwellings in the scheme. The affordable housing is to be provided in the form of 9 x 2-bedroom affordable rented flats within the apartment block and 7 x 3-bedroom shared ownership terraced houses within the front section of the site. This level of provision is very close to the 40% level prescribed by policy CP17 of the TMBCS and is therefore acceptable. In consultation with the Council the applicant has also amended the ground floor plan of the apartment block to provide wheelchair accessible dwellings, which is much to be welcomed and will assist potential occupation for persons on the Housing Register or those with mobility issues.
- 6.27 The rent costs for the Affordable Rent dwellings have been formulated in partnership with the Council in relation to Council's affordability concerns for this tenure. In order to help enable sustainable tenancies it has been agreed that the rents are **not** maximised to the 80% of local private market rent. The shared ownership homes have also been modelled in terms of initial share and rent on the

unpurchased equity to reflect the affordability pressures locally, and the eligibility requirements of the national Help To Buy scheme for this tenure. The applicant will be required to enter into a legal agreement with the Council so this provision can be secured.

- 6.28 Policy OS3 of the MDEDPD requires an open space provision in accordance with the quantitative standards set out in the annex to this policy on all residential development of 5 units or more. The sequential approach and methodology set out in Annex D of the MDEDPD has been applied to determine the level of provision required. The development does incorporate a small LAP within the front southwest corner of the site. After taking into account this on-site provision, it has been determined that a financial contribution towards off-site open space provision for Amenity Green Spaces and Natural Green Space to the sum of £13,870 is sought in this case. The applicant will be required to enter into a legal obligation to secure this provision. KCC Economic Development has requested financial contributions towards the delivery of County Council Community Services to mitigate impact on services from the future additional population that the scheme will generate. This provision would contribute towards community learning, youth services, libraries and archives, social services and superfast optic broadband. They have asked for a total of £12,736.49. I am generally satisfied that I can recommend that these payments of this scale are justified and accord with the necessary regulations although more information has been sought on the specific projects, which will be included in a supplementary report.
- 6.29 The applicant's agent has submitted amended plans that show how, without any changes to the external appearance of the units, wheelchair adapted units could be provided on the ground floor of the affordable rented apartment block. One of the KCC requested contributions relates to possible future adaptations to units for wheelchair bound occupiers as part of the social infrastructure.
- 6.30 NHS Property Services has also requested financial contributions to meet the extra demands placed on the local primary and community health service from the development. It has been stated that the development is expected to result in a need to invest in local surgery premises – Borough Green Medical Practice – and that the contribution would be directly related to supporting the improvements within primary care by way of extension, refurbishment and/or upgrade in order to address the required capacity. It is known that the Borough Green Medical Practice has recently been extended to provide additional capacity but no mention has been made of this extension to the existing facility. It has been advised that the practice with refurbishments could accommodate the additional capacity generated by the proposed development but this will be investigated further. Further information on this matter will be included in a Supplementary Report
- 6.31 Kent Police has reviewed the proposed scheme and advised that the applicant has considered crime prevention, giving consideration to Secure By Design (SBD) and incorporating some attributes of Crime Prevention Through Environmental Design

(CPTED). The applicant has since liaised with Kent Police and is amenable to providing further measures to prevent crime and increase safety by including features such as an audio entry system for the flats, trellis fencing, picket fencing around the flat garden, security planting, wiring for CCTV, suitable lighting, security features for the bicycle storage and steel mesh doors for the communal bin area. A condition can be added to secure some of these features.

- 6.32 An Air Quality Assessment report has been submitted. The potential for impact on air quality from fugitive dust emissions from demolition, earthworks construction and track-out activities were assessed. It was concluded that the use of good practice control measures would provide suitable mitigation for the size and nature of the development proposed. While construction impacts are not strictly a consideration, in this case this is a welcome clarification. A detailed assessment was undertaken to quantify pollution levels from the development. It was concluded that vehicle exhaust emissions would not be significant at any sensitive location in the vicinity of the site and that the pollution levels at the site would be below the relevant air quality criteria. I do not consider that the new residential receptors will be exposed to levels of air pollution above the air quality objectives or that the development would not have a negative impact upon the existing AQMA in Borough Green. It is important to note that the site lies a substantial distance from the AQMA, some 170m to the north. Also, the development incorporates positive air quality designs such as inclusion of tree species with high urban tree air quality scores (UTAQS) like Acer Campestra and Crataegus Monogyna. Therefore, I am satisfied that the development would not result in a significant deterioration in air quality in the area and would thus satisfy policy SQ4 of the MDEDPD.
- 6.33 A Preliminary Ecological Appraisal report has been submitted. A survey was conducted in July 2014 in respect to the likely presence of protected species, including badgers, bats, dormouse, other mammals, birds, reptiles and invertebrates. It was concluded that the application site held negligible ecological value due to the lack of diverse natural habitat and that it is unlikely to accommodate protected species. I am satisfied that the development would not harm protected species or impact on the biodiversity of the area and therefore would accord with policy NE2 of the MDEDPD.
- 6.34 The front section of the application site falls within an Area of Archaeological Protection. The applicant has submitted an Archaeological Desk Based Assessment, which concluded that there are no designated or undesignated archaeological assets recorded on the application site and that the site has low potential for the presence of unknown buried heritage assets dating to all periods. The County Archaeologist (KCC Heritage) has reviewed the details submitted and has advised that no further action is needed in respect to archaeology on the site is required.

- 6.35 The applicant has submitted a Level 1 Flood Risk Assessment. It advises that the site lies within Flood Zone 1 where the risk of flooding is low and where the proposed development, classified as 'more vulnerable', would be appropriate. There has not been any record of flooding on the site. I do not consider that the site is at risk of flooding.
- 6.36 An existing sewer line runs adjacent to the southwest corner of the site and it has been indicated on the application form that foul sewage would be disposed of to the main sewer. The site proposes large areas of hard surfacing and part of the internal access road is to be laid with permeable block pavers. However, the site is underlain by groundwater that is a principal aquifer that is protected for a potable water supply. Due to the scale of the development, I therefore consider it necessary in this case to secure the provision of appropriate foul and surface water disposal, which can be imposed by a condition on any permission granted.
- 6.37 In respect to land contamination, a Phase I Desk Study Report and Phase II Scoping Ground Investigation Report have been submitted, prepared by Soils Limited. The Phase I report identifies various potential sources of contamination, including various compounds within the made ground as a result of previous site uses and ground gases from onsite and adjacent landfilling activities. The Phase II investigation was only undertaken to assist developers in preparing an overall foundation scheme and did not characterise the contamination on-site. Despite on-site and adjacent landfilling, and the installation of ground gas monitoring boreholes, the monitoring was not sanctioned by the client and as such was not undertaken. It is considered necessary for this sampling to be undertaken. Soil samples revealed elevated levels of arsenic, lead, nickel and zinc which could pose a risk to human health if not dealt with appropriately. They do not constitute an embargo on development for residential purposes. Therefore the site will require remediation to make it suitable for residential use.
- 6.38 Groundwater could not be sampled as it was not encountered during trial pitting, but as it is considered a sensitive receptor it is recommended that samples be retrieved for testing or soil samples for leachate testing should be submitted for consideration by EA who enforce the protection of ground water.
- 6.39 The report concludes that further sampling is required to fully characterise the contamination on-site and develop an appropriate remediation strategy. A full site investigation is therefore needed, where necessary once demolition has taken place, and which should include ground gas monitoring and a more robust sampling strategy.
- 6.40 The EA has also reviewed the reports submitted and is of the view that planning permission could be granted if a suggested condition is imposed requiring remediation of the land. Therefore, a suitable condition requiring a full site investigation and remediation of the land will be imposed on any permission granted. The development would therefore accord with paragraphs 120-121 of the NPPF.

- 6.41 I note the comments made by the Parish Council and several local neighbours. The issues raised relate to the loss of employment land, impact on highway safety, traffic, air quality, pollution, land contamination, affordable housing, character of the area and concern that the marketing price for the site was inflated. These issues have all been addressed in detail above. The Parish has also commented that the development would be inconsistent with the character area appraisal and developing local plan. I am of the view that the development would satisfy the relevant sections of the NPPF which must be read as the context for now interpreting Development Plan policy. I do not consider that the development would be at variance to the Borough Green Character Area Appraisal. It is indeed correct that the planning permission at Isles Quarry West has provided a source of affordable housing locally but the level of need is such that the units at this site will be a valuable contribution to the range of the supply including the units suited to wheelchair users.
- 6.42 In light of the above, I consider that the proposed redevelopment of the site accords with the relevant provisions of the Development Plan and NPPF, and therefore approval is recommended.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Other DRAWING REGISTER dated 13.11.2014, Site Layout 081308-FER-01B dated 13.11.2014, Proposed Layout 081308-FER-02C Information dated 13.11.2014, Proposed Layout 081308-FER-03B Storey height dated 13.11.2014, Proposed Layout 081308-FER-04B Tenure dated 13.11.2014, Proposed Layout 081308-FER-05B Dwelling Types dated 13.11.2014, Proposed Floor Plans 081308-FER-B1-P1 A dated 13.11.2014, Plan 10335-T-01 P3 dated 13.11.2014, Plan 10335-T-02 P3 dated 13.11.2014, Plan 10335-T-03 P2 dated 13.11.2014, Plan 10335-T-04 P2 dated 13.11.2014, Documents SECTION 106 AGREEMENT dated 25.09.2014, Contaminated Land Assessment 13873/DS Phase 1 dated 24.10.2014, Letter dated 03.09.2014, Letter dated 25.09.2014, Ecological Assessment 6456.PEA.VF dated 03.09.2014, Transport Statement SEH/10335 dated 03.09.2014, Contaminated Land Assessment 13873/SGIR Phase 2 dated 03.09.2014, Air Quality Assessment 34036R1 dated 03.09.2014, Archaeological Assessment SH/DH/17680 dated 03.09.2014, Design and Access Statement dated 03.09.2014, Flood Risk Assessment 5194/001/R001 dated 03.09.2014, Planning Statement dated 03.09.2014, Sustainability Report dated 03.09.2014, Other Drawing register dated 25.09.2014, Location Plan 081308-FER-06B dated 25.09.2014, Proposed Elevations 081308-FER-AA-E1 dated 25.09.2014, Proposed Elevations 081308-FER-AA-E2 dated 25.09.2014, Proposed Elevations 081308-FER-AA-E3 dated 25.09.2014, Proposed Elevations 081308-FER-AA-E4 dated 25.09.2014, Proposed Floor Plans 081308-FER-AA-P1 dated 25.09.2014, Proposed Elevations 081308-FER-A-E1 dated 25.09.2014, Proposed Floor Plans 081308-FER-A-P1 dated 25.09.2014, Proposed Elevations 081314-FER-B1-E1 dated 25.09.2014, Proposed Elevations 081308-FER-B1-E2

dated 25.09.2014, Proposed Elevations 081308-FER-B1-E3 dated 25.09.2014, Proposed Elevations 081308-FER-B1-E4 dated 25.09.2014, Proposed Floor Plans 081308-FER-B1-P1 Ground dated 25.09.2014, Proposed Floor Plans 081308-FER-B1-P2 First dated 25.09.2014, Proposed Floor Plans 081308-FER-B1-P3 Second dated 25.09.2014, Proposed Elevations 081308-FER-B-E1 dated 25.09.2014, Proposed Floor Plans 081308-FER-B-P1 dated 25.09.2014, Proposed Elevations 081308-FER-C-E1 dated 25.09.2014, Proposed Plans and Elevations 081308-FER-CP01 carport and bin store dated 25.09.2014, Proposed Floor Plans 081308-FER-C-P1 dated 25.09.2014, Proposed Plans and Elevations 081308-FER-CS01 cycle and bin store dated 25.09.2014, Proposed Plans and Elevations 081308-FER-CS02 cycle store dated 25.09.2014, Proposed Elevations 081308-FER-D-E1 dated 25.09.2014, Proposed Floor Plans 081308-FER-D-P1 dated 25.09.2014, Proposed Elevations 081308-FER-E-E1 dated 25.09.2014, Proposed Floor Plans 081308-FER-E-P1 dated 25.09.2014, Proposed Elevations 081308-FER-F-E1 dated 25.09.2014, Proposed Floor Plans 081308-FER-F-P1 dated 25.09.2014, Proposed Plans and Elevations 081308-FER-GAR01 garage dated 25.09.2014, Proposed Plans and Elevations 081308-FER-GAR02 garage dated 25.09.2014, Proposed Plans and Elevations 081308-FER-GAR03 garage dated 25.09.2014, Proposed Elevations 081308-FER-H-E1 dated 25.09.2014, Proposed Floor Plans 081308-FER-H-P1 dated 25.09.2014, Proposed Floor Plans 081308-FER-H-P2 dated 25.09.2014, Cross Section 081308-FER-SEC01 A dated 25.09.2014, Cross Section 081308-FER-SEC02 A dated 25.09.2014, Street Scenes 081308-FER-SS01 A dated 25.09.2014, Street Scenes 081308-FER-SS02 A dated 25.09.2014, Artist's Impression 081308-FER-PER01 dated 25.09.2014, Landscaping RD1533-L-GA-0001 A dated 25.09.2014, Landscaping RD1533-L-GA-0002 A dated 25.09.2014, subject to

- the applicant entering into a legal agreement in respect of
 - Open space provision
 - The provision of affordable housing
 - Contribution to KCC Community facilities

- 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 of the area or visual amenity of the locality.

- 3 No development shall take place until a plan showing the levels of the site and adjoining land, proposed finished ground floor levels of all buildings hereby approved and the proposed finished ground levels of the site have been submitted to and approved by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

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

- 4 The Alternative Ground Floor Plan that provides wheelchair accessibility for the apartment block proposed on Drawing No.081308-FER-B1-P1A received 13.11.2014 shall be implemented as part of the approved scheme prior to first occupation of the dwellings for which they relate, unless the Local Planning Authority gives written consent to any variation.

Reason: To provide appropriate residential facilities for wheelchair users.

- 5 Development shall not begin until a noise assessment report that includes a scheme for protecting the proposed buildings from noise from the nearby railway, classified highway and quarry has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

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

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

Reason: To ensure that any future enlargement of the dwellings do not have a harmful impact on the character or visual amenity of the area.

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

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

- 8 No building shall be occupied until the area shown on the submitted layout as vehicle parking space for the dwellings 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 parking space.

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

- 9 The scheme of soft landscaping shown on drawing no. RD1533-L-GA-0002A hereby approved shall be carried out in the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning 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.

- 10 No building shall be occupied until details of the proposed block paving, hard surfacing to driveway areas and boundary fencing or other such boundary treatment have been submitted to and approved by the Local planning Authority. The development shall be carried out in accordance with the approved details and any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: To protect and enhance the appearance and character of the site and locality.

- 11 The area shown on the approved plan as LAP (Local Area for Play) shall be laid out and made available for use within three months of first occupation of the development, in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: To ensure the timely availability of play area for the recreational needs of the residents.

- 12 None of the buildings hereby permitted shall be occupied until underground ducts have been installed by the developer to enable telephone, electricity and communal telephone services to be connected to any premises within the site without recourse to the erection of distribution poles and overhead lines and 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 distribution pole or overhead line shall be erected within the area except with the express written consent of the Local Planning Authority.

Reason: In the interests of visual amenity.

- 13 The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason: In the interest of security, crime prevention and community safety.

- 14 No building shall be occupied until dropped kerb crossings with tactile paving are provided across the main site access, on the eastern side of the main site entrance on Fairfield Road and to the west of the access to the private drive of Plots 23-25.

Reason: In order to improve accessibility for the mobility impaired.

- 15 No dwelling shall be occupied until foul and surface water systems have been installed to the satisfaction of the Local Planning Authority as advised by the relevant adoption authority.

Reason: To prevent pollution of ground water.

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

Reasons: To protect groundwater.

- 17 No development, other than demolition of any building, removal of hardstanding, ground investigations or site survey works, shall be commenced until:

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

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

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

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

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

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

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

Reason: In the interests of amenity and public safety.

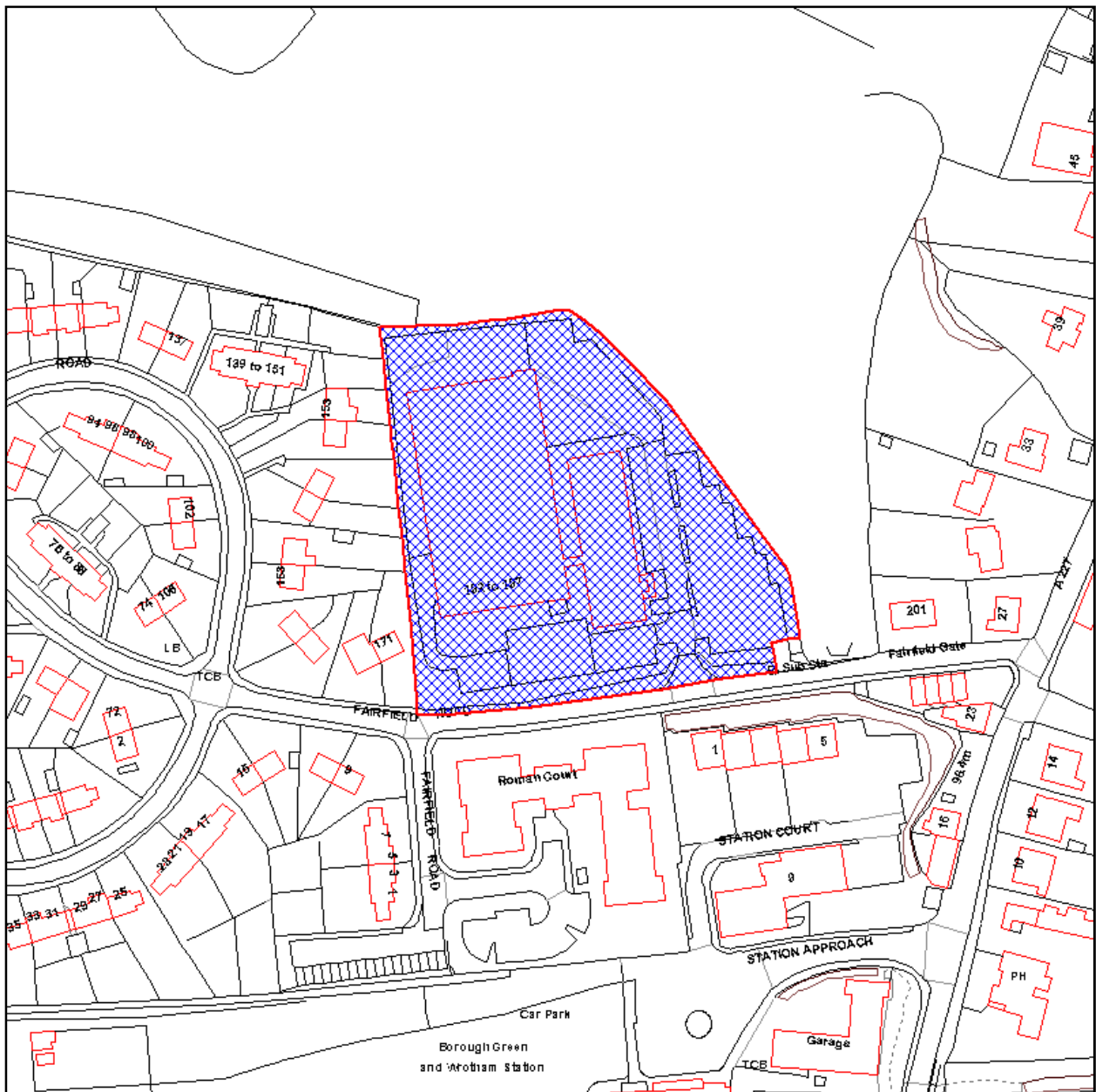
Contact: Mark Fewster

TM/14/02992/FL

A To Z Geographers Ltd 173 - 199 Fairfield Road Borough Green Sevenoaks Kent
TN15 8PP

Demolition of the existing Geographers A-Z buildings on the site and for the erection of
41 residential units with associated car parking, access, footways, associated
infrastructure works, and landscaping

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Borough Green Borough Green And Long Mill	560797 156494	20 August 2014	(A) TM/14/02861/FL (B) TM/14/02877/FL
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Proposal: (A) Application to vary condition 4 of planning permission TM/11/03518/FL (Proposed change of use of buildings from offices to health and fitness spa with proposed extensions and new roofs) to allow use of the bar and dining facilities to remain open until 12.30am Monday to Friday and at weekends / Bank Holidays; and
(B) Retrospective application to retain infill of rear courtyard area on two floors providing kitchen, food preparation area and cold store

Location: Basted House ('Reynolds Retreat') Harrison Road Borough Green Sevenoaks Kent TN15 8PB

Applicant: The Reynolds Group Ltd

1. Description (A&B):

- 1.1 These applications were previously due to be reported to Area 2 Planning Committee on 29 October 2014. However these items were subsequently withdrawn from the agenda upon discovery of some shortcomings within the application documentation, specifically that the applicant needed to serve notice on a landowner, and to allow further thought to be given to physical measures which could be utilised in the management of traffic related to the proposed extended hours of use.
- 1.2 Subsequently, the applicant served notice on an existing landowner of the access road (Crest Nicholson) for the statutory 21 day period which has now expired. Furthermore, I have received written confirmation from Crest Nicholson that it has no objections to the application proposals.
- 1.3 The applicant has also recently introduced a number of further physical traffic directional measures, on site in the form of a typical road marking directional arrow, to encourage vehicles exiting the premises to turn left onto Quarry Hill Road. These include a white painted turn left arrow and white painted "Exit" signage on the road surface, dashed white lining directing cars to turn left at the point of exit, and two pole mounted red no entry signs on the roadway leading towards Harrison Road.

There are two separate applications being reported to Committee for determination for this site. These are referred to as application (A) TM/14/02861/FL and application (B) TM/14/02877/FL. Both applications are further described as follows:

(A) TM/14/02861/FL:

- 1.4 This Section 73 application seeks to vary the terms of condition (4) attached to planning permission TM/11/03518/FL which first established the principle of the conversion and extension of Basted House to form a health and fitness spa. Condition 4 of that permission currently limits the hours of use of the building as follows: *“The premises shall not be used for business outside the hours of 06:30 and 23:00 hours Mondays – Fridays and the hours of 08:00 and 21:00 hours on Saturdays, Sundays and Bank Holidays”*.
- 1.5 The application proposes to extend these hours to remain open until 00:30 hours (12:30am) Monday to Friday and at weekends, Public and Bank Holidays. It is stated that the extended opening hours would allow spa members the opportunity to use the leisure facilities in the evening and still have time to change and have a drink or meal afterwards in the bar and restaurant facilities. It is intended that the spa’s leisure facilities will close at 22:00 hours, with the bar and restaurant remaining open, as required, until the later time of 00:30 hours (12:30am).

(B) TM/14/02877/FL:

- 1.6 This application is retrospective and proposes the retention of a two storey courtyard infill extension to the rear (south) of the main building which provides kitchen, food preparation and a cold store area to serve the premises. This extension has been fully constructed and has been kitted out internally with the kitchen and cold store facilities.
- 1.7 The application details that this infill extension was required because, after engaging the services of a specialist commercial kitchen design company, they advised that the area originally identified for such facilities would be inadequate. As the plans for the health and fitness spa have evolved, it became clear to the applicant that the space originally proposed for the kitchen was not sufficient to provide the necessary food preparation and storage facilities required to support the spa’s catering options.
- 1.8 The infill extension has an internal area of approximately 79 sq. metres, split between ground and first floor. The extension comprises brick and rendered elevations, sitting below a plain tiled roof and incorporating uPVC white glazing. Its external materials are consistent with those used in the main building. The cold store is finished externally in white powder coated aluminium sheeting elevations and a grey sheet clad roof.

2. Reason for reporting to Committee (A&B):

- 2.1 At the request of Councillors Sue Murray and Mike Taylor owing to the proposals attracting local concerns on noise and disturbance from headlights and engine noise.

3. The Site (A&B):

- 3.1 Basted House comprises a series of linked buildings, predominantly two storeys in height, with further accommodation in the roof and associated extensive grounds. The site itself extends to some 6.15ha and is accessed via a tree lined private avenue with access points leading from Harrison Road and Quarry Hill Road. The site includes protected trees and woodland, including an area of Ancient Woodland and part of the Bourne Valley Local Wildlife Site.
- 3.2 To the east of the site access from Harrison Road is a telephone exchange, with a Scout hut located just to the south of this. The access from Quarry Hill Road runs between a doctor's surgery (to the north) and an office building (to the south) before joining the access from Harrison Road.
- 3.3 The application site is located within the Metropolitan Green Belt and open countryside.
- 3.4 Basted House was formally occupied by Circle Housing (Russet Homes) before it relocated to Kings Hill in 2013. The site was sold to the Reynolds Group Ltd in September 2012 which, following successfully obtaining planning permission to convert and extend the building into a health and fitness spa (TM/11/03518/FL), has been carrying out building works associated with the conversion and extension. The premises, now known as *Reynolds Retreat*, is now open as a members' health and fitness spa.

4. Planning History (A&B):

TM/61/10370/OLD Grant with conditions 4 August 1961

Additions to existing offices.

TM/68/10364/OLD Grant with conditions 23 August 1968

Temporary office building, for Amalgamated Roadstone Corp Ltd.

TM/68/10550/OLD Grant with conditions 11 December 1968

Erection of a temporary office building, for Fluostatic Ltd.

TM/70/10386/OLD Grant with conditions 13 August 1970

Prefabricated timber building for use as office, for A.R.C. (South Eastern) Ltd.

TM/73/10646/OLD Grant with conditions 21 May 1973

Change of use from residential to office accommodation.

TM/77/10204/FUL Grant with conditions 30 December 1977

Extension to offices.

TM/78/10076/FUL Grant with conditions 12 September 1978

Extension to existing offices.

TM/78/10858/FUL Grant with conditions 6 February 1978

Construction of car park.

TM/83/10295/FUL Grant with conditions 25 July 1983

Two storey extension to existing offices.

TM/87/11418/FUL Grant with conditions 30 January 1987

Two storey extension to office.

TM/95/00068/FL Grant with conditions 23 June 1995

Extension to existing offices and erection of new tractor shed adjacent to existing storage buildings

TM/99/01128/FL Grant With Conditions 2 August 1999

Construction of new entrance lobby and alterations to elevations on the West wing

TM/11/03518/FL Approved 26 April 2012

Proposed change of use of buildings from offices to health and fitness spa with proposed extensions and new roofs

TM/13/01189/RD Approved

5 August 2013

Details of materials, scheme of traffic direction, use of outbuildings, parking layout, hard landscaping, landscaping and boundary treatment, scheme for management of woodland and surface water drainage pursuant to conditions 2, 5, 6, 7, 8, 9, 11 and 12 on planning permission TM/11/02518/FL (Proposed change of use of buildings from offices to health and fitness spa with proposed extensions and new roofs)

5. Consultees:

(A) TM/14/02861/FL:

5.1 PC: This is not an urban environment but predominantly a rural residential area. Whilst not licensed, Potters Mede Sports Pavilion, at the other end of our village has a 23:00 hours limitation and the village hall in the heart of the village retail centre has a 24:00 hours limit. We strongly support therefore, the concerns of many residents about disturbance to them by noise and traffic in the early hours of the morning and therefore request a 23:00 hours limit for operations and functions under the terms of the licence.

5.2 KCC (Highways): No objections.

5.3 Private Reps: 40/0X/9R/0S. The application was also advertised by way of a site notice. The following concerns have been expressed:

- To allow the premises to sell alcohol until 00:30 is far too late. Noise arising from cars (etc.) departing could be a nuisance to surrounding residential properties;
- The property is in the country not in an urban environment;
- Disturbances have already been experienced throughout the current building works – such disturbances would occur late into the evening with the proposed opening times;
- The proposals (together with application TM/14/02877/FL) clearly represent a major proliferation of the proposed uses for these premises with the obvious inference that facilities for large weddings and other events will be on offer;
- Concerned that the premises is becoming more like a bar and restaurant business and not a health and fitness spa it originally purported to be;
- The recent Licence application refers to a seating capacity of 150 in the bar, restaurant and terrace, a small conference room for 50 people and for the premises to be open to the public from 06:30 – 01:00 hours. Whatever the function, it appears that well in excess of 120 guests plus staff could be

accommodated. This could result in up to 100 vehicle movements at 00:30/01:00 hours on any/all nights of the week with the resulting disturbance of nearby residents;

- Other facilities in the village (i.e. Potters Mede and the village hall) are licensed until 23:00 hours and I see no reason to allow this premises to be treated any differently;
- The commercial profit making objectives of the applicants business should not override the interests of residents some of whom have been living here peacefully for a long time; and
- Concerned that the proposals will negatively impact on the vitality and viability of the village centre as this type of use should be directed to within the village centre itself.

(B) TM/14/02877/FL:

5.4 PC: No observations.

5.5 KCC (Highways): No objections to this proposal which adds an additional 80 sq. metres of floorspace to the building.

5.6 Private Reps: 40/0X/3R/0S. The application was also advertised by way of a site notice. The following concerns have been expressed:

- Concerned that extending the catering footprint changes the purpose of the building and will cause an increased disturbance to surrounding residential properties;
- Objectionable that the applicant's appear to have flouted the planning regulations by knowingly commencing building work without planning permission; and
- Similar concerns to those listed for application TM/14/02861/FL above (i.e. that the proposals represent a general proliferation of the spirit of the original planning consent).

6. Determining Issues:

6.1 In considering applications it is necessary to determine them in accordance with the Development Plan unless other material factors indicate otherwise. In this instance, the principle of the conversion and extension of Basted House as a health and fitness spa was established under previous consent TM/11/03518/FL. Building works are well underway to complete this development and it is understood that the premises opened to members at the end of October 2014.

(A) TM/14/02861/FL:

- 6.2 In considering the application to extend the opening hours of the premises (TM/14/02861/FL) the key planning considerations include the amenity impacts of the proposed later opening hours, specifically the potential for late-night activities to affect surrounding residential properties through increased noise and disturbance from vehicles and patrons.
- 6.3 The original application to use the premises as a health and fitness spa included a condition requiring a scheme of traffic direction to ensure that users of the premises (including staff, members of the premises, visitors, deliveries, etc.) enter and exit the site via Quarry Hill Road as opposed to via Harrison Road. Details of the scheme of traffic management, including the then appropriate signage, was approved by the LPA in 2013 (TM/13/01189/RD) and is required to be implemented ahead of the first opening of the health and fitness spa. That scheme includes off-site signage, including signage on Quarry Hill Road advising users of the fitness spa to continue ahead (as opposed to turn left into Harrison Road). It also includes exit signage within the site requesting that vehicles leaving the site turn left towards Quarry Hill Road (as opposed to continuing ahead to Harrison Road). There is no intention to revise this arrangement.
- 6.4 In addition to the approved signage, the applicant has recently installed further physical traffic management measures as follows:
- white painted turn left arrow and “Exit” signage on the road surface close to the exit gates from Basted House;
 - dashed white lining just past the exit gates from Basted House which encourage vehicles to turn to the left when exiting the premises; and
 - two pole mounted no-entry signs just past the exit gates on the roadway leading towards Harrison Road.
- 6.5 The applicant intends that these further measures will ensure, as far as is reasonably possible, that vehicles exiting the premises, particularly during night time periods, do so via Quarry Hill Road. Furthermore, it has stated that, since the premises are members’ only facility, in any event it is anticipated that users will soon become accustomed to the entry/exit routes/arrangements.
- 6.6 Additionally, the applicant considers that as the Quarry Hill Road roundabout also provides access to the A25 via the link road (non-residential) which joins the roundabout junction of the A25 and A227 to the west of Borough Green, it provides easy access to the road network, particularly for members travelling from Sevenoaks and Tonbridge; two general locations from where the applicant expects to generate a significant number of fitness club/spa members.

- 6.7 In terms of the potential for increased noise nuisance arising from traffic resulting from the extended opening hours, it is important to consider the locations and relevant distances to the nearest residential properties surrounding Basted House (Reynolds Retreat) and its grounds. These are: Rose Cottage (90m to the south-west of Basted House); No's 14-38 Crowhurst Road (approx. 55m to the east of the private entrance/exit driveway); and No's 1-15 Harrison Road (approx. 15m north of the access road leading to/from the site in Harrison Road). In this instance, the latter mentioned properties along Harrison Road should not be affected by vehicles entering/leaving the premises in light of the scheme of traffic management described above.
- 6.8 The applicant has recently obtained a Premises Licence (14/01003/PREM) for the facility which covers: films (indoors); recorded music (indoors); performance of dance (indoors); supply of alcohol (sales); and opening hours. The Licence permits the opening of the premises until 00:30 hours Monday – Sunday (including Public and Bank Holidays) and until 01:30 hours on New Year's Eve. Whilst the roles of the Council as both Planning and Licencing Authorities are fundamentally different, it is important to note the presence of a Premises Licence which now exists. Furthermore, a condition attached to the Premises Licence requires that all amplified music should be contained within the buildings and be inaudible at the site boundary. However, the existence of the Licence of the terms set out above does not oblige the Council as Local Planning Authority to follow that decision as the considerations are different owing to separate legislation.
- 6.9 The proposed extended use of the premises (until 00:30 hours) relates to the internal use of the building; specifically the bar, restaurant and conference room. The applicant has stated that the health and fitness spa facilities would close at 22:00 hours, however the extra time will allow members to use the bar and restaurant facilities within the building.
- 6.10 It is noted that a number of internal alterations have been made to the layout of rooms/spaces within the building from those set out in the original planning application. Internal alterations, for example putting a greater emphasis on making the most of panoramic views from the first floor rear rooms as bar/restaurant spaces, have been determined by the applicant as works have progressed. These internal changes have also avoided the need to artificially divide the now proposed restaurant/bar spaces into a series of smaller spaces, which would have been necessary if it were to be used as treatment rooms. The treatment rooms which were originally proposed for the first floor are now located within the roof space above the swimming pool in purpose built new accommodation which does not require natural daylight and panoramic views to the rear (south) of the property.
- 6.11 The relocation of the treatment rooms and the enlargement of the bar/restaurant and relaxation area has arisen as the refurbishment has evolved. The applicant details that more consideration has been given to the needs of members and the interrelationship of spaces within the buildings and its surroundings. Having

reviewed the works undertaken at the property, which I note have been undertaken using high quality materials/finishes, I am satisfied that they have not represented an overall material change in the use of the building from that originally granted planning permission. I am satisfied that the intention is that the building is primarily intended to be used as a members' only health and fitness spa.

- 6.12 In terms of the potential for later evening uses of the building (until 00:30 hours) to affect nearby residential properties, the potential main impact will be any noise associated from patrons leaving the premises and vehicles leaving the site via the private access road. Subject to the continued use of the traffic management measures approved under the main application (i.e. to divert vehicles leaving the premises via Quarry Hill Road as opposed to along Harrison Road) I am satisfied that the properties on Harrison Road would not be adversely affected. Similarly, in light of owing to activities being undertaken with the building and the entrance on the front (north) side of Basted House, I am satisfied that there would be no unacceptable noise disturbance for Rose Cottage located south of the application site.
- 6.13 There are residential properties located on the corner of Crowhurst Road (specifically No's 14-38) which back onto the application site some 55m east of the private access road to/from Basted House. The private site access road at that part of the site is lined with mature protected trees, with the site boundary lined with further interspersed trees and boundary vegetation. Whilst I note that there are some interspersed views of these residential properties from the private site access road, given the distance, intervening vegetation and relatively low intensity of the use, I am satisfied that there are no overriding noise or amenity impacts of the later night use of the building (until 00:30 hours) which would warrant the refusal of planning permission in this instance.
- 6.14 In this context, it is noted that Basted House has been occupied by a number of varying uses over the years, most recently Russet Homes and prior to that Invicta Telecare, the latter being a call centre which operated 24hrs a day, seven days a week, with staff coming and going accordingly. Having discussed this with colleagues in the Council's Environmental Protection Team, it is noted that there is no record of any complaints relating to noise from cars using the private access road being received during the period when the premises was used as a call centre on a 24/7 basis.
- 6.15 Having considered concerns raised regarding noise nuisance from car engines and associated light nuisance from headlights, again, owing to the distances involved and intervening vegetation, and that cars would be free flowing on this section of private access road (i.e. no need for revving engines, etc.), it would be hard to distinguish noise from vehicles on the private drive from vehicles passing on nearby roads for those properties nearest to the site in Crowhurst Road. I am also of the view that car headlights would not result in an unacceptable nuisance

for the occupants of the nearest properties in Crowhurst Road owing to the orientation of the properties in relating to the direction of the private access road and the level of intervening vegetation and distance between the road and the residential properties.

6.16 I have recently been made aware of some safety concerns from the Scouts who occupy a small hut just within the application site close to the exit gates. It has been suggested that there is a lack of sufficient street lighting along the private access road leading from the Doctors surgery (where Scouts' parents drop off and collect from) to the Scout hut and that the increasing intensity of the use of this access road by Reynolds Retreat members during dark periods is making this journey on foot dangerous for Scouts. Whilst I have some sympathy with the concerns raised, the section of this unlit access road falls outside of the applicant's ownership and therefore there is little that the Planning Authority could do to insist that this area is lit via bollard or street-lighting. Instead, it is recommended that the Scouts voice any concerns over inadequate street lighting to the owners of the access road (Crest Nicholson) and the management of Reynolds Retreat to see if any solution can be found. Perhaps, more importantly, the real and practical conflicts, such as they are, arise during the already consented hours of use of the Reynolds Retreat premises (and Members will recall that Russet accessed the site during hours of darkness and indeed at unsocial hours). In my view, these concerns are not reasons to refuse permission for extended opening hours of the premises which fundamentally relate to later night periods when Scout activities are likely to have ceased.

6.17 Accordingly, based on the above assessment, I am satisfied that there are no overriding planning grounds to refuse planning permission for the extended opening hours of the premises until 00:30 hours seven days a week, including Bank and Public Holidays.

(B) TM/14/02877/FL:

6.18 The application site is located within the MGB and outside the built settlement confines (i.e. within the countryside). The NPPF makes it clear (in para. 89) that the construction of new buildings within the Green Belt should be regarded as inappropriate development, except for, *inter alia*:

- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

6.19 In this context, the 'original' building means the building (or collection of buildings) which existed on the site in 1947. Since then, as demonstrated in the planning history provided above, the building has been extended significantly. At the time when the application for the conversion and extension of the building to form a health and fitness spa (TM/11/03518/FL) was considered, the extension to the building was concluded to represent a disproportionate addition over and above the size of the original building. That said, it was concluded that there was an

overriding case of very special circumstances (VSCs) which was sufficient to set aside the presumption against the inappropriate development within the Green Belt.

- 6.20 In this instance, the proposed rear (south) courtyard infill extension seeks to retain approximately 80 sq. metres of floorspace which has already been constructed and fitted out internally. In view of the history of the site and the position established with the last application (TM/11/03518/FL) I am of the view that this retrospective addition to the building, when taken cumulatively, represents inappropriate development within the Green Belt. The NPPF states (in para. 87) that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSCs. Furthermore, it stresses (in para. 88) that LPAs should ensure that substantial weight is given to any harm to the Green Belt. VSCs will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It is therefore necessary to consider whether a case of VSCs exist in this case which would be sufficient to set aside the general presumption against inappropriate development.
- 6.21 The two storey infill extension is of a fairly limited size (approximately 80 sq. metres, spread across two floors) and is concealed discretely within the built confines/envelope of the building. In my view, the extension which has now been fully constructed does not result in any additional or overriding harm to the openness of the surrounding Green Belt owing to its location, design and scale. In my view, these represent a sufficient case of VSC to set aside the general presumption against inappropriate development.
- 6.22 In my view, the infill extension does not have any impact on surrounding residential amenity, owing to its scale and use. Furthermore, the extension does not result in any additional highway or parking impacts; something which the Highway Authority has confirmed in its response on this application.
- 6.23 The building has been constructed in external materials which match those of the main (host) property. The general form of the construction is also in keeping with the host property. I therefore consider the extension is acceptable in general design terms.
- 6.24 Accordingly, on the basis of the above assessment, I am satisfied that this retrospective extension to Basted House (Reynolds Retreat) is supportable in planning terms.

7. Recommendation:

(A) TM/14/02861/FL:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 13.10.2014, Design and Access Statement dated 20.08.2014, Location Plan RE/11/159.13 dated 20.08.2014, and 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 The development shall be carried out in accordance with the details of external materials approved under consent reference TM/13/01189/RD dated 5 August 2014.

Reason: To ensure that the development does not harm the character of the existing building.

- 3 The premises shall be used as a health and fitness spa and for no other purpose (including any other purpose in Class D2 of the Town and Country Planning (Use Classes Order) 1987 as amended), or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.

Reason: The proposal was determined on the basis of the information provided as part of the application, having regard to the impact of the use on the highway network.

- 4 The premises shall not be open for business outside the hours of 06.30 and 00:30 Mondays to Sundays, including Bank and Public Holidays.

Reason: The proposal was determined on the basis of the information provided as part of the application, having regard to the impact of the use on the highway network and the residential amenities of nearby local properties.

- 5 The development shall be carried out in accordance with the Scheme of Traffic Direction approved under consent reference TM/13/01189/RD dated 5 August 2014. The approved scheme shall be installed prior to the first use of the development hereby permitted, and maintained thereafter. Any signage which is damaged or removed shall be repaired or replaced within 1 month.

Reason: In the interests of protecting residential amenity.

- 6 The outbuildings located within the application site shall only be used in accordance with the details approved under consent reference TM/13/01189/RD dated 5 August 2014, unless otherwise agreed in writing with the Local Planning Authority.

Reason: The proposal was determined on the basis of the information provided as part of the application, having regard to the impact of the use on the highway network and the residential amenities of nearby local properties.

- 7 The development shall be carried out in accordance with the parking layout approved under consent reference TM/13/01189/RD dated 5 August 2014. The parking areas shall be maintained in accordance with the approved details thereafter, and no development, including that permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting that Order) shall be undertaken to preclude vehicular access to the approved parking areas.

Reason: The proposal was determined on the basis of the information provided as part of the application, having regard to the impact of the use on the highway network.

- 8 The development shall be carried out in accordance with the hard landscaping scheme approved under consent reference TM/13/01189/RD dated 5 August 2014. The hard landscaping shall be installed in accordance with the approved details prior to the first use of the building as permitted.

Reason: To ensure that the development does not harm the character of the existing building in accordance with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy, Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 57, 58 and 61 of the National Planning Policy Framework (2012).

- 9 The development shall be carried out in accordance with the scheme of landscaping and boundary treatment approved under consent reference TM/13/01189/RD dated 5 August 2014. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following first occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: To ensure that the development does not harm the character of the existing building.

- 10 The development hereby approved shall be carried out in such a manner as to avoid damage to existing trees (including their root system) or other planting to be retained as part of the approved landscaping scheme (Condition 9) 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; and
 - (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: To ensure that the development does not harm the character of the existing building.

- 11 The development shall be carried out in accordance with the scheme for the management of woodland within the site approved under consent reference TM/13/01189/RD dated 5 August 2014. The scheme of management shall be undertaken through-out the period of time that the building is used as a health and fitness spa, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that ancient woodland will be protected, and where possible, enhanced.

- 12 The development shall be carried out in accordance with the scheme of surface water drainage as approved under consent reference TM/13/01189/RD dated 5 August 2014.

Reason: To prevent pollution of groundwater in the underlying principal aquifer, which is also within a Source Protection Zone 3 for the public water supply.

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

Reason: To ensure any unforeseen contamination is dealt with appropriately and to ensure there are no unacceptable risks to groundwater within the underlying principal aquifers from historic contamination.

Informatives:

- 1 The applicant is advised to consider changing the formal address of Basted House (Reynolds Retreat) to Quarry Hill Road as opposed to Harrison Road. This is likely to assist users of the health and fitness spa enter/exit the premises via Quarry Hill Road.
- 2 The applicant is also advised to ensure that any marketing/website information (or similar) relating to the site address is clearly stated in accordance with the approved scheme of Traffic Direction (i.e. entry and exit to the premises via Quarry Hill Road).

(B) TM/14/02877/FL:

- 7.2 **Grant Planning Permission** in accordance with the following submitted details: Design and Access Statement dated 21.08.2014, Existing Plans and Elevations RE/11/159.11 dated 21.08.2014, Proposed Plans and Elevations RE/11/159.12 dated 21.08.2014, Location Plan RE/11/159.13 dated 21.08.2014, Letter dated 13.10.2014.

Contact: Julian Moat

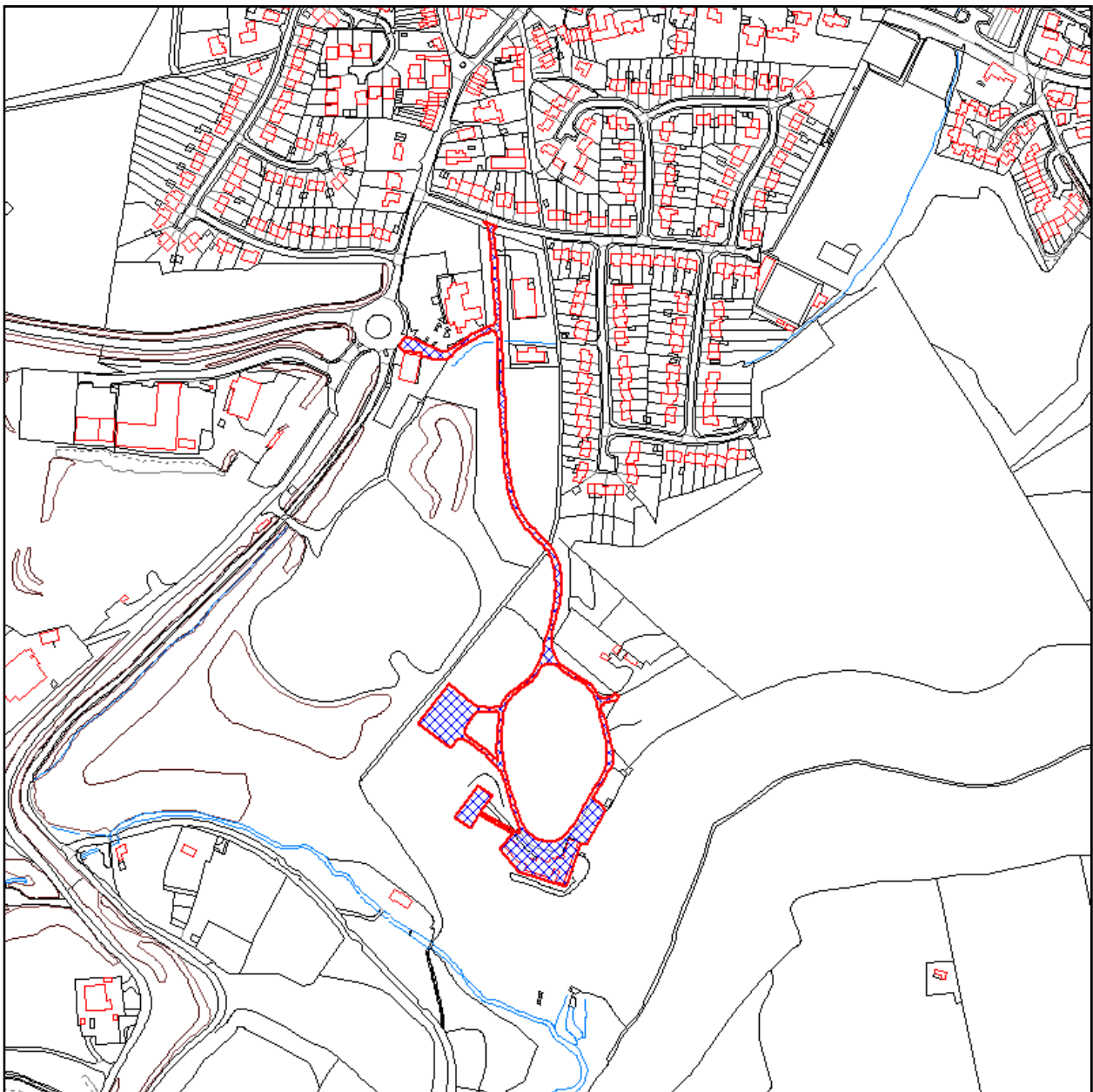
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(A) TM/14/02861/FL & (B) TM/14/02877/FL

Basted House Harrison Road Borough Green Sevenoaks Kent TN15 8PB

(A) Application to vary condition 4 of planning permission TM/11/03518/FL (Proposed change of use of buildings from offices to health and fitness spa with proposed extensions and new roofs) to allow use of the bar and dining facilities to remain open until 12.30am Monday to Friday and at weekends/ Bank Holidays & (B) Retrospective application to retain infill of rear courtyard area on two floors providing kitchen, food preparation area and cold store

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**Stansted
Downs**

562078 161563 17 July 2014

TM/14/02465/FL

Proposal:

Erection of a detached single storey oak framed outbuilding and open log store following recent demolition of two outbuildings and greenhouse to rear

Location:

Fairseat Lodge Vigo Road Fairseat Sevenoaks Kent TN15 7LU

Applicant:

Mr Richards

1. Description:

- 1.1 The application proposes the erection of a detached single storey oak framed outbuilding with open log store. Following concerns received regarding the scale of the proposed outbuilding (which was previously 3 bays plus an overhanging roof log store), the applicant has reduced the size of the building to 2 bays with overhanging roof log store. The new outbuilding has a footprint of approximately 7.2m x 5.9m, with an overall ridge height of 4.2m. The building is intended to be located end on to Vigo Road, situated behind existing boundary screening which exists on the frontage of the site with the highway.
- 1.2 The timber framed outbuilding would be located approximately 1m from the site boundary with Underpine Cottage (to the west). The building has been designed with a cat-slide roof on its western facing roof slope, reducing the overall bulk on the outlook of Underpine Cottage. The building would be finished externally in oak weatherboarding above a facing brick plinth, sitting below a slate roof to match the main dwelling.
- 1.3 Taking into consideration the previously permitted but not yet implemented two storey side and single storey rear extension (TM/13/00734/FL), there would be an area of just larger than 8m wide x 9m deep of gravel driveway/manoeuvring space in front of the new two bay outbuilding.
- 1.4 The application documents demonstrate that the applicant has fairly recently demolished two outbuildings within the rear grounds of the property which previously had a footprint of approximately 19.5 sq. metres and to one of which a small greenhouse was attached.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllr Balfour and Cllr Kemp due to the concerns received from the Parish Council and the cumulative impact of the proposals in relation to previous extensions.

3. The Site:

- 3.1 Fairseat Lodge is located within the Metropolitan Green Belt. It is situated to the north-west of the village of Fairseat, within the north-western extent of the Fairseat Conservation Area.
- 3.2 The property has a large two storey frontage along Vigo Road, comprising a red brick and timber clad elevation sitting below a slate tile roof. A single storey brick building sitting below a gable end forms the physical join between this property and the neighbouring Fairseat Cottage.
- 3.3 Fairseat Lodge has an independent gravel driveway on the western side of the property, providing space for several cars the pull off the main highway and manoeuvre before leaving in a forward gear. The property has a large garden to the rear (north) of the property, mainly laid to lawn, with a mix of mature trees and hedgerow along its boundaries.
- 3.4 Originally an annexe to the west of the main property was permitted in 1991 as additional living accommodation, however, this was certified as being a lawfully self-contained dwelling in 2007.
- 3.5 Most recently, a two storey side and single storey rear extension was permitted in 2013 (TM/13/00734/FL) by Members of the Area 2 Planning Committee following a Member Site Inspection on 24 June 2013. This extension has not yet been implemented.

4. Planning History:

TM/69/530	Refuse	2 October 1969
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Demolition of existing garage and erection of garage with two loose boxes, store on ground floor with bed sitter on first floor.

TM/70/155	Grant with conditions	14 May 1970
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Demolition of existing garage and erection of new garage, two loose boxes and store, for J. W. Stacpoole.

TM/83/378	Grant with conditions	20 May 1983
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Single storey rear extension.

TM/87/1418	Grant with conditions	9 October 1987
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Conservatory.

TM/91/69 Grant with conditions 30 May 1991

Use of garden store/garage as sheltered accommodation for elderly relative

TM/13/00734/FL Approved 11 July 2013

Two storey side and single storey rear extension

5. Consultees:

- 5.1 PC: Stansted Parish Council objects to this application. There is planning consent for an extension to the house. This makes the available space within the entrance to the property much smaller and it will be very difficult or impossible for vehicles to turn round within the site. Vigo Road is very narrow at this point with high hedges and poor sight lines, making either reversing out of the property or reversing into it dangerous. The size of the house and lack of public transport will probably mean that multiple vehicles will be attached to the property, potentially making the problem worse.
- 5.2 KCC (Highways): Having considered the concerns raised, raises no objections to the proposals on highway grounds.
- 5.3 Private Reps (5/0X/0R/0S) plus CA and site notice. No letters of representation have been received to the proposals.

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 application proposes a detached domestic outbuilding and not an extension to the main dwelling, but a . On this basis, the NPPF indicates (in paragraph 89) that the construction of new buildings, such as the one proposed, is inappropriate development.
- 6.2 Fairseat is defined as a Rural Settlement within TMBCS Policy CP13. However, this designation only extends to a relatively small cluster of properties in the centre of the village, not extending far enough north west to encapsulate the application site. Therefore, by definition, Fairseat Lodge is located within the countryside where TMBCS Policy CP14 applies. This policy does not specifically provide support for new domestic outbuildings, except for where they replace existing buildings or represent an appropriate extension of an existing building.
- 6.3 The site is within the Fairseat 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 to or better reveal the significance of the asset should be treated favourably.

- 6.4 Policy SQ1 of the MDE DPD 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 There are also a number of other relevant issues to consider in this case, including:
- Site history, including previously granted planning consent(s) for development at the property;
 - Potential amenity impacts on Underpine Cottage; and
 - Loss of driveway/manoeuvring space within the site.
- 6.6 As outlined above, Fairseat Lodge is located within the Metropolitan Green Belt and the open countryside, outside of the defined Rural Settlement of Fairseat. The key issues in terms of the MGB and countryside are the visual impact and the impact on openness of the proposed extension.
- 6.7 Paragraph 17 of the NPPF requires protection of the Green Belt and recognition of the intrinsic character and beauty of the countryside. In this case, the proposed extension to the property is considered to be inappropriate development since it does not meet one of the exceptions set out in para. 89 of the NPPF. Therefore, consideration needs to be given to whether there are any 'very special circumstances' (VSCs) which exist in this case sufficient to offset potential harm to the Green Belt by reasons of inappropriateness and any other harm.
- 6.8 In this assessment, I am mindful that the main dwelling has benefited from a number of historic planning consents, including a single storey rear extension in 1983 (TM/83/378), a front conservatory extension in 1987 (TM/87/1418) and most recently a two storey side and single storey rear extension in 2013 (TM/13/00734/FL). None of these would prevent the availability of on-site turning space in accordance with normal standards.
- 6.9 In this instance, I am of the view that the proposed oak framed outbuilding (which comprises a two bay garage and overhanging roof log store) would not result in any significant loss of openness to the wider Green Belt. The garage structure, which is rural in character, has been sited to the side of the main dwelling between the built envelope of Fairseat Lodge and Underpine Cottage, is of a general design and form which is visually in-keeping within this rural area and would be relatively hidden from wider vantage points by existing mature tree/hedgerow screens within

the site. The benefit of using a building of this design for vehicle parking is that it will minimise the potentially intrusive impact of reflections from vehicles that would, in any event, be otherwise parking in this position. Whilst the current siting of the building would not fall within Permitted Development (PD) Rights (outbuildings to the side of a property within a Conservation Area require planning permission), should the building be located further into the rear garden this could fall within PD rights. In my opinion the siting of the building deeper into the rear garden (northwards) would have more impact on the general openness of the Green Belt than the location currently chosen. I am of the view that these factors amount, on balance, to a sufficient case of VSCs to set aside the general presumption against inappropriate development in this location.

- 6.10 The general aims of the NPPF and Local Planning Policy are to conserve and enhance the character and appearance of Conservation Areas. The oak framed outbuilding is located end on to the highway (Vigo Road) and would be relatively hidden behind existing mature vegetation along the front boundary of the site which would be retained. In any case, the proposed oak-framed building is considered to be of a general design, form and external appearance which is entirely acceptable from a planning perspective in rural areas. Accordingly, I consider that the proposal would not conflict with the general thrust of advice contained in paragraph 137 of the NPPF, or the aims and objectives of TMBCS Policies CP1 and CP24 and MDE DPD Policy SQ1.
- 6.11 The proposed outbuilding would be located between the side flank elevation of Fairseat Lodge and the eastern elevation of Underpine Cottage, a small self-contained bungalow also owned by the applicant. The new outbuilding would be located approximately 1m from the shared boundary between these two properties and has been designed with a cat-slide roof facing towards Underpine Cottage. Whilst I fully accept that the new building would be visible and fairly prominent from the outlook of Underpine Cottage, the design of the cat-slide roof which reduces the eaves height to approximately 1.4m closest to the shared boundary goes some way to reducing the building's impact on the adjoining property dropping the eaves. In this case, I am satisfied that the loss of outlook for any current or future occupiers of Underpine Cottage would not be a sufficient reason for refusal of this building in this instance.
- 6.12 Concerns have been expressed regarding the loss of driveway parking and manoeuvring space within the site once the garage is erected and if the previously permitted (but not yet implemented) extensions are constructed. Having looked into this matter further, I note that there would be an area of approximately 8m in width between the front elevation of the new outbuilding and the side flank elevation of the main dwelling and a depth of approximately 9m (excluding the driveway opening). The minimum turning aisle width is 6m. Currently adopted vehicle parking standards require sufficient space for two independently accessible car parking spaces; these would be adequately provided within the new two bay garage together with overflow space for parking and turning in the area of

gravel driveway to be maintained between the new garage and main dwelling. Having also taken advice on this matter from KCC Highways, I note that it has raised no objections to the proposals. On this basis, I am satisfied that the proposals would not result in unacceptable parking or manoeuvring space within the site and that there would not therefore be any detrimental highway safety issues arising from the proposals.

6.13 Having assessed this application in light of current MGB and countryside policy, I have concluded that the proposed new outbuilding accords with the objectives of the NPPF and TMBCS Policies CP3 and CP14. I have concluded that the proposed building is acceptable from a general design perspective and, moreover, would not have a detrimental impact on the public street-scene or Fairseat Conservation Area. I have considered the proposals in light of the previously permitted extensions which have not yet been implemented and am satisfied that there would be no overriding highway concerns either from a parking or manoeuvring perspective which could lead to highway safety issues. On balance, therefore I therefore recommend approval accordingly.

7. Recommendation:

7.1 **Grant Planning Permission** as detailed by: Design and Access Statement dated 17.07.2014, Email dated 27.10.2014, Location Plan CW108/01 A dated 27.10.2014, Proposed Plans and Elevations CW108/3 dated 27.10.2014, subject to:

Conditions / Reasons

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

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

2. All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

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

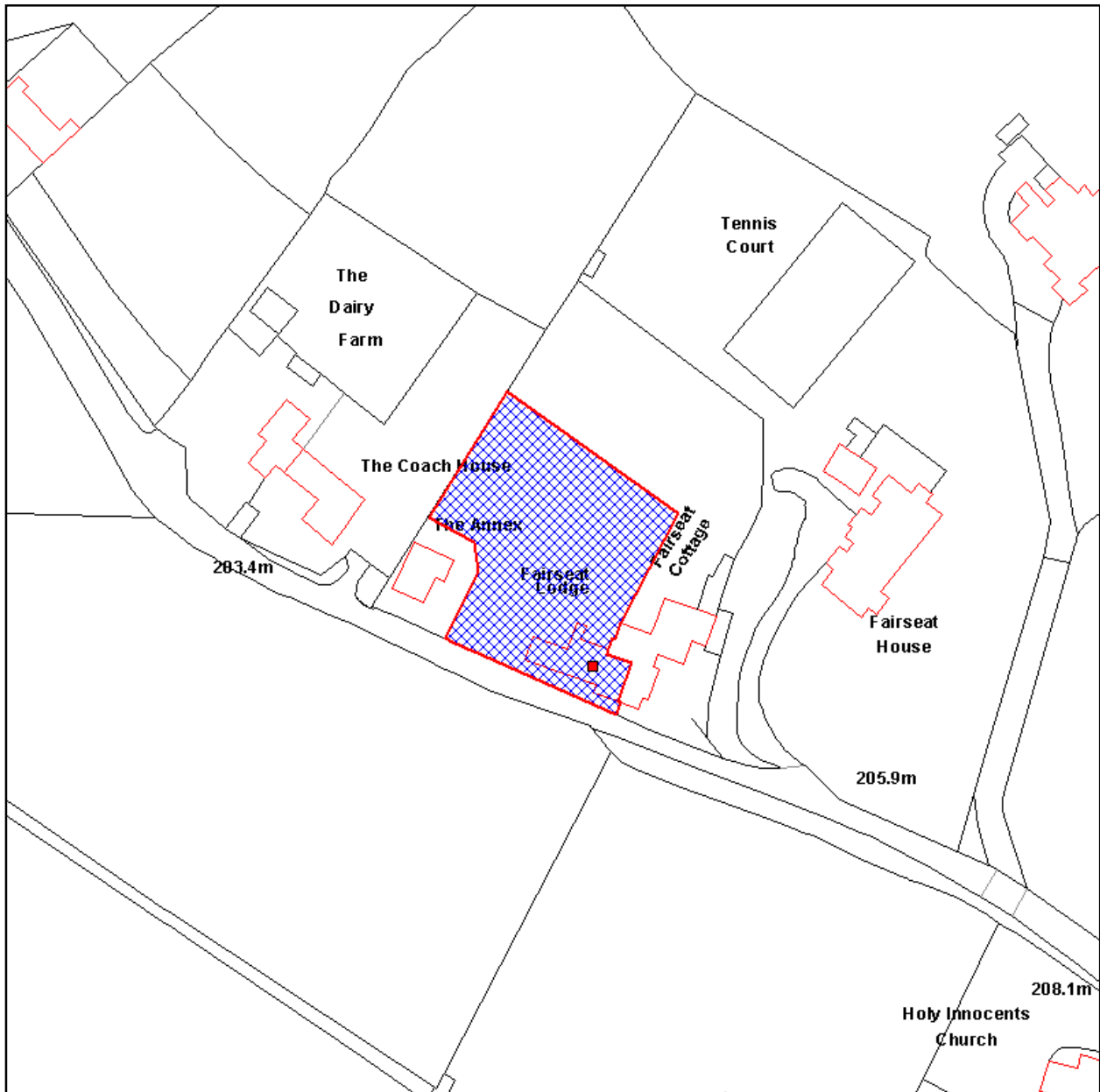
Contact: Julian Moat

TM/14/02465/FL

Fairseat Lodge Vigo Road Fairseat Sevenoaks Kent TN15 7LU

Erection of a detached single storey oak framed outbuilding and open log store following recent demolition of two outbuildings and greenhouse to rear

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TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

10 December 2014

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

IMPLEMENTATION OF PLANNING PERMISSION FOR 171 DWELLINGS AT ISLES QUARRY WEST – UPDATE REPORT

To update Members on the implementation and monitoring of land contamination in the development at Isles Quarry West, Borough Green.

1.1 Introduction

1.1.1 At the last meeting of this Committee we provided an Urgent Item of Business report in light of concerns, from a number of parties, that properties were being occupied at this site before final confirmation of outstanding considerations with regard to potential contamination had been resolved.

1.1.2 At the meeting the Committee resolved that:

“That officers are instructed to take any appropriate action necessary to prevent further occupation of any unit until all relevant outstanding matters have been resolved regarding potential contamination of the garden areas”.

1.1.3 Members’ wishes have been met in that no further occupations have occurred.

1.1.4 Since the last meeting Council and EA officers together with Crest’s staff and consultants have been working together to complete the suite of data necessary for TMBC to sign-off the position with regard to the Phase 1 units – those units that caused the Urgent Report to be presented with regard to the treatment of the garden areas.

1.1.5 The EA also needs to be able to advise this Council that it is satisfied with conditions below garden capping level. The necessary documentary material is in the final stages of production by Crest. This will be in the form of

documents that effectively index and cross-reference material already submitted, in part. This latter has been provided in planning conditions and has been the subject of consultation.

- 1.1.6 Additional necessary documentation is being received at the time of drafting this report and an update of our and EA's assessment will be given in a supplementary report.
- 1.1.7 As part of a wider discourse, with the applicants, we are also expecting a further document dealing with the forward planning process for the next phases. While such a document is required later in the process pursuant to the planning condition there is a benefit in this forward planning and a document is expected soon.
- 1.1.8 It is understood that monitoring work is in hand, in the next phases of housing, going forward. This has been raised with the Council in the last few days. Technical officers will engage with Crest on this work.
- 1.1.9 Inevitably, as with all development projects, things are constantly moving forward and we will provide a further update for the meeting.

FOR INFORMATION