

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

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

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

16 July 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, 24th July, 2014 commencing at 7.30 pm

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 - 10

To confirm as a correct record the Minutes of the meeting of Area 3 Planning Committee held on 1 May 2014

Decisions to be taken by the Committee

4. Development Control 11 - 14
Introduction and Glossary
5. TM/13/03793/FL - 238 Wateringbury Road, East Malling 15 - 22
6. (A) TM/13/03147/OA and (B) TM/13/03275/CNA - Land East of Hermitage Lane, Aylesford 23 - 28
7. Alleged Unauthorised Development 13/00028/WORKM – Ivy House Farm, 42 Chapel Street, East Malling 29 - 36

8. Urgent Items

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

Matters for consideration in Private

PART 2 - PRIVATE

9. 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.

10. Urgent Items

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

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, 1st May, 2014

Present: 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 R Taylor and Cllr Mrs C J Woodger

Councillors N J Heslop and Mrs S Murray were also present pursuant to Council Procedure Rule No 15.21.

An apology for absence was received from Councillor A K Sullivan

PART 1 - PUBLIC

AP3 14/15 DECLARATIONS OF INTEREST

Councillor Mrs Woodger declared an Other Significant Interest in application TM/13/01650/FL (Church of St James, East Malling) on the grounds of being a member of the East Malling Conservation Group, who were speaking on the application, and a member of the congregation of the Church of St James. After making a personal statement she withdrew from the meeting during discussion on this item.

AP3 14/16 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 1 Planning Committee held on Thursday 6 February 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 14/17 DEVELOPMENT CONTROL AND SUPPLEMENTARY REPORTS

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

Members of the public addressed the meeting where the required notice had been given and their comments were taken into account by the

Committee when determining the application. Speakers are listed under the relevant planning application shown below.

AP3 14/18 TM/13/01650/FL - CHURCH OF ST JAMES, CHURCH WALK, EAST MALLING

Erection of a single storey detached building to be used as a parish room at Church of St James, Church Walk, East Malling.

RESOLVED: That the application be

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

(1) Amendment to Condition 9 as set out below:

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 as well as any engineering works within the site such as protection of, levelling or removal and relaying of paving stones, shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details and shall not be varied without the prior written approval of the Local Planning Authority.

If, during development, other works associated with the construction not previously identified is found to be required at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a method statement detailing how these unsuspected works would be carried out. The works shall thereafter be implemented as approved.

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

(2) Addition of Conditions as set out below:

10. No vegetation clearance works or the removal of the yew tree shall be undertaken before a contract for the carrying out of the construction works of the building has been made and all relevant permissions have been granted for the development for which the contract provides. Details of the timing of removal of the tree and vegetation and the commencement of construction of the building shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason: To ensure that any vegetation clearance is carried out as a continuous operation with the development of the site in the interests of visual amenity.

11. Prior to the commencement of development, details of drainage works, designed in accordance with the principles of sustainable urban drainage, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect the locality from increased flood risk.

(3) Addition of Informative:

1. The applicant is advised that, when constructing the ragstone wall, it is the Borough Council's preference that saddleback brick copings are used to match those used elsewhere in the village.

[Speakers: Chairman of East Malling Parish Council (Mr D Thornewell); East Malling Conservation Group (Mr R Brooks) and Mr F Gordon - member of the public and Mrs A Ashbee - applicant]

AP3 14/19 TM/14/00459/FL - 7 - 9 HIGH STREET, AYLESFORD

Installation of replacement and new external patio area, and change of use of first floor and external area to restaurant (A3) use (Part retrospective) at 7 - 9 High Street, Aylesford.

RESOLVED: That the application be

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

(1) 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

(2) The conditions, reasons and informatives set out in the main report of the Director of Planning, Housing and Environmental Health

(3) Amended Conditions 2 and 6, as set out below:

2. Within 1 month from the date of this permission, details of the acoustic protection measures to be installed at first floor level shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be installed on the site within 1 month of the date of approval and shall be retained in perpetuity.

Reason: In the interests of residential amenity.

6. Within 1 month from the date of this permission, details of a privacy screen to be of an imperforate design and not less than 2 metres in height to be positioned on the first floor terrace on the boundary with number 11 High Street, and a 2 metre high imperforate fence at ground floor level 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.

(4) Additional Conditions 7, 8 and 9 as set out below:

7. The existing external lights on the patio shall be switched off between the hours of 23.00 and 08.00 and terrace area between 21.00 and 08.00

Reason: In the interests of amenity of adjoining properties.

8. A suitably worded condition limiting the illumination of the lighting on the outside of the building fronting the High Street to the hours that the restaurant is open for business in accordance with the terms of this permission. Final details to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

9. A suitably worded condition controlling bin storage location and design with the final details to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

Final wordings of Conditions 8 and 9 to be agreed by the Director of Planning, Housing and Environmental Health in liaison with the Director of Central Services.

(5) Addition of Informative:

1. The applicant is asked to consider the possibility of taxi and vehicular collection of patrons being made from the rear car park area, and to discourage congregation of persons outside the front of the property in order to protect the residential amenity of the occupants of the neighbouring dwellings.

[Speakers: Ms A Cain, Mr G Sharpe, Ms A Hazelden, Mrs L Sharpe and Mr M Bowden – members of the public]

AP3 14/20 TM/13/03491/FL - HOLTWOOD FARM SHOP, 365 LONDON ROAD, AYLESFORD

Installation of a mobile fish van in car park (retrospective) at Holtwood Farm Shop, 365 London Road, Aylesford.

RESOLVED: That the application be

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

[Speakers: Mr T Pye - applicant]

AP3 14/21 TM/13/03492/FL - 354 WATERINGBURY ROAD, EAST MALLING

Detached gymnasium and music room for use ancillary to main house at 354 Wateringbury Road, East Malling.

Application WITHDRAWN

AP3 14/22 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 9.10 pm

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TONBRIDGE & MALLING BOROUGH COUNCIL

AREA PLANNING COMMITTEES

Report of the Director of Planning, Housing & Environmental Health

Part I – Public

Section A – For Decision

DEVELOPMENT CONTROL

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

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

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

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

GLOSSARY of Abbreviations and Application types

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

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

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

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

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

East Malling & Larkfield **569910 155911** **15 January 2014** **TM/13/03793/FL**
 East Malling

Proposal: New gates to paddock and creation of a new access
 Location: 238 Watringbury Road East Malling West Malling Kent ME19
 6JD
 Applicant: Mr Dave Smith

1. Description:

1.1 Full planning permission is sought retrospectively for the construction of 2 metre high entrance gates and the creation of a new vehicular access into a paddock area. The gates are set back from the highway by 2.5 metres with a hardstanding apron in front. The access is approximately 7m wide.

2. Reason for reporting to Committee:

2.1 The application is being reported to the Planning Committee as there is an accompanying recommendation for an enforcement notice.

3. The Site:

3.1 The lawful use of the area of land which the gates and access serve is as a paddock which is situated directly adjacent to the residential curtilage and within the same ownership as 238 Watringbury Road. The paddock is located on a crossroads between The Heath which runs to the south and Watringbury Road which is situated to the east and with approximately 3 metre high deciduous hedgerows along both sides which front the public highway. The access and gates are onto The Heath and are situated close to the crossroads.

3.2 The application site is located outside the built up confines of both Watringbury and East Malling villages and is therefore in the countryside for development plan purposes. This rural landscape is of no special designations.

4. Planning History:

TM/59/10386/OLD grant with conditions 27 August 1959

Kitchen Extension.

TM/59/10624/OLD grant with conditions 26 October 1959

Garage, Access, Layby W.C. additional Extensions.

TM/77/10870/FUL	grant with conditions	30 May 1977
Erection of single storey extension to rear.		
TM/79/10767/FUL	grant with conditions	26 October 1979
Erection of loft conversion to rear.		
TM/79/10853/FUL	grant with conditions	22 June 1979
Erection of single storey extension to side.		
TM/87/10810/OUT	Refuse	30 September 1987
Outline application for two detached dwellings.		
TM/91/10630/FUL	grant with conditions	11 February 1991
Pitched roofs over existing flat roofed extensions and loft conversion (incorporating dormers).		
TM/13/03949/FL	Approved	14 February 2014
Erection of one and a half storey side and rear extensions		

5. Consultees:

5.1 PC: strongly object to the application for the following reasons:

“The gates are actually in position and are right on the boundary of the road and set into the hedge line. We are concerned that cars will stop in the road when the gates are opened. Any other access gates have been required to be recessed from the road to enable a vehicle to stop off the road without causing obstruction.

The gates are 7ft high by about 23 ft wide and we do feel are out of scale to the area of the land they will serve.

Any gates in this location should open inwards.”

5.2 KCC (Highways): The shape of the vehicle crossover proposed is unusual and therefore does not appear to be any specific reasoning or circumstances for this. Vehicle speeds on The Heath at the approach to (and coming from) the cross roads should be low and the general location is therefore considered to be suitable. Whilst the larger than normal width proposed is not considered to be

necessarily problematic, it is customary however for field gates to be set back at least 5m from the road so that attention to gates and entry and exit manoeuvres can be undertaken off the highway. It is considered that a redesign should therefore be submitted accordingly and I would be grateful if the applicant could be advised. In order to minimise the migration of loose materials onto the highway, at least the first 6m of an access should be constructed of a bound material.

5.3 Private Reps: 2/0X/1R/0S + site notice;

Letter of objection:

- The application appears to be for a small lorry park for which the location is unsuitable.
- The existing traffic on the Wateringbury Road and Chapel Street is a matter of serious local concern and is the subject of height and width restrictions.

5.4 East Malling Conservation Group: Two sets of comments received making the following points:

- Whilst we have no objection to the design of the gates, we note that the application refers to providing additional parking for cars and a light goods vehicle/public carrier vehicle - is this a change of use? Should the provision of this parking be taken into account, particularly for the light goods vehicle as there is a 6'6" width restriction through the village?
- Perhaps an informative could be included advising that light goods vehicles using the paddock should not travel through the village, as currently there are many over width vehicles coming through the village?
- The application states that the gates are required to provide additional parking for cars and a light goods vehicle/public carrier vehicle, as can be seen from photographs it is being used for substantial commercial vehicles and trailers.
- Taking into consideration the input from KCC Highways that the gates should be moved back to 5.5m from the highway which we believe is a domestic vehicle requirement, should this distance be even greater for the vehicles currently using it.

6. Determining Issues:

- 6.1 The NPPF (2012) along with policy CP1 of the TMBCS (2007) and policy CC1 of the MDEDPD (2010) place sustainability at the heart of decision making, ensuring that new development does not cause harm to either the present or future residents or cause irrevocable harm to the rural environment.

- 6.2 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 respects the site and its surroundings in terms of materials, siting, character and appearance.
- 6.3 Policy DC6 of the MDEDPD relates to the impact of the development upon rural lanes. The pre-amble to the policy advises that rural lanes have historic value, contribute to nature conservation and to the distinctive character of the countryside and are coming under pressure from inappropriate upgrading. As such, they need to be protected and enhanced. It is stated that the use of urbanising features such as inappropriate fencing and walls should be avoided and the design of entrances and gates should be appropriate to the rural location. This would ensure that the character of rural lanes is protected.
- 6.4 Point 3 of policy SQ8 of the MDEDPD requires that the creation of a new access onto the highway network would not result in a significant increase in risk of crashes or traffic delays.
- 6.5 The gates are relatively large and of a close board design which is not a typical rural form; a more typical form would be a low level five bar gate for example. The access is wide and has resulted in a significant loss of hedgerow, instead introducing a wide concrete apron. Neither feature contributes to nor enhances the historic appearance of the rural lane which is generally verdant with a soft hedgerow edge. The proposed gates by virtue of their height, location and design and the access by virtue of its width, amount of hardstanding and loss of hedgerow appear as visually incongruous and suburban features within the rural street scene, detracting from the historic character of the rural lane and are as a result, harmful to the visual amenity of the locality and wider rural landscape.
- 6.6 The development proposes the installation of new gates and an access onto The Heath which is an unclassified road. The access is on the northern side of the road 5 metres from the junction with Wateringbury Road which is a classified 'C' road and set back by 2.5 metres from the edge of the carriageway. This limited set back necessarily results in vehicles turning into the access blocking the northern side of the carriageway. Vehicles overhanging the highway cause an obstruction to traffic and result in the need for vehicles approaching the junction to enter onto the opposite side of the carriageway. The proximity of the access to the junction with Wateringbury Road, which includes a triangle as The Heath approaches the main road, limits visibility and therefore vehicles manoeuvring around any user of the access results in significant highway safety issues leading to the potential for head on crashes.
- 6.7 Advice from KCC Highways states that the entrance gates should be set back by 5 metres from the carriageway edge in order to provide space for vehicles to pull off the road and open the gates. The access which has been created has a

hardstanding area in front of the gates with a 2.5 metre depth. Although the gates themselves do not open over the highway vehicles awaiting the opening of the gates hang over the highway causing a detriment to highway safety.

- 6.8 Although the highway safety issues could be overcome by increasing the set back of the gates from the road, this would have an increased visual impact upon the appearance of the rural street scene, augmenting the amount of hard surfacing, deepening the gap in the hedgerow and increasing the incursion of built development into the agricultural field. This would be further detrimental to the undeveloped and verdant nature of the street scene and rural landscape.
- 6.9 The application relates to works that are retrospective. As I am recommending that the application is refused there is also a need to serve an enforcement notice on the site to seek the removal of the unauthorised works.
- 6.10 Several of the objections raise concern with regard to the use of the land behind the gates as a lorry park or for parking commercial vehicles. This current planning application relates to the gates and access only; however the works to create the hardstanding (both inside and outside the gates) and the storage of lorries on the land are also unauthorised. The development has completely altered the character of the paddock area, removing the grassed area and instead laying hard development by the installation of hard-core. This is harmful to the appearance of the rural landscape by allowing the incursion of built development into the undeveloped countryside, undermining its intrinsic importance. The storage of lorries on the land is also unacceptable both due to the need for the hardstanding area and the inadequacy of the access serving the site. The unauthorised development is therefore contrary to policies CP1 and CP24 of TMBCS and policies SQ1, SQ8 and DC6 of the MDEDPD, as described above. In the circumstances, I believe it is expedient to serve an Enforcement Notice requiring the removal of all the unauthorised works and the cessation of the use, and the reinstatement of the roadside hedgerow.

7. Recommendation:

7.1 Refuse Planning Permission for the following reasons:

- 1 The proposed gates, by virtue of their height, location and design, and the access, by virtue of its width, amount of hardstanding and loss of hedgerow, appear to be visually incongruous and suburban features within the rural street scene, detracting from the historic character of the rural lane and are as a result harmful to the visual amenity of the locality and wider rural landscape. The proposal is therefore contrary to policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policies SQ1 and DC6 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010 and paragraphs 17, 56, 57, 60 and 64 of the National Planning Policy Framework (2012).

- 2 The 2.5 metre set back of the gates combined with the location of the access within 5 metres of the junction of The Heath and Wateringbury Road results in a significant highway safety hazard. The development is therefore contrary to policy SQ8 of the Managing Development and the Environment DPD 2010.

- 7.2 **An Enforcement Notice BE ISSUED**, the detailed the wording of which to be agreed with the Director of Central Services, requiring the cessation of the use of the land for the storage of lorries, the removal of the access and gates and the removal of the hard-core hardstanding from the land.

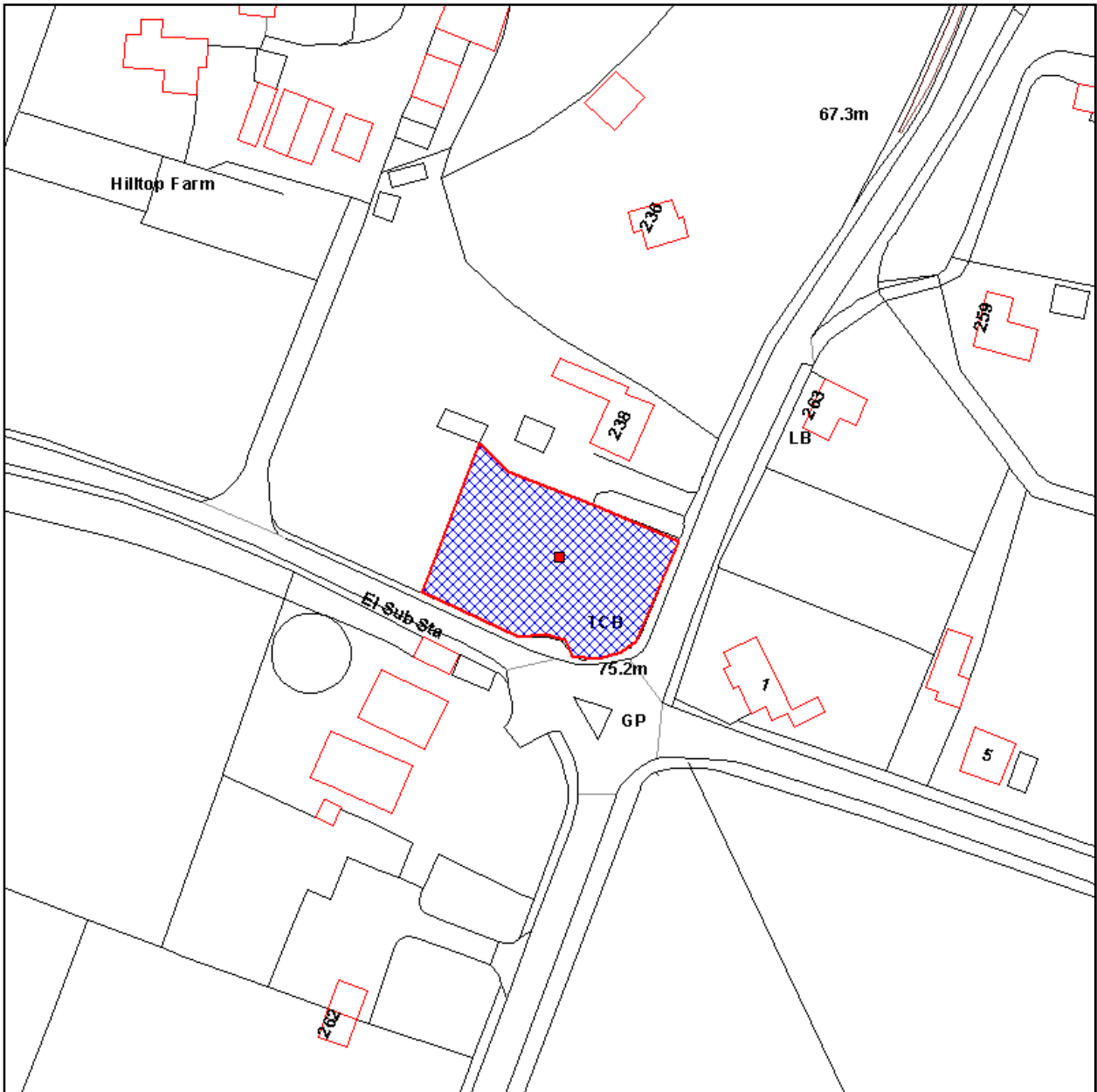
Contact: Kathryn Holland

TM/13/03793/FL

238 Wateringbury Road East Malling West Malling Kent ME19 6JD

New gates to paddock and creation of a new access

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Aylesford	573010 156340	11 October 2013	(A)TM/13/03147/OA
Aylesford		22 October 2013	(B)TM/13/03275/CNA

Proposal: (A) Outline Application: Mixed-use development comprising up to 500 residential dwellings (including affordable homes), land safeguarded for an education facility and land safeguarded for a community centre. Provision of public open space (inc. children's play areas), associated infrastructure and necessary demolition and earthworks. The formation of 2 no. new vehicular accesses from Hermitage Lane and Howard Drive. All other matters reserved.

(B) Consultation by Maidstone Borough Council: Mixed-use development comprising up to 500 residential dwellings (including affordable homes), land safeguarded for an education facility and land safeguarded for a community centre. Provision of public open space (inc. children's play areas), associated infrastructure and necessary demolition and earthworks. The formation of 2 no. new vehicular accesses from Hermitage Lane and Howard Drive. With access to be considered at this stage and all other matters reserved for future consideration

Location: Land East Of Hermitage Lane Aylesford Kent

Applicant: Croudace Strategic Ltd

1. Description:

1.1 This report relates to an application for outline planning permission and also a consultation from Maidstone Borough Council, both for development east of Hermitage Lane. The overall development proposed, in the consultation by MBC (application (B)), is for up to 500 homes, a school, community centre and open space and this proposal forms the context for the application (A) in this Borough. Vehicular access is proposed to be gained from Hermitage Lane (as in application (A)) and Howard Drive, in the MBC area. The overall development site crosses over the boundary between Maidstone Borough and Tonbridge and Malling. All of the proposed housing is within Maidstone with the only development within Tonbridge and Malling being the access road from Hermitage Lane to serve the west side of the development and a car park area for the school. The remainder of the land within this Borough is indicated as being open space.

2. Reason for reporting to Committee:

2.1 These applications are reported due to general public interest and also for Member information following the resolution of MBC to refuse outline planning permission for that part of the development falling within MBC area.

3. The Site:

- 3.1 The overall development site extends to approximately 30.66 ha, with 3 ha being within Tonbridge and Malling. The land as a whole is predominantly agricultural with an area of ancient woodland towards the southern end of the site towards Maidstone Hospital. The site is to the east of Hermitage Lane and north of Maidstone Hospital. The new access to Hermitage Lane would be approximately 350m south of the railway bridge at Barming Station.

4. Planning History (most relevant):

TM/06/02691/EASC screening opinion EIA not required 4 September 2006

Request for environmental screening opinion for mixed use development, open space and vehicular access

TM/01/00203/OA Appeal Dismissed 2 October 2002

Outline application for residential development, creation of new vehicular accesses, provision of a local centre, community building, school site, public open space, informal parkland, greenways and landscaping

TM/01/00270/A10 Appeal Dismissed 2 October 2002

Article 10 consultation by Maidstone Borough Council for Outline Application residential development, creation of new vehicular access, provision of local centre, community building, school site, public open space, informal parkland, etc.

The two applications dating from 2001 listed above were for a similar, but smaller, development than that proposed under the current submissions. In dismissing the appeals the Inspector at the time was not convinced that the land should be released for housing as there were brownfield sites making up the MBC Urban Capacity study that should be brought forward first and that these sites had suitable capacity to ensure that the appeal site, although forming a Local Plan allocation, should not be released at that stage. On the subject of the development on land within Tonbridge and Malling, the Secretary of State commented that, whilst the proposed road access from Hermitage Lane is a departure from the Local Plan, the impact of what little development falls within the Tonbridge and Malling area would not be so material as to weigh against the development of housing land in Maidstone Borough if that was found to be necessary to meet the requirement for housing.

5. Consultees (in respect of application (A)) (Consultations with regard to application (B) by MBC).

- 5.1 Aylesford PC: Object. Hermitage Lane will not be able to cope with the additional traffic. Other developments are already planned in the area and the cumulative impact will be too much for the road network.

5.2 East Malling and Larkfield PC: Object due to traffic generation and the impact on the road network in the vicinity.

5.3 KCC Heritage: Site has potential for archaeological remains and this should be investigated further.

5.4 Private Reps: 28/0X/150R/0S + site and press notice:

- 150 letters of objection received mainly making comments on the principle of the overall development package ((A) &(B)), impact on the ancient woodland and traffic generation. These mainly relate to issues within MBC.
- Objections have also been raised to the access road being inappropriate development within the Strategic Gap and therefore not in accordance with adopted planning policy (A).

6. Determining Issues:

6.1 The principal consideration with these applications is the principle of the development in the context of the designation of the site in both the Tonbridge and Malling Local Development Framework and also the Maidstone Local Plan.

6.2 By way of background the land within MBC control was allocated in the MBC Local Plan (2000) for residential development for approximately 380 units. The site therefore has to be considered on the basis that the general principle of residential development on that land is acceptable.

6.3 TMBC objected to more recent proposed strategic land allocations in the Hermitage Lane area in general (both east and west sides of the road). The area was originally allocated for 975 houses, which was reduced to 880. This level of allocation was objected to on the grounds that it was a significant increase in what had been proposed before and, whilst there would be a duty to cooperate with TMBC in delivering road improvements within the borough, it was not considered that there would be a funding source available for all necessary works. There was also a concern that the increased traffic would have a detrimental impact on the AQMAs at Watringbury Crossroads and the M20 corridor at the northern end of Hermitage Lane.

6.4 Subsequently the site has been put forward in the most recent MBC Local Plan Regulation 18 Consultation as a proposal for approximately 500 units. This proposal requires the provision of a country park and the retention of the ancient woodland in the vicinity of Maidstone Hospital.

6.5 In light of the current circumstances TMBC submitted an officer level objection to application (B) in the following terms:

"1 The Borough Council is aware that the land is allocated for 380 dwellings within the adopted Maidstone Local Plan, with the emerging policy proposing 500

dwellings. However, the submitted scheme does not appear to conform with either adopted or emerging policy insofar as the proposals could lead to harmful effects on recognised features on the site and impact on traffic and environmental conditions off site.”

- 6.6 MBC has resolved to refuse the application (B) on the grounds that it would have an adverse impact on an area designated as ancient woodland and does not provide a country park to retain the open character between Allington and the Medway Gap settlements contained within Tonbridge and Malling.
- 6.7 In the absence of the grant of planning permission on application (B) there is no justification for the grant of permission on application (A). The development requires the creation of an access from Hermitage Lane. This access is over land that is designated in the TMBC Core Strategy as Strategic Gap. It is accepted that, given the Maidstone Local Plan designation, there may be, at some time in the future and with an appropriate form of development in the MBC area, a requirement for an access road in this location. However, given the resolution by MBC to refuse the current housing development, it is considered that there is no requirement for the access at the present time. It is therefore considered that the development is unacceptable and unjustified.

7. Recommendation:

(A) TM/13/03147/OA:

7.1 Refuse Planning Permission for the following reason:-

- 1 The development proposed is unacceptable as it would result in an unjustified incursion into the Strategic Gap as there is no development approved that would be served by the new access and road. The proposal is therefore contrary to Policies CP1 and CP5 of the Tonbridge and Malling Local Development Framework Core Strategy 2007.

(B) TM/13/03275/CNA:

7.2 Raise Objections to the development as follows:-

- 1 The Borough Council is aware that the land is allocated for 380 dwellings within the adopted Maidstone Local Plan, with the emerging policy proposing 500 dwellings. However, the submitted scheme does not appear to conform with either adopted or emerging policy insofar as the proposals could lead to harmful effects on recognised features on the site and impact on traffic and environmental conditions off site.

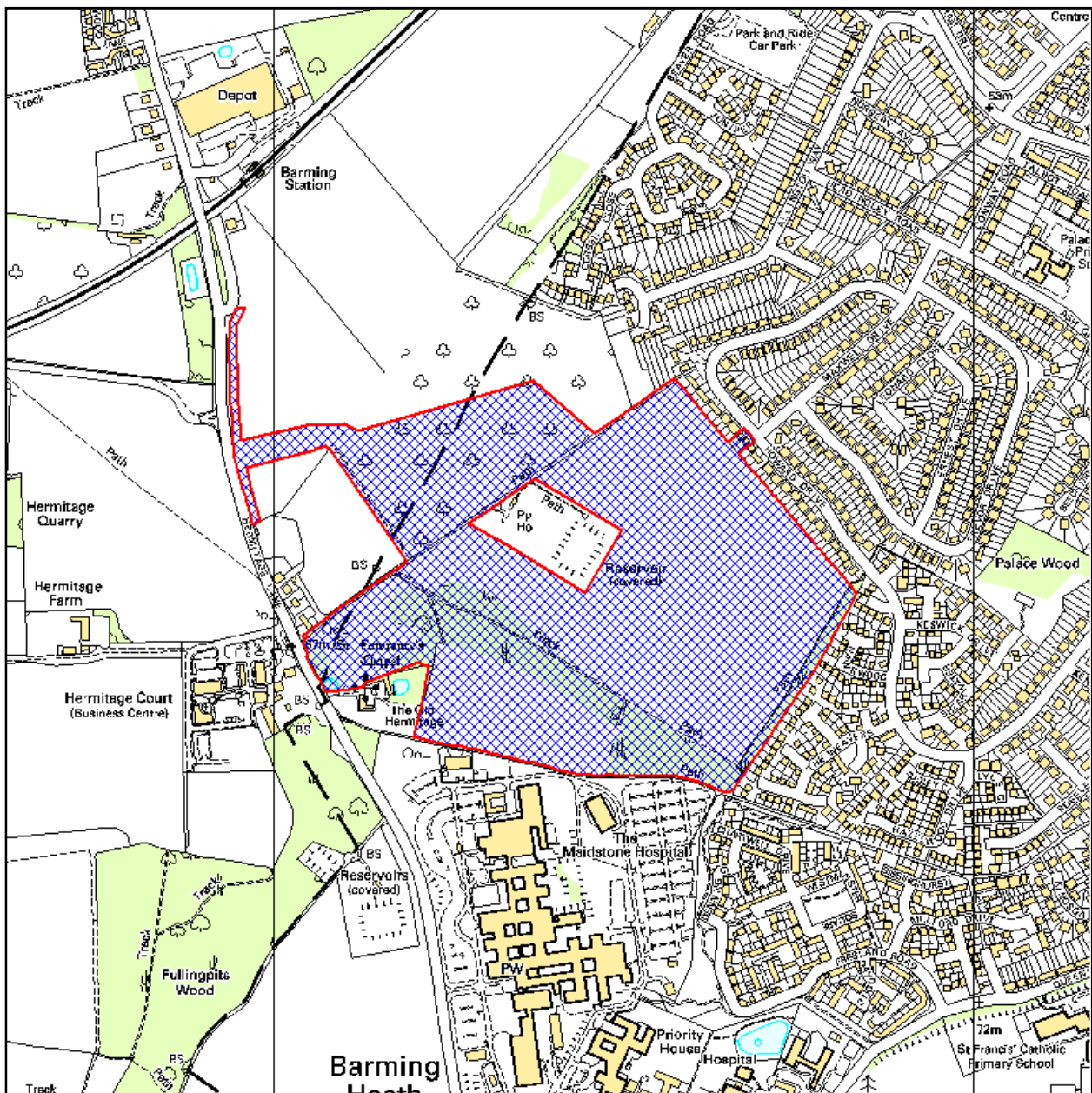
Contact: Robin Gilbert

TM/13/03147/OA

Land East Of Hermitage Lane Aylesford Kent

Outline Application: Mixed-use development comprising up to 500 residential dwellings (including affordable homes), land safeguarded for an education facility and land safeguarded for a community centre. Provision of public open space (inc. children's play areas) associated infrastructure and necessary demolition and earthworks. The formation of 2 no. new vehicular accesses from Hermitage Lane and Howard Drive. All other matters reserved

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Alleged Unauthorised Development

East Malling
East Malling

13/00028/WORKM

100061 182852

Location: Ivy House Farm 42 Chapel Street East Malling West Malling
Kent ME19 6AP

1. Purpose of Report:

- 1.1 To report the unauthorised erection of a ragstone wall and the unauthorised erection of a fence. The works to the wall comprise in part the increase in height of an existing section of wall and in part the erection of a new length of walling.

2. The Site:

- 2.1 No. 42 Chapel Street, known as Ivy House Farm, is positioned on the western side of the road towards the southern end of East Malling village. The property is a Grade II Listed Building which is situated within the Conservation Area and village confines. The land associated with the house extends to the south and falls outside the village confines and Conservation Area. The listing for Ivy House Farm relates to the farm house itself, but the fence is located within a separate piece of land that, whilst in the same ownership and used in connection with the house, does not form part of the curtilage of the Listed Building.

3. Alleged Unauthorised Development:

- 3.1 Without the benefit of planning permission, the construction of a ragstone wall, part of which would be adjacent to the highway used by vehicular traffic, that exceeds one metre in height above ground level. Also without the benefit of planning permission, the erection of a fence the majority of which would exceed two metres in height from ground level.

4. Determining Issues:

- 4.1 At Area 3 Planning Committee on the 6 February 2014, planning permission was refused for:

“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”.

The application was refused planning permission 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.

- 4.2 Members will recall the discussion at that time regarding the permitted development “fall-back” position for a fence. If the fence were to be reduced to not exceed two metres in height from ground level it would, *in effect*, comply with the provisions of Class A, of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended). Since the planning application was reported to Committee the fence has, for the most part, been reduced in height and subsequently further measurements have been taken. The measurements taken at various points along the length of the fence show that the fence consistently exceeds the two metres in height permitted under Class A, of Part 2, measuring on average about 2.12 metres from ground level with the highest point measuring 2.5 metres at the southern end of the fence.
- 4.3 A new section of ragstone wall has been constructed between the existing wall to the front of the property and the smaller existing ragstone wall which runs adjacent to Chapel Street. Part of this lower wall has also been increased in height. The ragstone wall is, in part, a replacement for a pre-existing 1.7 metre panelled fence which separated the land associated with the property and the grass verge adjacent to the highway.
- 4.4 Measurements were taken, to establish the height of the wall above ground level, at various points along the length of the wall. It measures 1.64 metres in height closest to the dwellinghouse and, due to the slight slope in ground level, adjacent to the highway it measures 2.15 metres at its highest point. The majority of the ragstone wall would not be adjacent to the highway and, as it would not exceed two metres in height, it would fall within the provisions of Class A, of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and therefore benefit from a deemed planning permission. A small section of the ragstone wall closest to the fence described above, due to its location and the absence of any physical separation, is considered to be adjacent to the highway. As there is no legal definition of what is considered “adjacent” to the highway, it is a matter of fact and degree to be assessed in each case. In the present circumstances, officers consider the majority of the ragstone wall is not adjacent to the highway due to the intervening grassed verge area, which is up to 1.2 metres wide at this point.

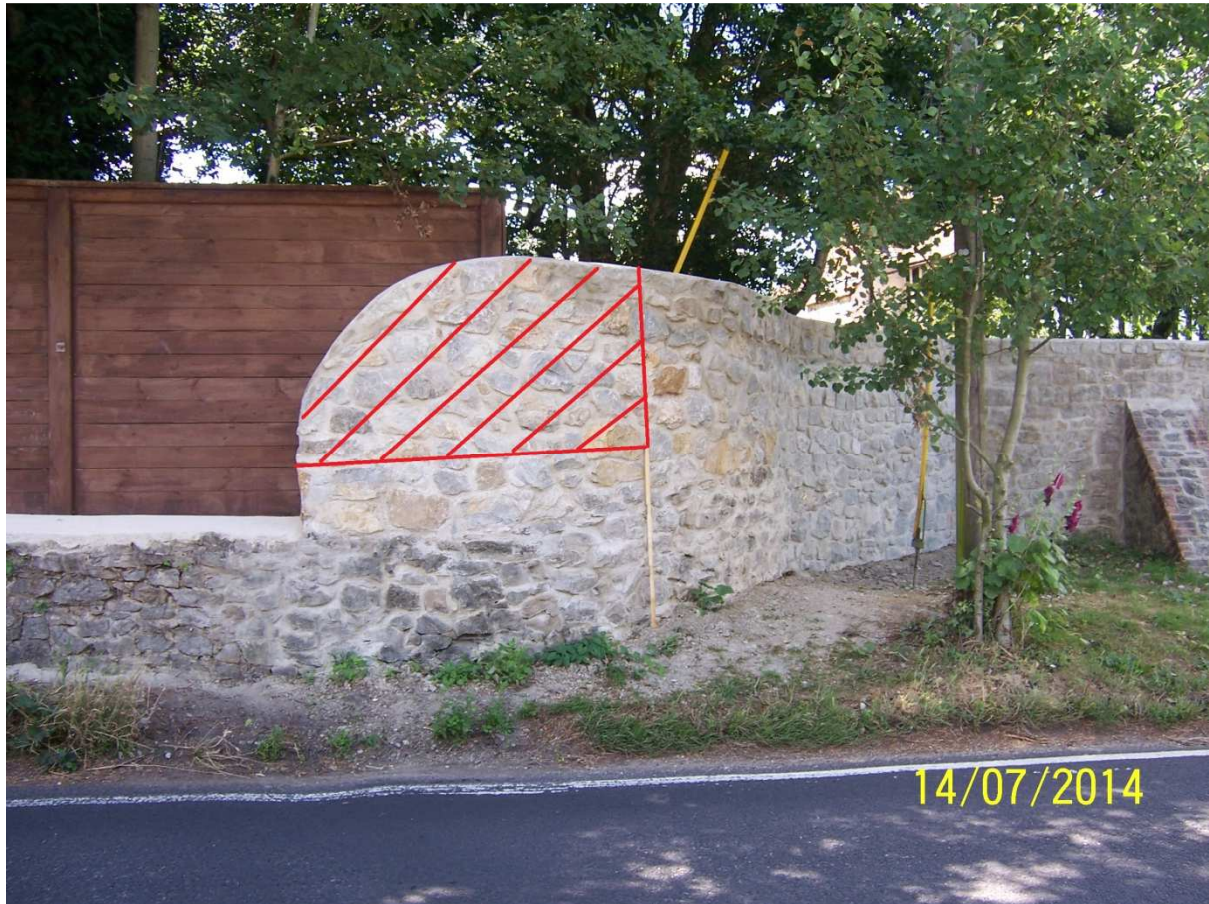
However, as the extended wall approaches the return with the wall running alongside the highway, this strip reduces to 0.7 metres. Officers have therefore concluded that this small area of wall is, as a finding of fact and degree, adjacent to the highway. The area of wall which would exceed one metre in height and is adjacent to the highway is shown hatched on the annotated photograph taken on the 16 June 2014, and which is annexed to this report.

- 4.5 This development must be considered in relation to the Core Strategy policies CP1 (development should be to a high quality and respect residential amenities) and CP24 (need for high quality design). Policy SQ1 of the MDE DPD states that development should respect and reinforce an area's local distinctive character. Paragraphs 17, 57, 58 and 61 of the NPPF reinforce the above. Paragraphs 126 and 131 of the NPPF concern development in Conservation Areas and affecting historic buildings.
- 4.6 A key consideration in this case is the height of both the fence and the wall relative to the relevant permitted development "fallback" positions. It is also necessary to consider any impact on the area generally, neighbouring properties, the setting of the Listed Building, character of the Conservation Area and any effect on highway safety.
- 4.7 Although there has been some reduction in height of the fence since the decision on the planning application was taken, it still substantially exceeds the height that would be allowed under permitted development rights and, taken overall, I do not consider that the alterations that have taken place sufficiently overcome the stated reasons for refusal. The harm that was identified then still exists.
- 4.8 There are a number of examples of ragstone walls within the vicinity of the site and within the wider area of East Malling. The majority of the wall would fall within the provisions of Class A, of Part 2. The remaining section of the wall would not benefit from any form of permission but it does not have an effect on the character of the Conservation Area and would not have any effect on the residential amenity of the nearby properties. The attached photo (Annex) indicates the area of wall that is not considered to be permitted development. Due to the size of the section of wall it is not considered it has a detrimental impact on the character of the Conservation Area or the street scene in general.
- 4.9 For the above reasons, I believe that it is expedient to take enforcement action to seek the reduction in height of the fence to not exceed 2 metres in height from ground level. Also for the reasons above, I believe that it would not be expedient to take enforcement action to seek the alteration to the area of ragstone wall which does not fall within the provisions of Class A, of Part 2. It should be noted that if an enforcement notice is served and it does not relate to the whole of the unauthorised development, the Council will be unable to take further enforcement action in the future. However, for the reasons stated above I do not believe it would be expedient to take further action with regard to the wall.

5. Recommendation:

An Enforcement Notice **be issued**, the detailed wording of which to be agreed with the Director of Central Services, requiring the reduction in height of the unauthorised fence to not exceed 2 metres in height and no further action taken against the ragstone wall.

Contact: Paul Batchelor

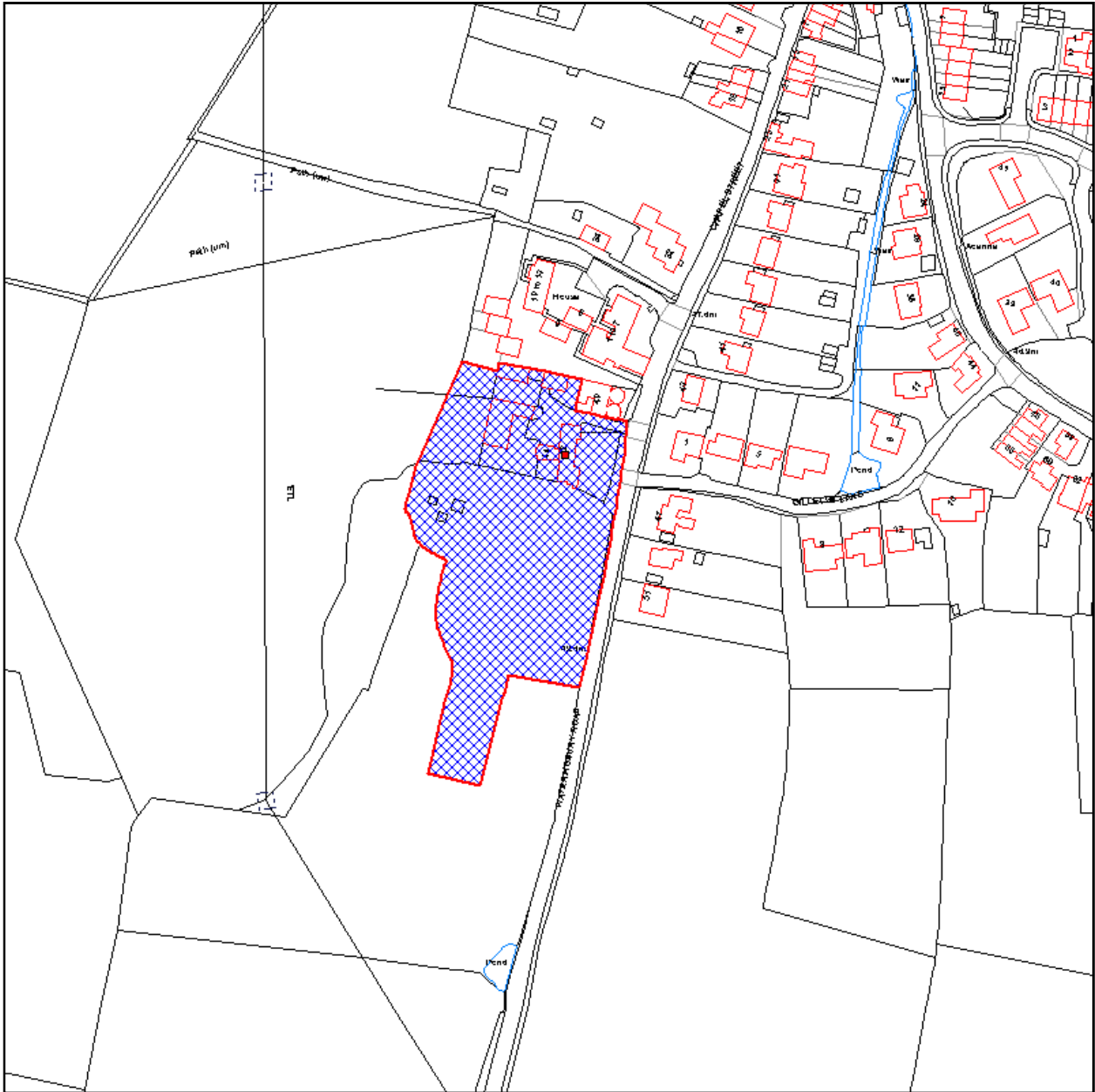


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13/00028/WORKM

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