

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

Julie Beilby BSc (Hons) MBA

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Kent ME19 4LZ  
West Malling (01732) 844522

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

Contact: Committee Services  
[committee.services@tmbsc.gov.uk](mailto:committee.services@tmbsc.gov.uk)

17 April 2014

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

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 3 Planning Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Thursday, 1st May, 2014 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

## A G E N D A

### PART 1 - PUBLIC

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

5 - 8

To confirm as a correct record the Minutes of the meeting of Area 3 Planning Committee held on Thursday 6 February 2014.

**Decisions to be taken by the Committee**

- |    |   |         |
|----|---|---------|
| 4. | Development Control   | 9 - 12  |
|    | Introduction and Glossary                                       |         |
| 5. | TM/13/01650/FL - Church of St James, Church Walk, East Malling  | 13 - 26 |
| 6. | TM/14/00459/FL - 7 - 9 High Street, Aylesford                   | 27 - 40 |
| 7. | TM/13/03491/FL - Holtwood Farm Shop, 365 London Road, Aylesford | 41 - 52 |
| 8. | TM/13/03492/FL - 354 Wateringbury Road, East Malling            | 53 - 62 |
| 9. | Urgent Items  |         |

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

**Matters for consideration in Private**

10. Exclusion of Press and Public

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

**PART 2 - PRIVATE**

11. Urgent Items

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

## **MEMBERSHIP**

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

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

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

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 3 PLANNING COMMITTEE

Thursday, 6th February, 2014

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

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

Apologies for absence were received from Councillors T Bishop and D W Smith.

### PART 1 - PUBLIC

#### **AP3 14/8 DECLARATIONS OF INTEREST**

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

#### **AP3 14/9 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 3 Planning Committee held on 9 January 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

#### **AP3 14/10 DEVELOPMENT CONTROL**

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

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

**AP3 14/11 TM/12/03326/FL - BLACKLANDS, MILL STREET, EAST MALLING**

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

**RESOLVED:** That the application be

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

(1) The addition of condition

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, D and E of Part 1 Schedule 2 of that Order unless planning permission has been granted on an application relating thereto. Reason: To safeguard the health, safety and amenities of the occupants of the properties.

and (2) the addition of Informative

11. The applicant is advised that, when constructing the ragstone wall, it is the Council's preference that saddleback brick copings are used to match the Village vernacular. It is suggested that the applicants involve the East Malling Conservation Group in the detailing of the sample panel required under condition 18 to ensure that the design is appropriate for the setting.

[Speakers: Mr J Williams (on behalf of East Malling Conservation Group), Mr J Claydon (local resident) and Mr J Mamlok (Agent to the applicant)]

**AP3 14/12 TM/13/00551/FL - IVY HOUSE FARM, 42 CHAPEL STREET, EAST MALLING**

Replacement of self-supporting fence situated behind existing ragstone boundary wall. In addition, replacement of small section of fencing with ragstone walling in keeping with adjoining wall fronting on house at Ivy House Farm, 42 Chapel Street, East Malling.

**RESOLVED:** That the application be

REFUSED for the following reasons:-

1. The fence, by virtue of its particular design and appearance, length, height and siting on land that is higher than the neighbouring road, has a detrimental impact on the character of the street scene and views into

the Conservation Area. The fence is therefore contrary to paragraphs 61, 64, 131 and 133 of the National Planning Policy Framework 2012, Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and Policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.

2. The fence by virtue of its height, siting and appearance has an unacceptable impact on the residential amenity of the properties on the opposite side of the road, by virtue of its overbearing appearance and position on land higher than the street. The fence is therefore contrary to paragraphs 56, 61 and 64 of the National Planning Policy Framework 2012, Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and Policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.

[Speakers: Mr J Williams on behalf of East Malling Conservation Group; Mrs F Saunders, Mr J Allen, Mr M Page and Mr R Brooks - local residents]

**AP3 14/13 13/00305/WORKM - HOLTWOOD FARM SHOP, 365 LONDON ROAD, AYLESFORD**

Alleged Unauthorised Development at Holtwood Farm Shop, 365 London Road, Aylesford.

**RESOLVED:** That an Enforcement Notice be issued, the detailed wording of which to be agreed with the Director of Central Services, requiring the removal of the unauthorised mobile catering unit with a period for compliance of two months.

**MATTERS FOR CONSIDERATION IN PRIVATE**

**AP3 14/14 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 9.26 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.

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#### GLOSSARY of Abbreviations and Application types

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

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

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

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

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

**East Malling &  
Larkfield**  
East Malling

**570291 157081 31 May 2013**

**TM/13/01650/FL**

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Proposal:                   Erection of a single storey detached building to be used as a parish room  
Location:                   Church Of St James Church Walk East Malling West Malling Kent  
Applicant:                   Mrs Anna Ashbee

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## **1. Description:**

- 1.1 Members will recall that this application was deferred from the meeting of Area 3 Planning Committee on 10 October 2013 for a Members' Site Inspection. The inspection is scheduled to take place on 29 April 2014. Any points arising from that inspection will be dealt with in a Supplementary Report.
- 1.2 It was also requested by Members that further information be sought with regard to the potential impact of the construction process on the stability of the adjacent listed buildings. This information has now been received.
- 1.3 For ease of reference a copy of the previous report is attached as an Annex to this report for information.

## **2. Consultees:**

- 2.1 No further representations have been received at the time of drafting this report. Any comments received will be reported in the supplementary report.

## **3. Determining Issues:**

- 3.1 The main issues are set out in my report of 10 October 2013.
- 3.2 With regard to the potential impact of the construction process on the adjacent listed buildings (Bothy and boundary wall to Court Lodge), the applicants have submitted further information indicating foundation details. The details indicate the use of a piled foundation set in sleeves to below the bottom of the boundary walls and the Bothy. Sleeving the top portion of the piles would ensure that the proposed building does not put any lateral load into the ground that is supported by the adjoining walls. This method of construction is considered, in principle, appropriate as it would ensure that the building would not damage the adjacent listed structures.
- 3.3 With regard to the actual piling process itself, it is considered appropriate in this instance to attach a condition requiring details of the method of piling to be submitted to and approved prior to the commencement of construction on site. This is to ensure that the construction process used is appropriate such that

machinery movement and the act of auguring the sleeves and pumping the pile materials does not damage the existing listed boundary walls and attached Bothy.

3.4 Subject to the above and the issues raised in the original report it is considered that the works would be acceptable.

**4. Recommendation:**

4.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 09.09.2013, Report SITING OF PROPOSED PARISH ROOM dated 09.09.2013, Survey 31/SY-02A dated 09.09.2013, Proposed Plans 31/L-08A dated 09.09.2013, Proposed Elevations 31/L-11A dated 09.09.2013, Letter dated 31.05.2013, Design and Access Statement dated 31.05.2013, Site Plan 31/SY-04 dated 31.05.2013, Proposed Elevations 31/L-09 East dated 31.05.2013, Proposed Elevations 31/L-12 North dated 31.05.2013, Proposed Elevations 31/4-14 South dated 31.05.2013, Email dated 05.07.2013, Letter dated 05.07.2013, Tree Report dated 05.07.2013, subject to the following:

**Conditions / Reasons**

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

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

2. No development shall take place until details and samples of 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 scheme of landscaping and boundary treatment shown on the approved plans 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.

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

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

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

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

6. The development shall be constructed at the level indicated on the approved drawing.

Reason: In the interests of amenity and privacy.

7. The building hereby approved shall be used only as an ancillary facility for the functioning of the church and for no other purposes.

Reason: To limit the noise and disturbance experienced by nearby residential properties.

8. Prior to the commencement of development details of all external lighting existing and proposed, shall be submitted to and approved by the Local Planning Authority. Any scheme shall be then permanently retained and not be varied without the prior written approval of the Local Planning Authority.

Reason: The protection of the locality and residential properties from light pollution in accordance with Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007

9. Prior to the commencement of construction, full details of the method of undertaking the piling for the foundations, including details of all machinery and vehicles engaged therein, shall be submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details and not be varied without the prior written approval of the Local Planning Authority.

Reason: To ensure that the works do not have an adverse impact on the integrity of the adjacent Listed structures.

Contact: Robin Gilbert



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**Report of 10 October 2013**

**East Malling & Larkfield**                      **570291 157081**    **31 May 2013**                      **TM/13/01650/FL**  
East Malling

Proposal:                      Erection of a single storey detached building to be used as a parish room  
Location:                      Church Of St James Church Walk East Malling West Malling Kent  
Applicant:                      Mrs Anna Ashbee

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**1. Description:**

- 1.1 This full application proposes the construction of a single storey detached timber framed building to provide a church meeting room, toilets and a kitchen area. The building would be 'L' shaped in plan form and be a maximum of 13.5m long and 8.5m wide with an overall height to ridge of 5.3m. The building would be finished in lime mortar panels between the timber frame with a plain clay tiled roof.
- 1.2 The development has been proposed as a means to fulfil a need for toilet facilities and a small meeting room. The applicant has considered a number of options to provide these facilities as an extension to the original church building; however, due to the layout and construction of the building, it is not possible to extend or adapt it suitably. A number of free standing options have also been considered but these have also been ruled out, for various reasons, prior to the submission of this application.

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

- 2.1 Due to the level of public interest and also at the request of Cllr Woodger who feels the community need for the facility should be balanced against the loss of the trees and the impact on the listed building.

**3. The Site:**

- 3.1 The application relates to an area within the churchyard of St James Church. The church itself is a Grade I listed building and the churchyard contains a number of listed tombs. The site is within the village confines of East Malling and within the East Malling Conservation Area.

**4. Planning History:**

TM/94/00377/TC                      no objection                      6 December 1994

Remove lower branches from 11 yew trees and 4 conifer trees and higher branches from one yew tree

TM/03/00494/TNCA	No Objection	3 April 2003
Reduce height and spread of canopy of Common Yew tree ( <i>Taxus Baccata</i> ) by 25%		
TM/06/02961/TNCA	No Objection	18 October 2006
Reduce 1 no. Yew tree		
TM/13/00450/TNCA	No Objection	26 March 2013
Undertake works to trees T6, T7, T11, T12, T13, T16, T17 and T34 as recommended in tree report		
TM/13/01651/LB	Application Not Proceeded With	6 June 2013
Listed Building Application: New parish room including WC's and kitchen to be formed within the curtilage of the Grade 1 listed Church Of St James		

## 5. Consultees:

- 5.1 PC: Consider that the site should be visited by Borough Councillors prior to any decision being made. Would not want the yew tree removed until such time that the new building works are definitely going ahead. If the Borough Council is minded to approve then conditions should be attached to control the use of the building, its hours of operation, controlling of signage, appropriate noise attenuation measures, retention of the stone paving to the front of the church, landscaping and slab levels and it should be built in accordance with the approved plans.
- 5.2 KCC (PROW): No objections subject to the works not obstructing the PROW through the churchyard.
- 5.3 EMCG: Object to the siting of the building, the loss of the tree, impact on the Church, Court Lodge and the Conservation Area are not acceptable. Proposal does not accord with duty to preserve or enhance Conservation Areas as the scheme does not complement its neighbours.

Private Reps: 13/0X/16R/35S + site and press notice.

16 letters of objection received raising the following concerns:

- Yew tree should not be removed.
- Building should be sited in a less prominent location to the southwest of the church.

- 
- Building should be set diagonally in the north western corner of the churchyard to avoid the need to remove the yew.
  - Building would deface the look of the lovely church and would appear 'shoehorned' in between two listed buildings to the detriment of the setting of both.
  - Building should be made, or clad, in stone to respect the appearance of the existing church.
  - Borough Councillors should undertake a site inspection prior to making a decision so that they can see the impact on the Conservation Area and the neighbouring property.
  - Impact of the works on the stability of the adjacent retaining wall.
  - Detrimental impact on the important vista along Church Walk towards the Church from the High Street.
  - Not appropriate unless adequate screening and tree retention can be guaranteed.
  - Facilities are available at the Institute Hall, 150m yards away.

35 letters supporting the application and making the following observations:

- Facilities much needed to support the congregation and the community.
- Provide suitable accommodation for Sunday School and Mother and Baby groups.
- Loss of tree is regretted but new planting is proposed to compensate.
- Provision of disabled facilities welcomed.
- Not appropriate to just have a portaloo for such a well used church.

## **6. Determining Issues:**

- 6.1 The principal considerations with this application are the principle of development in this location, the impact of the development on the character of the Conservation Area and the surroundings and impact on the trees on the site.
- 6.2 The development has been proposed as a means to fulfil a need for toilet facilities and a small meeting room. There are no objections in planning policy terms to the principle of such a building adjacent to a church and indeed it is similar to facilities at a number of other churches within the Borough. The northwest corner of the church yard is within the village confines as indicated on the Proposals Map and

there are no policy objections to the principle of enhancing a community facility within the village. The development is therefore considered to accord with Policy CP13, development in rural settlements.

- 6.3 The proposed building is within the grounds of the Grade I listed church building and also within the East Malling Village Conservation Area. The siting of the building in the northwest corner of the churchyard would limit its impact on views through the Conservation Area, such as along Church Walk. The building has been designed with a ridge height similar to the height of the parapet wall at the base of the church tower. This existing feature is well screened in views towards the church and it is therefore considered that the new building would not be detrimental to the character and setting of the listed building or the general character of the Conservation Area and that it respects the views through the area as set out in the East Malling Conservation Area Appraisal.
- 6.4 The building would be sited adjacent to the boundary with the neighbouring property, Court Lodge. The works would not have an impact on the residential amenity of this dwelling itself due to the layout of the site. The neighbour does have concerns regarding construction in this area though, due to the fact that the churchyard is approximately 1.5m to 2.1m higher than the land level in the grounds of Court Lodge. The applicant has indicated that to address the issue of the land levels they propose to construct the new building off piled foundations that should not put any load on the old retaining wall to Court Lodge.
- 6.5 The construction of the building in this location in the churchyard would necessitate the removal of a yew tree in the north western corner of the church yard. The loss of this yew is regrettable. However, when the need for the development is balanced against the overall landscape issues, it is considered that the removal can be supported. The yew is a relatively young specimen and is not clearly visible in the wider setting of the conservation area. Also building in this location would keep the works away from the mature yew trees to the front and southern side of the church.
- 6.6 The application is supported by a proposed landscaping scheme, the details of which propose the planting of a replacement yew and a native boundary hedge around the building. The proposed landscaping is considered to adequately mitigate the impact of the loss of the tree and the construction of the building on the site and the surroundings.
- 6.7 With regard to the other points of concern raised by local residents, it is considered that the materials are appropriate for an ancillary building to a church as such a structure would use timber construction so as to not compete with the church building. It is not considered that the new building would increase the level of noise and disturbance experienced by surrounding properties. The use of the building would be similar to that of the church and so would not add to the

disturbance currently experienced. It is acknowledged that there are other halls and similar accommodation within the village but none provides immediate access to the church itself.

- 6.8 Overall, whilst it is regretted that the development would result in the loss of the yew, it is considered that, on balance, the development is acceptable subject to conditions relating to materials, landscaping and levels.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following details: Letter dated 09.09.2013, Report SITING OF PROPOSED PARISH ROOM dated 09.09.2013, Survey 31/SY-02A dated 09.09.2013, Proposed Plans 31/L-08A dated 09.09.2013, Proposed Elevations 31/L-11A dated 09.09.2013, Letter dated 31.05.2013, Design and Access Statement dated 31.05.2013, Site Plan 31/SY-04 dated 31.05.2013, Proposed Elevations 31/L-09 East dated 31.05.2013, Proposed Elevations 31/L-12 North dated 31.05.2013, Proposed Elevations 31/L-14 South dated 31.05.2013, Email dated 05.07.2013, Letter dated 05.07.2013, Tree Report dated 05.07.2013; and subject to:

### **Conditions**

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

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

2. No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

3. The scheme of landscaping and boundary treatment shown on the approved plans 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.

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

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

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

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

6. The development shall be constructed at the level indicated on the approved drawing.

Reason: In the interests of amenity and privacy.

7. The building hereby approved shall be used only as an ancillary facility for the functioning of the church and for no other purposes.

Reason: To limit the noise and disturbance experienced by nearby residential properties.

8. Prior to the commencement of development details of all external lighting existing and proposed shall be submitted to and approved by the Local Planning Authority. Any scheme shall be then permanently retained and not be varied without the prior written approval of the Local Planning Authority.

Reason: The protection of the locality and residential properties from light pollution in accordance with Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007

Contact: Robin Gilbert

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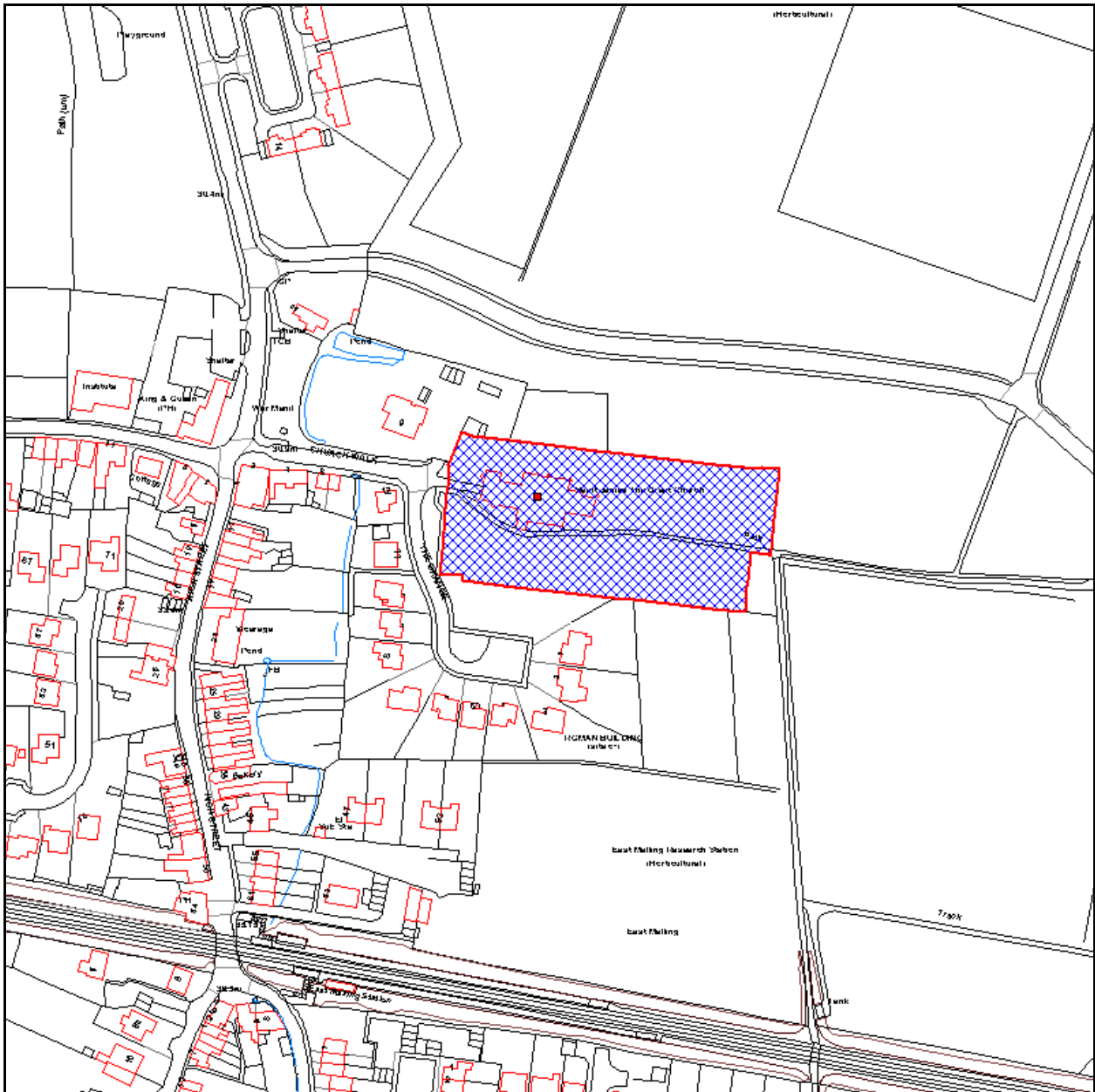


**TM/13/01650/FL**

**Church Of St James Church Walk East Malling West Malling Kent**

**Erection of a single storey detached building to be used as a parish room**

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**Aylesford**                      **573059 158962**    **17 February 2014**      **TM/14/00459/FL**  
Aylesford

Proposal:                      Installation of replacement and new external patio area, and change of use of first floor and external area to restaurant (A3) use. (Part retrospective)  
Location:                      7 - 9 High Street Aylesford Kent ME20 7AY  
Applicant:                      Swift Roofing Contracts Ltd

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**1. Description:**

1.1 Full planning permission is sought for the change of use of the first floor and the external area of the building into a restaurant use, the construction of a replacement and new external patio area and boundary walling and the construction of a bin store. At the time the application was submitted the proposal was *part* retrospective, during the course of consideration of the application the works have been completed and the proposal is *now fully* retrospective.

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

2.1 The application is being reported to the Planning Committee at the request of the Ward Member, Cllr Balcombe.

**3. The Site:**

3.1 The application property is a Grade II Listed Building described in the List Entry as a house, now a restaurant of a sixteenth century age and with a nineteenth century road elevation. The property is timber framed with a painted brick front elevation and a stone coped parapet. Planning permission was granted for the use of the property, as a whole, as a restaurant (The Hengist) in 1980, prior to the listing in 1987.

3.2 The property sits in a prominent position on Aylesford High Street, situated within the village Conservation Area. To the rear of the building is a substantial garden area which has a culvert running through the centre, feeding from the east. The garden abuts the open area around the river and is bisected by an access pathway that was secured at the time when the initial restaurant permission was given in 1980. Along the eastern boundary to the site is an access way linking the public car park to the south with the High Street to the north.

3.3 The application site is situated within flood zones 2 and 3 and is subject to tidal flooding.

**4. Planning History:**

TM/49/10383/OLD grant with conditions 28 June 1949

Preliminary application for Erection of Shops and Flats.

TM/71/10568/OLD Application Withdrawn 13 January 1971

Formation of access road.

TM/73/11356/OLD grant with conditions 27 July 1973

New doors for Mrs. Cleeves.

TM/77/11131/FUL grant with conditions 8 June 1977

Change of use from dwelling to shop.

TM/80/11366/FUL grant with conditions 22 September 1980

Change of use to restaurant

TM/81/10239/FUL Application Withdrawn 4 June 1981

Shopping Precinct Stage II.

TM/81/10242/FUL Application Withdrawn 4 June 1981

Shopping Precinct, Stage 1 incorporating restaurant.

TM/88/11739/LBC grant with conditions 3 June 1988

Alterations to enable change of use of part of first floor restaurant to 2 no. guest rooms.

TM/88/11740/FUL grant with conditions 3 June 1988

Change of use of part of first floor restaurant to 2 no. guest rooms.

TM/89/11991/LBC grant with conditions 10 May 1989

Listed Building Application: Erection of conservatory at 1st floor level.

TM/89/12006/FUL grant with conditions 8 May 1989

Erection of conservatory at 1st floor level.

TM/97/01359/FL Grant With Conditions 23 January 1998

retention of 3 wrought iron gates and associated gate supports

TM/03/02278/TNCA No Objection 26 August 2003

To top to a height of approx. 3.8m, 2 no. multi trunked Sycamore trees and to lop side and upper branches of 1 no. Ornamental Cherry.

TM/04/03715/LB Grant With Conditions 10 December 2004

Listed Building Application: Internal and external alterations

TM/05/03099/FL Approved 8 October 2008

Installation of two air conditioning units, replacement extraction flue and two metre high bamboo screen to the rear terrace

TM/05/03101/LB Approved 8 October 2008

Listed Building Application: Installation of two air conditioning units and replacement extraction flue and two menu boards with internal static illumination and two metre high bamboo cane screen to the rear terrace

TM/05/03103/AT Approved 20 August 2007

Two wall mounted illuminated menu boards and freestanding illuminated sign

TM/05/03499/LRD Approved 20 August 2007

Details of floodlighting submitted pursuant to condition 1 of consent reference TM/04/03715/LB: Listed Building Application for internal and external alterations

TM/06/02612/FL Approved 21 December 2007

Change of use of first floor accommodation to restaurant and pre-drinks area

TM/09/00381/FL Approved 19 July 2011

Change of use of first floor accommodation to restaurant and pre-drinks area - temporary permission already approved under TM/06/02612/FL

TM/11/00360/TPO Approved

31 March 2011

Cherry tree - cut back overhang from footpath leaving the tree balanced.  
Sycamore trees reduce to approx. 15 ft.

**5. Consultees:**

5.1 PC: Raise no objections.

5.2 KCC Public Rights of Way: No objections.

5.3 EA: The landowner's work has improved the condition of the river banks which had been causing concern. We do not think there will be any adverse impact on flood flows, nor loss of flood storage.

5.4 Private Reps: 42 directly consulted + site and press notice; 23 letters of objection received raising the following issues:

- Potential noise and disturbance from opening hours.
- Noise and disturbance from the use of the first floor sound transmission.
- Noise and disturbance from customers standing in the street late at night talking and taxis coming and going.
- Nuisance from smokers being in the garden area.
- Noise disturbance and overlooking from first floor terrace.
- The work is retrospective.
- Harm to the Conservation Area from the removal of trees and shrubs.
- Impact upon land drainage.
- Adverse impact upon the setting of the Conservation Area with customers sitting in the garden area.
- No music should be allowed externally.
- Flood lights have been left on externally all night causing disturbance and nuisance.
- Concern with regard to refuse storage being in close proximity to neighbours, attracting vermin and causing odour and causing noise from crashing bottles.
- Concern with regard to noise from the use of the bins late at night and early in the morning.

- Lack of car parking in Aylesford village.
- Concern that the Council is not being pro-active in preventing the use.
- The development would contravene the Human Rights of the neighbours.
- For various reasons the application is inaccurate.
- The sound insulation which has been installed is inadequate and has no evidence that it would provide sound proofing. Further, a 1.5m area of wall has not been sound proofed and this is situated where there is mechanical equipment.
- Blocking kitchen doors has increased traffic movement from the kitchen along the boundary with number 11 which causes noise and disturbance.
- The applicant has carried out the works in the belief that once built the council would be disinclined to refuse it.
- There should be a restriction on the number of chairs and tables outside and the number of people using the space.
- There should be a restriction on music and electrical/mechanical/audio devices being mounted on the party wall.
- Taxis should be instructed to collect people from the rear car park.
- Concern with regard to smoking close to the boundaries with neighbouring properties.
- There should be structures/methods to prevent customers looking over the boundary fence into the garden of number 11.
- All electrical equipment/lighting externally should be switched off by 11pm.
- Concern with regard to the lack of clarity on the events which may occur at the premises.
- A fence should be constructed on the boundary with nos. 5, 5A and 5B High Street.
- Traders visiting the site block the access to the neighbouring properties.
- The development would double the amount of usable restaurant space, significantly increasing the amount of customers visiting the premises.

**6. Determining Issues:**

- 6.1 The application property was originally granted planning permission in 1980 for the whole building and land to be used as a restaurant. Following investigations into alleged unauthorised use of the garden and the first floor of the buildings, which led in part to this application, it has to be concluded that the 1980 permission conferred rights to use the garden areas in association with the restaurant. The planning permission granted has no hours of use conditions; however, the site was subject to a legal agreement which stated that the premises could not be open later than 12am (midnight) on any day except Bank Holidays when opening hours extend to 2am, or any other date which had been approved in writing by the Local Planning Authority. That agreement remains in force. In 1988 a subsequent planning permission was granted to allow the use of the first floor as guest accommodation and no longer as a restaurant use. In 2006, and again in 2009, temporary planning permission was granted for the first floor to be used as a restaurant. This latter permission has now lapsed and the use rights of the first floor returned to guest accommodation. The applicant is now seeking permission to re-establish the restaurant use as in the 1980 permission.
- 6.2 The Hengist is an established restaurant (albeit with new owners) situated on the High Street in the centre of Aylesford village. Aylesford High Street is a mix of residential and commercial premises which creates a rich blend of uses, contributing to the vitality of the village centre. Government guidance contained within the NPPF seeks Local Planning Authorities to be supportive of economic growth, to operate to encourage and not act as an impediment to sustainable growth. This needs to be balanced against the need to ensure that a development would not cause irrevocable harm to the environment and to protect the social welfare of existing and future residents.
- 6.3 The proposed development would allow for the continued use of a sustainably located established restaurant in the heart of the village centre, essentially consistent with the original 1980 permission. The continued use of these premises positively contributes to the character and economic vitality of Aylesford High Street. The proposed development would therefore would be acceptable in principle, subject to the detailed environmental and social sustainability issues being fully considered.
- 6.4 Policies CP1 and CP24 of the TMBCS 2007 and policy SQ1 of the MDEDPD (2010) require high quality design which reflects the local distinctiveness of the area and respect the site and its surroundings in terms of materials, siting, character and appearance. The site is located within a Conservation Area and the building itself is Grade II Listed. Any development therefore needs to ensure that no adverse impact is caused to the character and appearance of this sensitive setting.



- 6.5 There have been minimal changes to the external appearance of the existing building, with only a replacement door installed in the rear elevation of the building. This would have a negligible impact upon the overall appearance of the building and would not cause harm to the visual amenity of the locality.
- 6.6 The development has involved a re-design of the original garden area including the extension and re-laying of a patio area and the reinforcement of the culvert which runs through the centre of the site. In addition, new fencing and walling have been installed around the site boundary with the footway, and roping and barrels are proposed to be installed along the edge of the culvert. These works have generally improved the appearance of the garden area, enhancing the setting of the rear of the Listed Building and positively contributing to the character of the conservation area.
- 6.7 The applicants have also installed a wooden bin store within the garden area on the opposite side of the footpath to the restaurant building. The store allows the necessary commercial bins to be screened from public view which represents a visual improvement upon the lawful situation whereby the bins could be openly sited in the same location.
- 6.8 In light of the above, the proposed development has improved the appearance of the rear of the Hengist, enhancing the setting of the village conservation area and Grade II Listed Building.
- 6.9 A key concern of the local residents relates to the impact of the use upon their residential amenity. The issues raised include noise and disturbance caused from the proposed opening hours, the use of the garden area, the potential noise caused from live bands, the position of the bin store in relation to neighbouring residential properties and noise transmission through the walls at first floor level.
- 6.10 Given the history of the site as a whole, going back to 1980, there is no practical opportunity to control hours of operation under the planning regime, other than through the 1980 legal agreement or, in respect of the first floor, the 2006 consent. The context of the site has changed since 1980 in that there are new dwellings nearby and a dwelling, previously directly associated with the restaurant, which is now occupied independently. This does not, of course, affect the Council's other powers that may exist under Licencing or Environmental Protection controls, but these are quite separate from planning decisions.
- 6.11 Aylesford village is an historic village with a tight knit urban grain and, as stated above, the High Street is a mix of commercial and residential properties. The Hengist sits in between residential dwellings, attached to number 11 to the west and separated from number 5A to the east by a small pedestrian passageway. Residential neighbours have gardens which adjoin to the garden of The Hengist.

- 6.12 The restaurant has operated since 1980 with opening times restricted on the ground floor to 12 midnight except on Bank Holidays when the restaurant is permitted to be open until 2am. In 2009, when the most recent temporary planning permission was granted for the use of the first floor, the hours of use were restricted to 10am - 1am Monday to Friday, 10am – 2am on Saturdays and 10am - 9pm Sundays and Bank Holidays. With the first floor level terrace area to the rear being allowed to open 09:00 -21:00 or dusk, whichever is earlier, on any day, with the doors kept closed at all times. The permission required that heavy drapes and carpets be installed at first floor level in order to prevent noise transmission to the adjoining neighbour. No noise complaint has been received by the Council since 2009 associated with the first floor use and therefore it can be concluded that these hours of use and noise attenuation measures prevented, in the past, harm being caused to residential amenity.
- 6.13 The site is situated in the centre of the village; some activity associated with commercial uses in the evening periods enriches the vitality of such places. However, this needs to be at an appropriate level so as to not cause detriment to residential neighbours through undue noise and disturbance.
- 6.14 The patio area to the rear of the restaurant is large in size and has the potential to host a significant amount of covers. The hours of use seek permission for food to be served outside until midnight Monday - Thursday and on Bank Holidays. Due to the proximity of residential neighbours, especially in light of the changes in context described in 6.9 above, these hours of use would seem to be excessive and would result in undue noise and disturbance during the late evening and night time period. It is considered reasonable to prevent the use of the ground floor external area to 11pm to prevent adverse impacts. The first floor terrace area, due to its elevated position and proximity to the neighbour's bedroom, would be restricted to 9pm as there is a greater risk of disturbance being caused if used later into the evening time.
- 6.15 The application seeks permission for the use of the whole of the internal area of The Hengist until midnight Monday to Thursday and on Bank Holidays, the downstairs until 1am on Friday and Saturday and 10pm on Sunday with the use of the upstairs restricted to midnight on Friday and Saturday and 9pm on Sunday. The hours of use do not appear unreasonable when considered in relation to the lawful hours of use dating from 1980 and those granted for the first floor in 2006 and 2009.
- 6.16 The neighbours have requested that a new screen be erected along the boundary of the upstairs terrace area to prevent overlooking from occurring to number 11. In light of the previous planning condition and the proximity of the development to the neighbouring property, I consider that this is necessary in order to protect residential amenity and may be controlled by condition.

- 6.17 The applicants have carried out works internally at first floor level in order to protect the adjoining neighbour from noise transfer between the restaurant and the bedroom of number 11. This sound insulation replaces the heavy curtains and carpeting required by the 2006 and 2009 temporary planning permissions for the first floor. The sound insulation has retained the carpet required by the previous permission and has an underlay which dulls the sound of floorboard movement. Further, the walls of the first floor dining room have been lined along the party wall which offers enhanced attenuation compared to the hanging of heavy curtains. It is considered that the internal works that have been carried out to prevent noise and disturbance to the attached neighbour are a significant improvement from the previously approved attenuation measures. Although the insulation does not completely prevent noise transmission it substantially reduces the impact to acceptable levels. This, along with the restricted hours of use would prevent harm from being caused to the residential amenity of the adjoining neighbour.
- 6.18 Concern has been raised by neighbours with regard to customers leaving the premises causing noise and disturbance by standing in the street talking and by taxis pulling up to collect people. As the road and footway are a public highway the Council is not able to prevent this from occurring. As such, to limit the hours of use of the restaurant for this reason would not be reasonable. What is able to be controlled are the hours of deliveries and the hours of disposal of rubbish as they would occur within the application site and have the potential to cause significant noise disturbance in the early morning which would be harmful to residential amenity. An appropriate condition could be attached to a planning permission.
- 6.19 The application site has no off road car parking provision associated with it, rather customers and indeed local residents within the village centre have to use the public car parks to the rear of the site. There is relatively heavy demand on the car parks due to the amount of residential properties also using these facilities. Whilst this is the case, the restaurant previously operated over two floors without any issues relating to inadequate parking provision. The proposed development would not place significant additional demand on village car parking.
- 6.20 The application site is located in flood zones 2 and 3 and is subject to tidal flooding. The development has resulted in the paving over of some of the garden area which decreases the permeability of the garden area. However, these works have been coupled with improvements to the culvert which runs through the centre of the site including cleaning it of litter and re-enforcing the sides. The EA has stated that they do not consider that the works will have an adverse impact on flood flows, or result in a loss of flood storage. Therefore it is considered that the development would not have a detrimental impact upon flood risk locally.
- 6.21 In light of the above assessment, the requirements of the NPPF, policies CP1 and CP24 of the TMBCS and policies SQ1 and SQ8 of the MDE DPD, I conclude that the proposal is acceptable subject to the imposition of conditions and possibly also the signing of a legal agreement restricting the use.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Design and Access Statement dated 06.02.2014, Flood Risk Assessment dated 17.02.2014, Drawing 014.1578-006 P1 dated 17.02.2014, Existing + Proposed Plans and Elevations 014.1578-004 PI dated 06.02.2014, Existing Site Layout 014.1578-002 P1 dated 06.02.2014, Location Plan 014.1578-001 P1 dated 06.02.2014, Other PREMISES LICENCE dated 10.03.2014, Other HOURS OF USE dated 04.04.2014, Site Plan 014.1578-005 P2 proposed dated 04.04.2014, Proposed Floor Plans 014.1578-007 P1 dated 04.04.2014, Floor Plan 014.1578-003 P2 dated 04.04.2014, Drawing 014.1578-008 P1 dated 04.04.2014, Drawing 014.1578-009 P1 dated 10.04.14 and
- subject to a suitable legal mechanism (condition or legal undertaking) to provide control over the hours of use of the garden area as described in paragraph 6.13 and
  - subject to the following:

### **Conditions / Reasons**

- 1 No external lighting shall be installed on the site without the prior written consent of the Local Planning Authority.  
  
Reason: In the interests of amenity of adjoining residents.
- 2 The acoustic protection measures as detailed in [documents to be specified] shall be retained and maintained in perpetuity and shall not be removed or varied unless previously agreed in writing by the Local Planning Authority. (N.B. the full detail of this condition will be set out in a Supplementary Report.)  
  
Reason: In the interests of amenity of adjoining residents.
- 3 The playing of live and amplified music shall only take place within the ground floor of the restaurant building with the doors and windows kept closed. No music shall be played in the external areas or first floor of the premises other than background music, and the playing of such music shall cease by 23:00 daily.  
  
Background music means recorded music played at a low level which is not the main focus of patrons and enables normal conversation to take place unhindered or unaffected by the playing of music.  
  
Reason: To safeguard the amenities of nearby residential properties and the local aural environment.
- 4 No refuse shall be emptied into the bins within the designated refuse storage area between the hours of 22:00 and 10:00 daily.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 5 There shall be no deliveries before 0730 or after 1830 hours Mondays to Saturdays, before 0900 or after 1400 hours on Sundays or Bank or Public Holidays.

Reason: To protect the residential amenity of the locality.

- 6 Within 1 month from the date of this permission, details of a privacy screen to be positioned on the first floor terrace on the boundary with number 11 High Street, shall be submitted to and approved in writing by the Local Planning Authority. The approved screen shall subsequently be installed on the site within 1 month of the date of the approval and shall be retained in perpetuity.

Reason: In the interests of amenity of adjoining neighbours.

Contact: Kathryn Holland

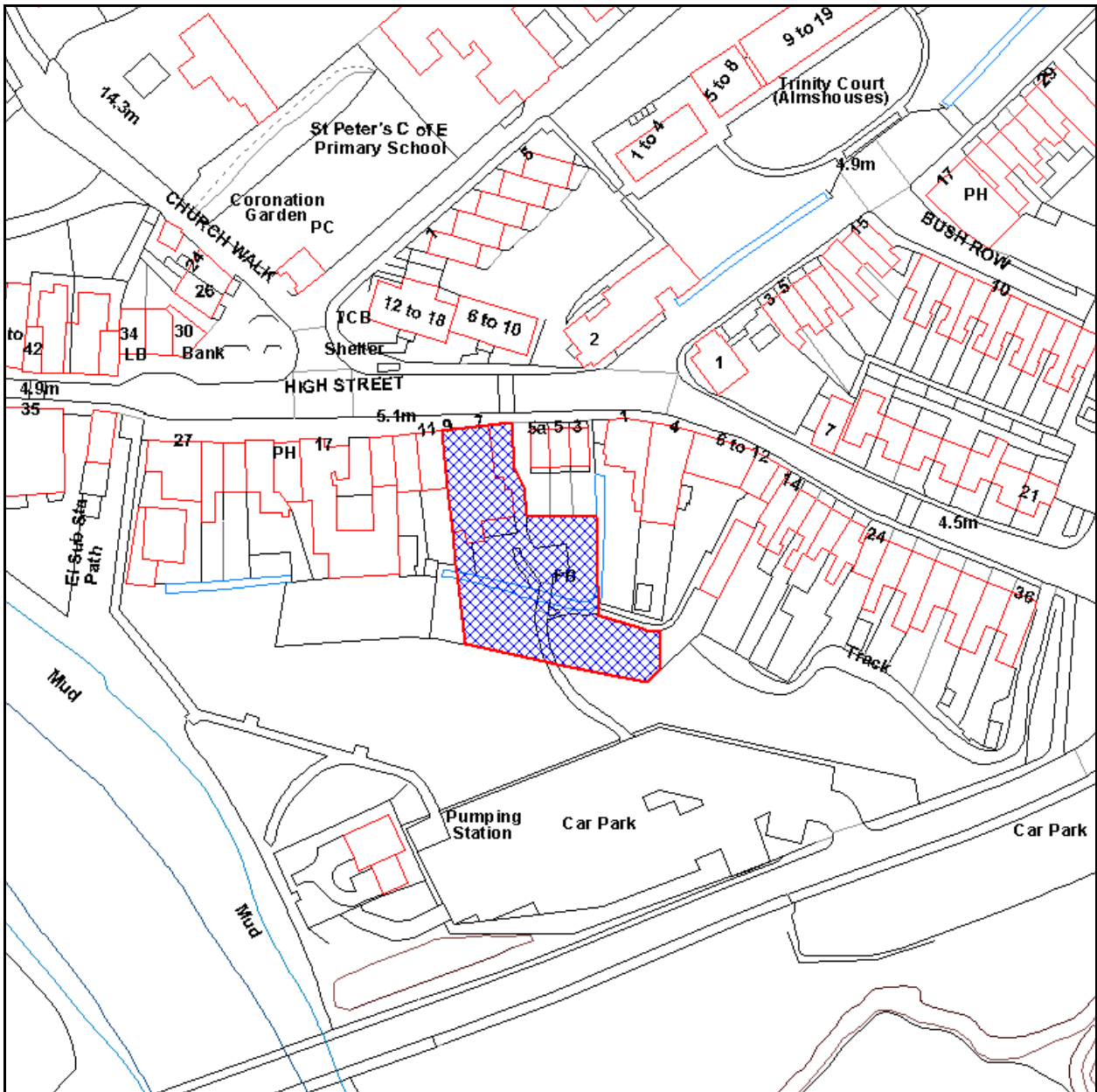
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**TM/14/00459/FL**

7 - 9 High Street Aylesford Kent ME20 7AY

Installation of replacement and new external patio area, and change of use of first floor and external area to restaurant (A3) use. (Part retrospective)

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**Aylesford**  
Aylesford

**572214 158029 8 February 2014**

**TM/13/03491/FL**

Proposal: Installation of a mobile fish van in car park (retrospective)  
Location: Holtwood Farm Shop 365 London Road Aylesford Kent ME20  
7QA  
Applicant: Chummys Ltd

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## **1. Description:**

- 1.1 Full planning permission is sought retrospectively for the stationing of a fish sales van on the paved footpath and within one car parking space to the front of the existing farm shop. The development proposes the use of the van for A1 (retail) purposes only which allows for the purchase of food to be consumed off the premises. The A1 use also does not allow for any cooking to occur from the van.
- 1.2 The fish van measures 4m in width x 2.5m in depth x 2.4m in height and sits on the paved area to the front of the farm shop. The van has an awning which opens over the first car parking space closest to the shop.
- 1.3 The fish sales van was the subject of an enforcement report to APC3 in February 2014 and this application, to a degree, arise from the circumstances surrounding that report.

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

- 2.1 The application is being reported to the Planning Committee at the request of the Ward Member, Cllr Balcombe, and also in light of the level of public interest.

## **3. The Site:**

- 3.1 The application site is situated on the front forecourt and within the parking area of a well-established farm shop. The farm shop site is populated by a modern shop building which sits roughly central on the plot, a rear external sales area to the south east and a parking area to the front (north west) with 19 car parking spaces. The site is accessed from the A20 to the north by way of an in-out road system. The immediate locality is primarily residential; however, Aylesford Retail Park is situated approximately 100 metres to the east. The local landscape is of no special designations.

## **4. Planning History:**

TM/58/10442/OLD Refuse 1 January 1958

Outline Application for residential development

TM/59/10526/OLD grant with conditions 31 December 1959

Outline application for Extension to Retail Sales.

TM/60/10301/OLD grant with conditions 8 August 1960

Alterations and additions to shop and store

TM/60/10677/OLD grant with conditions 24 March 1960

Alterations and continuation of use as retail sale and storage.

TM/69/10916/OLD grant with conditions 19 March 1969

Erection of a canopy

TM/75/10447/FUL grant with conditions 3 December 1975

Improvement of both access to A20, provision of better car parking facilities and the levelling and tidying of the whole of the site.

TM/79/10606/FUL grant with conditions 30 October 1979

Temporary siting of caravan.

TM/84/10082/FUL Refuse 27 July 1984

Single storey extension to farm shop, to form butcher's shop, cold store and preparation area and carry out alterations to existing front elevation.

TM/85/11304/FUL Grant 8 July 1985

Retrospective application to erect boundary fence.

TM/86/11397/FUL Refuse 13 October 1986

Single storey extension to form storage area.

TM/90/10336/OUT Application Withdrawn 1 August 1990

Outline application for new access, 2000 sq. feet farm shop, public open space, and 30 No. dwellings and associated garaging/car parking.

TM/90/11193/OUT Application Withdrawn 7 September 1990

Outline application for formation of new access to London Road and development of the site for residential purposes.

TM/91/10218/FUL grant with conditions 9 July 1991

Demolition of existing separate buildings and replacement with one new building of same total area and new external works.

TM/91/10703/OUT Application Withdrawn 12 March 1991

Outline application for the demolition of existing separate buildings and siting and means of access to single building of same total area.

TM/13/03356/AT Refuse 10 January 2014

Advertisement consent for 3no. fascia signs

13/00305/WORKM Enforcement notice served 24 February 2014

The material change of use of land from use within Use Class A1 to a mixed use comprising elements falling within Use Class A1 & A5 of the Town and Country Planning (Use Classes) Order 1987 (as amended), being a use for the sale of hot food for consumption off the premises, by the stationing of a mobile catering unit on part of the site.

## **5. Consultees:**

5.1 PC: Strong objection to this application. It is too close to neighbouring properties causing strong odours and loud noise from customers. We believe that residents have lodged strong objections to the application.

5.2 KCC Highways: In order for this proposal to attract a highway objection a demonstrable severe road safety impact would, under the new National Planning Policy Framework, need to be apparent. For a retail floor area of 300m<sup>2</sup> the County Council's parking standards require a maximum of 17 car parking spaces to be provided and the Holtwood Farm Shop's provision is in line with that standard.

Comments regarding the popularity of the fish stall could in many ways be a source for concern and, whilst it is considered that this shop is nearing the limits of operational capacity, it is also considered that a limited amount of appropriate roadside parking on the A20 is available and acceptable. It is also considered that any additional parking in Russett Close is not a discernible road safety issue but more one of amenity.

On balance, it is considered that with appropriate conditions regarding the size of the mobile unit and possibly a temporary permission, allowing for a review, it is considered that the Highway Authority would not be able to sustain an objection to the application.

5.3 Private Reps (including responses to site and press notices): 23:171S/0X/33R + 1 petition in support and 1 petition objecting to the proposal.

171 letters of support and a petition making the following comments:

- Signs should be acceptable due to their location close to Aylesford Retail Park.
- Fish stall does not remove parking area.
- The business has 5\* for cleanliness.
- The business serves the local and wider community.
- Chummy's attracts people to the farm shop.
- Government policy is to support small businesses.
- The Council is persecuting the owner of the farm shop and trying to drive him out of business.
- Noise has not increased - the site is already situated in a noisy area.
- Chummy's do not cook anymore therefore there is no risk of fire/explosion.
- Commercial vehicles do not park on Russett Close.
- There are no parking restrictions on Russett Close.
- Residential development is out of character with the area as the farm shop was established before Russett Close was built.
- No issues of waste disposal.

33 letters of objection and a petition making the following comments:

- Smells in neighbours' back gardens.
- Loss of parking to serve other businesses on the site.
- Russett Close is being used as overflow car parking.
- The appearance is out of character with the local area.
- Waste issues.

- Activity is inappropriate and not in keeping with the current trading activity or the original intent when the site was established.
- Fish bar has been allowed to operate for a long time without approval.
- Concern with regard to the amount of signage.
- The development has resulted in an increase in seagulls.
- Highway safety issues associated with vehicles backing up onto the A20 to access the site.
- Suggest van is located at Quarry Wood.
- Fire/explosion risk from van.
- Development is not sympathetic to the ethos of the farm shop selling organic produce, plants and animal foodstuffs.
- HGV parking on the A20 has increased since the van was installed.
- Risk of vermin.
- Impact upon property value.
- Concern with regard to the 7 day a week use and the hours of use.
- Bad language of customers using the food van.
- Letters of support have been provided by people who do not live in the local area - concerns of local residents should be given more weight.
- The Council has a debt to the local residents to ensure their residential amenity as the Council permitted housing in Russett Close adjacent to the farm shop.

## **6. Determining Issues:**

- 6.1 The development requires the benefit of planning permission for two reasons. Firstly, the fish van, whilst being described as mobile, is actually permanently stationed on the site; it is never moved from the position indicated on the proposed site plan. By virtue of this permanence and the lack of mobility, the stationing of the van on the land has resulted in the creation of a permanent use of land and stationing of a structure. Secondly, the awning of the fish van, when open, projects across one of the parking spaces serving Holtwood Farm Shop. These parking spaces are controlled by planning condition on the 1990 planning permission which prevents their loss without permission being granted by the Council.

- 6.2 In February 2014 an enforcement notice was served against the material change of use of the land from a solely A1 (retail) use class to a mixed use comprising both A1 in the form of the existing shop and A5 (hot food takeaway), by the stationing of a mobile catering unit, this current unit, on part of the site. The unit supplied fresh fish, cold cooked fish as well as hot cooked fish. Since the time of the service of the enforcement notice, the applicant has agreed that no cooking will take place at the site. All food being sold, whether or not previously cooked, is cold and consumed off the premises which changes the use class of the fish van from A5, as identified in the enforcement notice, to A1 (retail) in line with the wider A1 use of the planning unit. The cessation of the on-site cooking is key in this aspect of the use of the site.
- 6.3 The NPPF along with policy CP1 of the LDFCS (2007) and policy CC1 of the MDEDPD (2010) place sustainability at the heart of decision making, ensuring that new development does not cause irrevocable harm to the environment and balancing this against the need to support a strong, competitive economy and protect the social welfare of existing and future residents.
- 6.4 Policies CP1 and CP24 of the TMBCS 2007 and policy SQ1 of the MDEDPD (2010) require high quality design which reflects the local distinctiveness of the area and respect the site and its surroundings in terms of materials, siting, character and appearance.
- 6.5 The proposal would allow for the establishment of a new business on an existing retail site adjacent to the A20. The site is easily accessible from nearby residential areas on foot and by cycle and offers the opportunity for linked trips to the farm shop. The development also accords with the thrust of the NPPF which seeks to support economic development in sustainable locations. Providing that the previously problematic issue of cooking can be adequately controlled (see below) then the proposal could, in respect of the site itself, be seen as sustainable.
- 6.6 The fish van is visible from the A20 due to its position to the front of the farm shop. It is, however, set back a considerable distance from the highway, behind the front entrance to the farm shop. This partially screens the van from public view and significantly limits its impact within the street scene. The development is located within an existing retail site which has a significant area of hardstanding and a relatively large retail building. The stationing of the van in this location would not detract from the established character of the retail site or wider visual amenity of the locality.
- 6.7 Development plan policy along with the NPPF requires that all new development does not result in harm to the residential amenities of neighbouring properties in order to allow for environmental and social sustainability.
- 6.8 Neighbouring residents have raised considerable concern with regard to noise, disturbance and odours occurring from the fish van. When the fish van was originally stationed on the site sea food was cooked at the premises and served to

customers. This resulted in cooking smells being transferred into the neighbouring residential gardens. An Enforcement Notice was served to require the removal of the fish van due to the smells from cooking causing unacceptable harm to the residential amenity of the neighbours. Since the time of the submission of the application the applicant has confirmed that they no longer cook food at the site. This largely prevents any strong odour from occurring and limits the impact upon residential amenity.

- 6.9 A further local concern related to noise and disturbance from customers of the premises who remain in the car park consuming food purchased from the van. Originally there was a seating area placed in the car parking space in front of the van which encouraged customers to sit and consume food. The applicant also installed a condiments table which encouraged customers to stand and eat. The seating area has already been removed and the applicant has also now agreed that the condiments table will be removed to further dissuade customers from remaining at the site to eat. This would allow the fish van to be used only for A1 (retail) purposes in accordance with the planning permission for Holtwood Farm Shop. As customers would not remain at the site to eat, the amount of noise and disturbance to neighbouring properties would not be considerably more than that caused by the use of the existing farm shop use.
- 6.10 The applicant applied for opening hours of 9am - 6pm, 7 days a week. At present the van is open for business on a Friday, Saturday and Sunday from 10.30am-6.30pm. It would appear reasonable to condition the hours of use to these existing hours in order to prevent unacceptable noise and disturbance being caused to the neighbouring residential properties during the quieter weekend periods.
- 6.11 Policy SQ8 of the MDEDPD states that development will only be permitted where it would not significantly harm highway safety and where traffic generated by the development can be adequately served by the highway network.
- 6.12 The overall site originally had space for 20 cars to park: the development has resulted in the loss of 1 parking space when the fish van is in operation. KCC Highways confirm that the maximum parking standards for the A1 use including the fish van requires the provision of 17 car parking spaces. The development therefore retains sufficient off road car parking space to serve the enlarged retail use.
- 6.13 Neighbours to the site have reported increased parking on Russett Close to the rear and on the A20. Both roads are unrestricted in terms of parking and are able to safely accommodate on road parking without harm being caused to highway safety. It is difficult to identify if any of this parking is directly attributable to this additional facility at the site. Access to the site is provided from an in-out driveway which is situated to the north of the site. Neighbours have advised that they have witnessed vehicles queuing back onto the A20 along the access road which causes harm to highway safety. However, again, it is difficult to identify whether

this is attributable to the use the subject of the application. Vehicle speeds at this section of the A20 are relatively low due to the merging of two lanes into one on the London bound carriageway and vehicles backing up along the access are likely to be a relatively limited occurrence. KCC Highways has stated that it does not consider there to be any adverse highway safety implications as a result of the development; however, it acknowledges that the site is likely to be reaching its maximum capacity. The highways authority therefore suggests that a temporary permission is granted in order to monitor the parking and highway safety implications of the development. This would appear to be reasonable and appropriate in light of neighbours' concerns and would also aid a continuing assessment of the impact of the development upon residential amenity. A temporary period of 1 year is considered to be a suitable period of time for the monitoring to occur.

- 6.14 Letters of objection and support both raise the issues of signs at the premises. These do not form part of the consideration for the current application. Initial steps have already been taken against unauthorised signs and the site owner has been invited to consolidate signage to improve the overall appearance of the site, while maintaining the business presence.
- 6.15 In light of the above assessment, the requirements of the NPPF, policies CP1 and CP24 of the TMBCS and policies SQ1 and SQ8 of the MDE DPD, I conclude that the proposal is acceptable subject to the imposition of conditions restricting the use and limiting it, in the first instance, to 1 year, to enable the use as now configured to be monitored.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Other LETTERHEAD dated 05.12.2013, Location Plan dated 05.12.2013, Block Plan dated 05.12.2013, Email dated 13.01.2014, Notice dated 04.02.2014, Email dated 07.02.2014, Email dated 08.02.2014, Email dated 24.03.2014, subject to the following:

### **Conditions / Reasons**

1. The mobile fish van hereby permitted shall be removed and the use hereby permitted shall be discontinued and the land restored to its former condition on or before 1st May 2015.

Reason: To enable the Local Planning Authority to regulate, monitor and control of the site/building.

2. The premises shall not be open to the public other than between the hours of Friday to Sunday 1030 to 1830.

Reason: To protect the residential amenity of the locality



3. The premises shall be used for a A1 (retail) use and for no other purpose whether or not permitted by Part 3 of Schedule 2 to the General Permitted Development Order 1995 or any provision equivalent to that Part in any statutory instrument amending, revoking and re-enacting that Order.

Reason: In order to enable the Local Planning Authority to regulate and control further development within this site in the interests of the environment

4. No cooking of fish or other food shall occur within the site.

Reason: In the interests of the residential amenity of the neighbouring residential dwellings.

Contact: Kathryn Holland

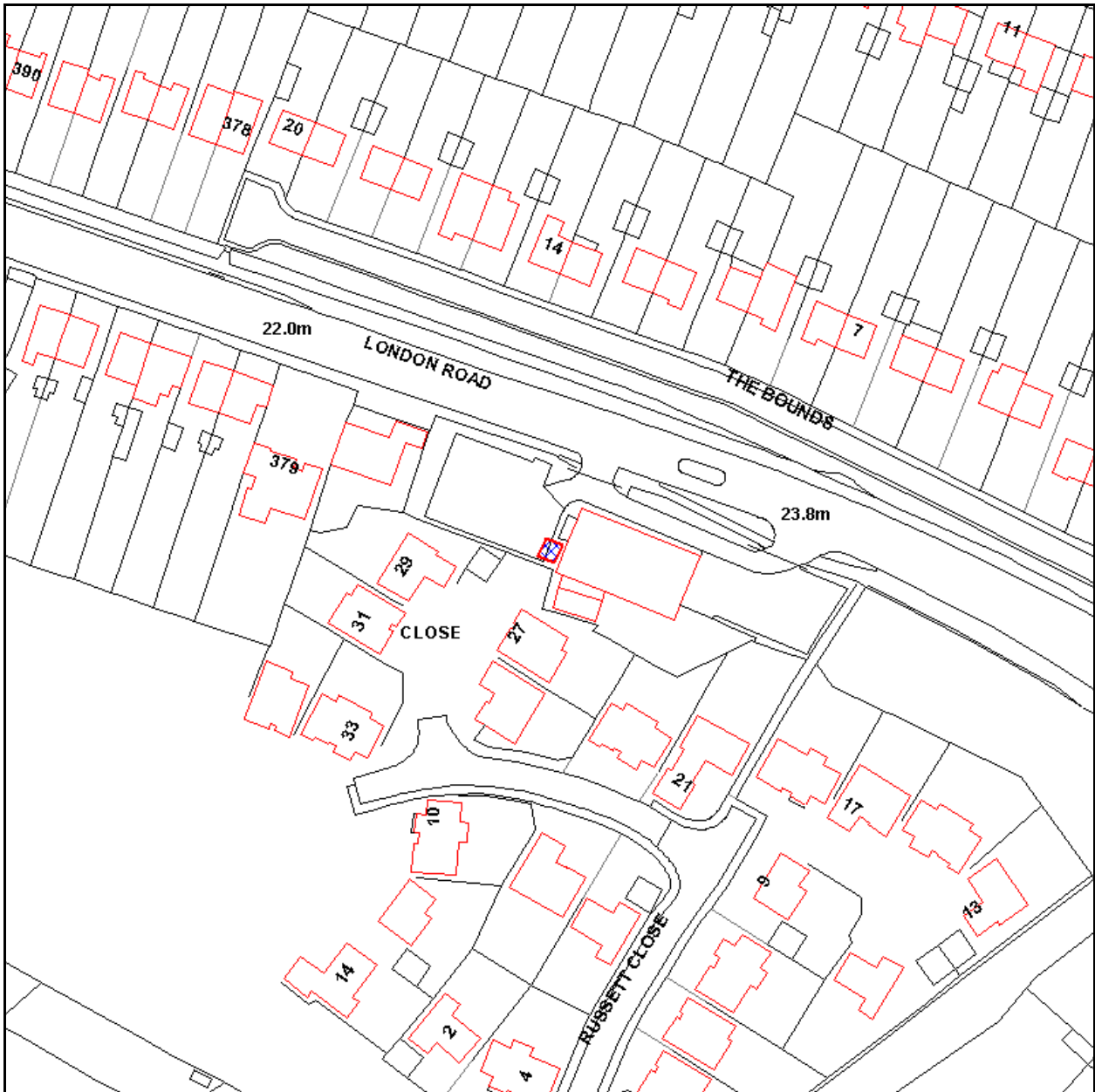
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**TM/13/03491/FL**

Holtwood Farm Shop 365 London Road Aylesford Kent ME20 7QA

Installation of a mobile fish van in car park (retrospective)

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**East Malling & Larkfield**                      **569653 155442**    **12 November 2013**    **TM/13/03492/FL**  
East Malling

Proposal:                      Detached gymnasium and music room for use ancillary to main house  
Location:                      354 Wateringbury Road East Malling West Malling Kent ME19 6JH  
Applicant:                      Mr And Mrs Trevor Binger

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## 1. Description:

- 1.1 The application comprises the erection of single storey outbuilding. The intention is to site the building in the existing rear garden some distance from the dwelling.
- 1.2 The intention is to use a facing brick to match that of the existing dwelling with stained weatherboarding.
- 1.3 The application is described as a gymnasium and music room. The Agent has confirmed by letter received 18.12.13 that the proposed outbuilding will be for the private use of the applicants in pursuit of their hobbies and not for any commercial activities. The proposed building will also be used by the family as a summer house and garden room.
- 1.4 The letter also states that approval has been obtained from Liberty Property Trust UK, Rouse Kent (Residential) Ltd, although this statement has been challenged by a number of residents and Acorn Estate Management. (N.B. Whether either LPT or RK(R)L, or indeed any other body, has or has not given their approval is *not* material to this planning decision.)

## 2. Reason for reporting to Committee:

- 2.1 At the request of Councillor Woodger and in light of public interest.

## 3. The Site:

- 3.1 The site lies in the open countryside to the south of East Malling village and to the east of Kings Hill. The site comprises part of a former farm complex known as Heath Farm. The development is accessed from Wateringbury Road. The dwelling is detached with a large rear garden.

## 4. Planning History:

TM/77/10405/OLD    grant with conditions                      22 September 1977

Erection of 2 poles to support a transformer within a tolerance of 3m as indicated on plan M/2542/TC

TM/02/03429/OAEA Approved 28 October 2004

Outline Application: Additional 92,900 square metres B1 Business floorspace, residential development, public open space, sports, leisure and recreation facilities and associated infrastructure at Kings Hill and adjoining land at Heath Farm, East Malling

TM/05/00163/FL Approved 6 June 2005

Variation of conditions 2 and 6 of planning application no. TM/02/03429/OAEA (outline application: Additional 92,900 square metres B1 Business floorspace, residential development, public open space, sports, leisure and recreation facilities and associated infrastructure at Kings Hill and adjoining land at Heath Farm, East Malling) to enable the submission of details and implementations of the development to be undertaken in phases

TM/08/00950/FL Approved 15 September 2008

Development of a total of eight residential units, including redevelopment of existing units and partial variation of condition 4 of planning permission TM/05/00163/OA to enable 8no. residential units within Heath Farm only to be accessed from Wateringbury Road

TM/09/03081/FL Approved 11 May 2010

Amendments to planning application TM/08/00950/FL to use existing buildings for garaging, relocation of new garages and one additional garage with associated minor amendments to layout

TM/10/00854/RD Approved 12 November 2010

Details pursuant to conditions 8 (contamination); 9 (landscaping); 10 (access); and 11 (closure of access) of planning permission TM/08/00950/FL: Development of a total of eight residential units, including redevelopment of existing units and partial variation of condition 4 of planning permission TM/05/00163/OA to enable 8no. residential units within Heath Farm only to be accessed from Wateringbury Road

TM/10/03023/RD Approved 17 December 2010

Details of the implementation of the remediation scheme and certificate of completion submitted pursuant to parts c + d of condition 8 of planning permission TM/08/00950/FL (development of a total of eight residential units, including redevelopment of existing units and partial variation of condition 4 of planning permission TM/05/00163/OA to enable 8no. residential units within Heath Farm only to be accessed from Wateringbury Road)

**5. Consultees:**

5.1 East Malling & Larkfield PC:

5.1.1 Comments received 02.12.13. No objection provided use for the purposes shown.

5.1.2 Comments received 17.02.14. It is understood that there are covenants with Liberty Trust and the Management Company requiring consent for any new building – we assume this is not a direct planning issue. The building is also a summerhouse and garden room in addition to a gymnasium and music room. A dance studio is also mentioned so noise issues may need consideration.

5.1.3 Comments received 13.03.14. The Parish Council notes the further information provided and has become increasingly concerned about the size of the building as well as the precise use involved. It is noted it is implied the size of the building is in part to assist in obscuring the caravan storage site to the south but it is felt this could be equally achieved by landscaping and tree planting. The Parish Council has no objection to a summer house within the plot provided its use is ancillary to the main dwelling and its use is strictly limited so no residential use is established. If used for musical purposes it may need sound proofing.

5.2 Private Reps: 11/1X/9R/0S + site notice.

11 Letters from 6 residents raising the following objections:

- I have no objection to the proposed construction but have informed the applicant that vehicular access to the building site via my property will not be possible.
- Planning conditions were implemented by way of a legal covenant applicable to all residents in the development. Permission has not been obtained from Liberty/Hillreed Homes.
- The applicant has not discussed his proposals with all residents – it is assumed that agreement will be sought from all residents in line with planning and covenant regulations.
- The original development/conversion required the footprint to be contained within 1011m<sup>2</sup> to reflect the original farm buildings, the buildings located to mirror the original farm yard. The development has exceeded this footprint and this leaves no room for any new buildings. Class E permitted development rights were removed in 2008 to protect the rural surroundings. This means the Council will be likely to view any further development as harmful.

- Concern about the proposed use of the building. If approved the planning permission must be conditioned to limit the use of the building to ancillary to residential.
- The 'bungalow' size is intended for eventual change of use to residential as a separate dwelling. Not opposed to a traditional shed/outbuilding but the proposal is a permanent structure almost larger than the existing house.
- The revised plans do not greatly differ – the proposed building is still extremely large for a countryside development. Details are provided of the floor area of the existing dwellings ranging from 1,475 sqft to 3,007 sqft – the proposed outbuilding being 1,140 sqft. The scale and bulk of the building is contrary to CP14.
- Access via the caravan park to the rear of the site will be difficult without further damage/removal of trees and fencing and contravention of the covenants.
- The boundary trees were to be maintained and replaced if damaged. If the boundary tree line had not been thinned and lower branches removed I would not be able to view the proposal. Concern that the site has been cleared in advance of the planning permission and trees have been unnecessarily removed and/or pollarded.
- The internal roadway to the property is small and windy and will not support large vehicle access – the dust cart can only access as far as the first bend. The access is privately owned. No objection in principle but the narrow driveway and entrance gates cannot withstand construction traffic. The site cannot accommodate construction traffic passing through the development.

5.3 Comments have also been received from the following:

5.3.1 Acorn Estate Management has commented on behalf of Hillreed Homes Ltd who were the original developers. Objection is raised on the basis that the application is not compliant with the applicants' contractual obligation in obtaining approval from Hillreed Homes. Details are provided of the Restrictive Covenant which relates to both the erection of outbuildings and removal or pollarding of trees.

5.3.2 East Malling Conservation Group questions whether the proposal breaches the original idea of restricting development to the farm building footprint – the basis on which the original development was permitted. The building appears particularly large for its designated use although the agent has confirmed it to be for private use. However, if approved a condition should be attached to prohibit residential and/or commercial use to avoid 'back garden' development.



**6. Determining Issues:**

- 6.1 The redevelopment of Heath Farm formed part of the outline approval for the Phase 2 Kings Hill development granted permission in 2004 and 2005. The Supporting Statement submitted as part of TM/02/03429/OA makes specific reference to the re-use of the Heath Farm oast houses and farm house complex. The Statement proposes eight residential units not exceeding the existing farm complex footprint of 1,011m<sup>2</sup>.
- 6.2 An alternative planning permission was subsequently approved in 2008. That application also sought to permit access onto Wateringbury Road. Planning permission was again granted in 2009 for an amended scheme which permitted the inclusion of one additional garage. That application also removed any permitted development rights for the erection of further outbuildings.
- 6.3 The redevelopment of Heath Farm as envisaged in 2002 sought to provide eight residential units without increasing the existing footprint of the original farm buildings. This was considered important in order to retain the layout and character of the original farm complex, and minimise any adverse impact on the wider countryside. The importance of retaining the character of the complex and minimising any adverse impact on the nature of the countryside remains the key determining factors in assessing the current application.
- 6.4 The redevelopment of Heath Farm predates Policy DC1 of the MDEDPD 2010; this policy relates to the re-use of existing rural buildings. Section 3 makes specific reference to subsequent proposals relating to sites where rural buildings have been converted. Section 3 states that permission to erect ancillary buildings will not normally be granted. The application is therefore, in principle, contrary to this policy. I am aware of paragraph 28 of the NPPF which seeks to support sustainable growth in rural areas, however this relates to support for the rural economy rather than the provision of domestic outbuildings.
- 6.5 I recognise the aims of the original planning permission and the requirements of Policy DC1. The original consent and removal of permitted development rights was not intended to preclude all further development at Heath Farm but to ensure that any additional development could be considered by the Council.
- 6.6 The site lies within the open countryside. Policy CP14 of the TMBCS 2007 seeks to restrict development in the countryside. However Section (b) states that an appropriate extension to an existing dwelling can be acceptable. It is therefore necessary to ascertain whether the proposed outbuilding is appropriate to its setting. Similarly paragraph 58 of the NPPF requires development to function well and add to the overall quality of the area.

- 6.7 This is echoed in Policy CP24 of the TMBCS 2007. This Policy seeks to ensure that all development is well designed and respects the site and its surroundings. This aim is also reflected in paragraph 58 of the NPPF 2012 which seeks to ensure that development will respond to local character and history and reflect the identity of local surroundings.
- 6.8 The proposed outbuilding is 17.4m in length, 6.3m in width with a ridge height of 4.8m. This represents a large structure. It is acknowledged that the application was amended following advice from the case officer. However the amendment relates to an alteration in roof design and a minor reduction in width and ridge height only. The amended scheme does not alter the siting of the proposed outbuilding.
- 6.9 It is acknowledged that the building has been designed, in some respects, to complement the host dwelling and the wider site. The use of a matching facing brick and stained weatherboarding will help to mitigate the impact of the structure. The introduction of a new residential outbuilding structure of this size into the open countryside, however well intrinsically designed, is not one of the classes of development acceptable in terms of CP14 and it would also fail the test in NPPF of respecting the open countryside local character.
- 6.10 The applicant has stated that the siting of the outbuilding has been proposed to shield the view of the adjacent caravan site. In my view this is not an overriding justification for the development. However the proposed siting of the outbuilding, away from the main cluster of dwellings fails to respect the design aims of the original re-development and leads to a dispersed development increasing the impact on the countryside. The farm yard re-development was designed to retain the layout of the original farm complex - the farmhouse and farm buildings being grouped together. The introduction of an additional structure away from the original cluster of buildings fails to reflect the identity of the local surroundings and is therefore contrary to paragraph 58 of the NPPF.
- 6.11 A range of issues have brought to the attention of the Council. However Members will be aware that a number of the objections raised by local residents relate to matters beyond the control of the planning system where they relate to the breach or otherwise of private covenants or reflect upon the consent or otherwise of 3<sup>rd</sup> parties. Such matters are not material planning considerations. The planning issues relevant to the determination of the application relate to the size and location of the proposed outbuilding and its impact in terms of planning considerations.
- 6.12 I concur with the Parish Council and a number of local residents that the erection of small, suitably sited and designed, domestic outbuildings may be acceptable at Heath Farm. This is not such a scheme. The introduction of a structure of this size would have an unacceptably suburbanising impact on the character of the open countryside thereby being contrary to policy CP14/NPPF. The siting of the

proposed outbuilding, being set away from the group of converted farm buildings, would have a negative impact upon the local character and fails to reflect the identity of the local surroundings. I therefore recommend the application is refused.

**7. Recommendation:**

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

- 1 The outbuilding by virtue of its size and siting does not constitute an appropriate extension to an existing dwelling and will result in a negative impact on the character of the open countryside. The application is therefore contrary to Policies CP14 and CP24 of the Tonbridge and Malling Core Strategy 2007 and paragraph 58 of the National Planning Policy Framework 2012.

Contact: Maria Brown

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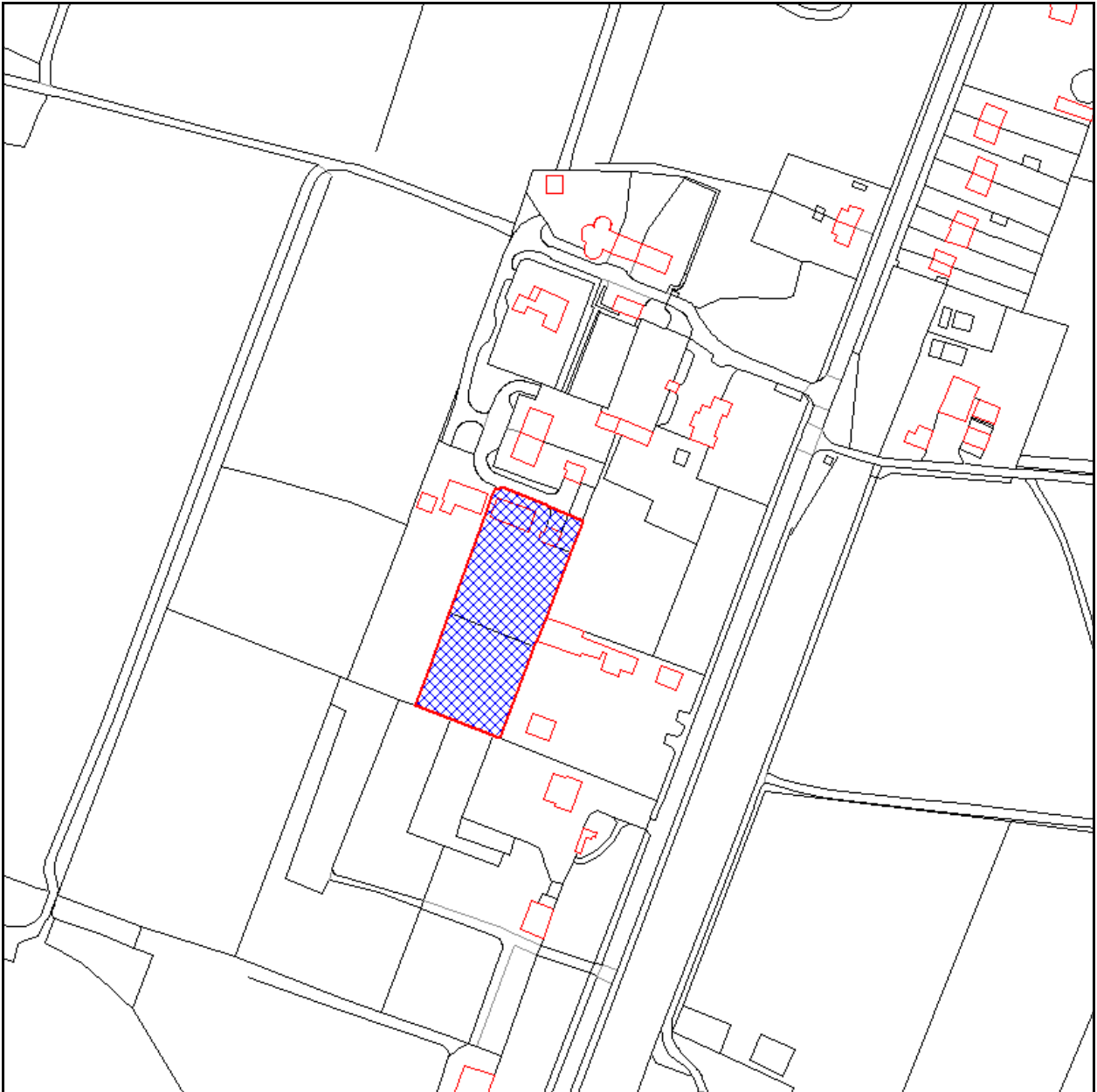
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**TM/13/03492/FL**

354 Wateringbury Road East Malling West Malling Kent ME19 6JH

Detached gymnasium and music room for use ancillary to main house

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