

# 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@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)

12 November 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, 20th November, 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 9 October 2014.

**Decisions to be taken by the Committee**

4. Development Control 9 - 12  
Introduction and Glossary
5. TM/14/02015/FL - 324 Pilgrims Way, Wouldham 13 - 26
6. TM/13/03692/FL - Ferns Surfacing Ltd Larkfield Depot,  
Bellingham Way, Larkfield 27 - 58
7. TM/14/03341/FL and TM/14/03594/CNA - Rochester Airport,  
Maidstone Road, Chatham 59 - 72
8. Alleged Unauthorised Development 14/00289/WORKM –  
Invicta Works, Mill Street, East Malling 73 - 78
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**

**PART 2 - 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.
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, 9th October, 2014

**Present:** Cllr A K Sullivan (Chairman), Cllr R W Dalton (Vice-Chairman), Cllr J A L Balcombe, Cllr T Bishop, Cllr Mrs B A Brown, Cllr D A S Davis, 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 and Cllr R Taylor

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

An apology for absence was received from Councillor Mrs C J Woodger

### PART 1 - PUBLIC

#### **AP3 14/36 DECLARATIONS OF INTEREST**

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

#### **AP3 14/37 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 3 Planning Committee held on 28 August 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 14/38 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 14/39 TM/14/01505/RM - PRESTON HALL, LONDON ROAD, AYLESFORD**

Reserved Matters application being details of the layout and appearance of the development, access to and within the site and the scale of the development pursuant to outline permission TM/12/02443/OA (Outline Application: Residential development of about 208 dwellings (including about 68 affordable units) together with new roads, play areas and informal open space following demolition of existing hospital buildings. Conversion of Preston Hall for residential use) at Preston Hall, 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, subject to:

- (1) The submission of a revised layout plan to accommodate proposed affordable housing mix.

**AP3 14/40 TM/13/03692/FL - FERNS SURFACING LTD, LARKFIELD DEPOT, BELLINGHAM WAY, LARKFIELD**

Erection of 32 no. dwellings (35% affordable), access road, car parking and landscaping at Bellingham Way, Aylesford, Kent (includes demolition of existing structures) at Ferns Surfacing Ltd, Larkfield Depot, Bellingham Way, Larkfield.

**RESOLVED:** That the application be DEFERRED for officers to enter into further negotiation with the applicants to seek additional parking provision on site.

**AP3 14/41 TM/14/02658/FL - FORESTERS ARMS, 74 HIGH STREET, WOULDHAM**

Change of use from public house with ancillary residential accommodation to 2 x 3 bed dwellings and 1 x 3 bed dwelling with associated demolition and extensions and internal and external alterations at Foresters Arms, 74 High Street, Wouldham.

**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) The following change in description to:

Change of use from public house with ancillary residential accommodation to 3 x 3 bed dwellings with associated demolition and extensions and internal and external alterations

(2) Additional informatives:

7. The applicant should consider the provision of cycle storage within the development to reduce the need for residents to use private cars.
8. The applicant is strongly encouraged to contact the Parish Council to investigate the possibility of engaging with the project to implement the planning permission TM/12/02019/FLX for rear accessing properties in the High Street and for which the Parish Council has obtained planning permission.

**PART 2 - PRIVATE**

**AP3 14/42 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 8.25 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

<b>Wouldham</b>	<b>572092 163908</b>	<b>29 July 2014</b>	<b>TM/14/02015/FL</b>
Burham Eccles			
Wouldham			

Proposal:	First floor rear addition
Location:	324 Pilgrims Way Wouldham Rochester Kent ME1 3RB
Applicant:	Mrs Fran Holgate

**1. Description:**

- 1.1 The application was deferred from APC3 on 28 August 2014 in order for Members to undertake a site inspection to assess the potential impacts of the proposed development. The Members' Site Inspection took place on 4 November 2014.
- 1.2 A copy of my August report is annexed for ease of information.

**2. Consultees (since 28 August 2014):**

- 2.1 None received.

**3. Determining Issues:**

- 3.1 Two key matters were discussed in some detail at the Members' Site Inspection and I would like to draw on each of them directly. They related to the previously refused scheme for a two storey rear extension in 2013 and the proposed single storey rear extension shown on the submitted plans but not for determination as part of this submission as it is permitted development.
- 3.2 Dealing firstly with the previously refused scheme, Members are aware that LPAs must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. In all cases, the Development Plan should be the starting point in reaching a decision, and other material considerations should be taken into account. The planning history of a site, in this case the previous refusal of application TM/13/03046/FL, forms an important material planning consideration. As such, it is now necessary to assess whether the previous reasons for refusal have been successfully overcome whilst ensuring that no new issues arise as a result.
- 3.3 I would like to stress at this point that the development proposed in the previous planning application was only found to be unacceptable in terms of its specific relationship to the neighbouring dwelling (326 Pilgrims Way) and the resultant impact on residential amenity. It is, therefore, for Members to determine whether those reasons for refusal have been successfully overcome as a result of the revised scheme. The previous reasons for refusal were as follows:

*“The proposed development by reason of the height and location of the extension in close proximity to the boundary, would result in an unacceptable loss of daylight*

*for the occupants of the adjacent property to the north, contrary to the aims of policy CP24 of the Tonbridge and Malling Borough Core Strategy and Saved Policy P4/12 of the Tonbridge and Malling Borough Local Plan.”*

*“The proposed development by reason of the location adjacent to the northern boundary would result in a sense of enclosure and overbearing impact upon the occupants of the adjacent property to the north, contrary to the aims of policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy.”*

- 3.4 As set out in my previous report, it is my view that these reasons for refusal have now been successfully addressed through the reduction in width of the proposed first floor extension, moving the extension further from the immediate neighbour and thus reducing its impact.
- 3.5 Turning to the discussion that took place concerning the single storey ‘infill’ extension, which is deemed to be permitted development and not subject of this planning application, I would stress that the issuing of a formal lawful development certificate earlier this year in respect of the single storey extension was solely based on the fact that the proposed extension met the various requirements set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended). It was found that the extension did meet the necessary requirements and it was on that basis that the Certificate was issued. Householders are actually under no legal obligation to obtain such a Certificate, if a development falls within the permitted development provisions, they are able to simply go ahead and exercise those rights without any formal agreement from the LPA.
- 3.6 I would add that there is no ability for the LPA to make any sort of subjective judgement on whether or not an extension that falls within the limits of permitted development might affect a neighbouring property. If the proposed development meets the requirements of the GPDO, the Certificate must be issued. It is a purely objective exercise to be undertaken.
- 3.7 With these considerations in mind, the only aspect to have in mind in the determination of this application whether the first floor extension proposed would have an acceptable relationship with the immediate neighbour.
- 3.8 Turning to the Members’ Site Inspection itself, this took place on 4 November 2014 and usefully allowed Members to stand within the application site and view the relationship between the application site and its immediate neighbour.
- 3.9 Discussion took place as to whether the plans were accurate in terms of the scaled dimensions, particularly with reference to the distance from the common boundary shared with 326 Pilgrims Way. In scaling from plans of this size, there will inevitably be some degree of tolerance to be taken into account. Even taking into account this degree of tolerance, the proposed extension would still fall outside the 45 degree line taken from the nearest habitable window of the adjacent

property and there would be no a material difference to the BRE calculations previously carried out. Rather than focusing on the 15 – 20cm difference discussed at the site inspection, the important aspect to recognise is that the first floor extension will be sited directly over the existing single storey flat roofed projection. Crucially, the site inspection allowed Members to see the relationship between the flank wall of that existing protrusion and the boundary with No. 326 and it is that flank wall that will be continued up to first floor level should planning permission be granted for this proposed development.

3.10 A Member queried whether impact on neighbouring windows was so crucial now that technologies exist that would allow the neighbours to introduce alternative sources of light into the property such as sun tubes for example. The adopted policy governing residential extensions overtly mentions a need to assess such applications in terms of their impact on residential amenity, including the impact on neighbouring windows. I appreciate that such technologies do exist but it is important to recognise that a planning decision should not assume that the neighbour could or should make changes to their property to render the development acceptable in planning terms – the development must be deemed to be acceptable in its own right having applied the adopted policy irrespective of what could be achieved by other means.

3.11 In light of the above considerations, I remain of the view that the proposal has successfully overcome the reason for refusal on the previous application and in doing so has not created any new issues that would justify refusal. As such, the proposal meets the requirements set out within the NPPF and the LDF and the following recommendation is put forward:

#### **4. Recommendation:**

4.1 **Grant Planning Permission** in accordance with the following submitted details: Certificate B dated 29.07.2014, Site Plan JCA - 03 dated 10.06.2014, Existing Plans and Elevations JCA - 01 dated 10.06.2014, Proposed Plans and Elevations JCA - 02 dated 10.06.2014, subject to the following:

#### **Conditions:**

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

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

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

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

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

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

**Informative:**

- 1 This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.

Contact: Hilary Johnson





#### 4. Planning History:

TM/13/03046/FL      Refuse      13 December 2013

Rear two storey extension to form bedroom at first floor and dining room at ground floor. Replace existing shed with new shed

TM/14/02016/LDP      Certifies      25 July 2014

Application for Lawful Development Certificate: Ground floor rear addition

#### 5. Consultees:

5.1 PC: Object as there is concern that a first floor addition would shut out the neighbours light to their kitchen/living area.

5.2 Private Reps: 2 + Site Notice/0X/1R/0S. Letter received makes the following objections:

- Overshadowing and loss of sunlight, especially in winter when the sun is lower. This would result in the loss of both warmth and light leading to an increase in the use of fossil fuels.
- The proposed extension would be opposite the bathroom which would make it cold and dark and lead to an increase in the use of electricity.

#### 6. Determining Issues:

6.1 A number of Core Strategy policies are relevant including CP24 (standard of design), CP7 (Development in the AONB), CP5 (development in the Strategic Gap), CP14 (development in the countryside). Saved policy P4/12 and Annex PA4/12 of the Local Plan are also relevant. The main issues are the relationship of the proposed addition to the original house and any impact upon the neighbours' amenities, the AONB or the Strategic Gap.

6.2 This property forms part of a terrace of 7 relatively small houses occupying an elevated countryside location. Although the terrace is in the Strategic Gap the extension would not threaten the principles of the relevant policy, which seeks to ensure that separation between settlements is maintained. Neither will it involve encroachment into the open countryside as the development would be contained within the existing residential curtilage. There are no objections in terms of policy CP5 concerning development in the Strategic Gap.

6.3 The application is considered in relation to Core Strategy policy CP24 which seeks to ensure a high standard of design, saved policy P4/12 and policy annexe PA4/12 of the Local Plan which concerns residential extensions. This states that residential extensions will not be permitted if they would result in an adverse impact upon the residential amenity of neighbouring property in terms of light and

privacy. It also states that single and two storey extensions should be designed so as to fall within the relevant 45 degree angle taken from the nearest habitable room window of the adjacent property. Large two storey extensions can be unacceptable where dwellings are closely spaced and the extension inappropriately designed.

- 6.4 The proposed first floor extension would be sited over an existing bathroom which is to be converted into living space. The extension would measure approximately 2.8m from the rear wall of the house and 2.1m in width and would be sited 1.7m away from the northern boundary, common with No. 326, and around 3.4m from the ground floor side window of No. 326. The extension would be designed with a flat roof and would adjoin a party wall with the neighbouring house to the south (No. 322). The rear wall will be on the same plane as the recently completed first floor extension at No. 322.
- 6.5 It should be noted from the planning history that a single storey ground floor extension to the rear of No. 324 was certified as being Permitted Development by a recently issued Lawful Development Certificate (our reference TM/14/02016/LDP). This structure could be constructed under permitted development rights, not requiring the Council's approval and if implemented would be situated in the area between the existing ground floor element and the northern boundary.
- 6.6 Several houses in this terrace have been extended over the years in different ways at ground and first floor level. No. 322, to the south, benefits from a two storey rear addition projecting up to the site boundary. The extension at No. 324, having a flat roof and covering only half the width of the host dwelling, would be different from the hipped roof of the addition to the south at No. 322, but would not be visually harmful so as to withhold approval. The proposed extension is unlikely to have an impact upon the residential amenities of the occupants of No. 322.
- 6.7 It is necessary to have regard to the residential amenities of the occupants of the property to the north. Saved policy annex PA4/12 states that residential extensions should be designed so as to fall outside the relevant 45 degree angle taken from the nearest habitable room window of the adjacent property. In the current case it appears that the first floor extension at No. 324 would *not* breach the 45 degree line taken from the mid point of the nearest habitable window of No. 326 to the north.
- 6.8 Notwithstanding that the 45 degree line is not breached, the possible impact of the proposed extension has been assessed in terms of the availability of light to the ground floor habitable room of No. 326, in relation to the Building Regulation Establishment (BRE) document "Site Layout Planning for Daylight and Sunlight-A Good Practice Guide". This Guide recommends that windows serving habitable rooms should receive a minimum of 27% of daylight. If the level of daylight falls below this threshold the occupants would notice a loss of light if the resulting level

of daylight is less than 0.8 times its former value. The BRE recommends that habitable rooms should receive at least 25% of annual probable sunlight hours including at least 5% during winter months.

- 6.9 As existing, the affected window receives 30.25% of daylight with over 25% of annual probable sunlight hours being available to the affected window, including more than 5% during the winter months. As proposed 26.5% of daylight would be available to the affected window. This equates to 0.87 its existing level of light. Whilst the overall amount of daylight would be reduced to below 27% the occupiers are unlikely to notice a change in light levels as the difference would be minimal. Over 25% of sunlight would be available to the affected window with at least 5% available during winter months. The proposal is therefore in compliance with the BRE guidelines.
- 6.10 The proposed first floor extension represents a modest addition to the property that would be set away from the boundary with No. 326. The extension would be viewed against the existing neighbouring two storey rear extension when viewed from the rear facing windows of No. 326. Given the existing rear projection and the amount the proposed first floor extension is set away from the boundary it is not considered that the proposal would have an overbearing impact upon the residential amenities of the occupants of the neighbouring property. The proposal is, therefore, considered to accord with saved policy P4/12 and its associated annex.
- 6.11 The comments and concerns of the PC and the neighbour have been given very careful consideration. In this instance, there would be no undue harm to the residential amenities of the occupants of the adjacent property, such as to justify withholding consent.
- 6.12 This amended proposal is in accordance with the BRE requirements and policies CP1 and CP24 and would not cause harm to the AONB or the Strategic Gap. It is, therefore, recommended that planning permission can now be granted.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Certificate B dated 29.07.2014, Site Plan JCA - 03 dated 10.06.2014, Existing Plans and Elevations JCA - 01 dated 10.06.2014, Proposed Plans and Elevations JCA - 02 dated 10.06.2014, subject to the following:

### **Conditions**

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

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

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

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

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

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

### **Informative**

1. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.

Contact: Hilary Johnson

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SUPPLEMENTARY REPORTS

AREA 3 PLANNING COMMITTEE

DATED 28 August 2014

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**Wouldham**                      **TM/14/02015/FL**  
**Burham Eccles**  
**Wouldham**

**First floor rear addition at 324 Pilgrims Way Wouldham Rochester Kent ME1 3RB  
for Mrs Fran Holgate**

DPHEH:

It is considered prudent to make more expansive comparisons between the current proposals and those recently refused under planning reference TM/13/03046/FL to enable Members to fully appreciate how Officers are able to support this scheme when the previous iteration was refused under delegated powers. The previous planning application was refused for the following reasons:

*“The proposed development by reason of the height and location of the extension in close proximity to the boundary, would result in an unacceptable loss of daylight for the occupants of the adjacent property to the north, contrary to the aims of policy CP24 of the Tonbridge and Malling Borough Core Strategy and Saved Policy P4/12 of the Tonbridge and Malling Borough Local Plan.*

*The proposed development by reason of the location adjacent to the northern boundary, would result in a sense of enclosure and overbearing impact upon the occupants of the adjacent property to the north, contrary to the aims of policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy.”*

The refused scheme proposed an extension which measured 2.7m in depth by 3.3m in width. The side elevation was shown as being positioned approximately 0.5m from the northern boundary line. This caused the extension to breach the 45-degree angle zone explained at paragraph 6.7 of my main report. Furthermore, the extension by virtue of its proximity to the boundary shared with 326 Pilgrims Way was found to reduce the level of daylight reaching this window from 31.24% of available daylight to 22.75%, well below the recommended minimum of 27% set out in the BRE guidance described at paragraph 6.8 of my main report. As a result it was considered that the occupants would notice a significant reduction in the levels of daylight which would be unduly harmful to their residential amenities.

Additionally, there was also concern that the extension would result in loss of outlook and have an adverse overbearing impact, given the close proximity of the two storey extension to the boundary.

The revised scheme now before Members for determination has been amended to significantly reduce the first floor element, moving it some 1.7m away from the boundary shared with 326 Pilgrims Way. This shift in the built form away from the shared boundary has notably increased the amount of daylight and sunlight received to the nearest neighbouring window at first floor level and has also considerably reduced the dominance of the extension on this neighbouring property.

The previous reasons for refusal have therefore been sufficiently overcome and it is for these reasons that I am now able to recommend that planning permission be granted.

Having further reviewed this position, I also consider it appropriate to recommend an additional condition controlling access onto the flat roof in the interests of residential amenity. This is set out below.

**AMENDED RECOMMENDATION:**

**Additional Condition:**

**4. No means of access from the dwellinghouse shall be provided onto the flat roof of the extension hereby approved at any time and the flat roof shall not be used for external seating or any other recreational use at any time.**

**Reason: In the interests of the privacy and residential amenities of the occupants of the adjacent property.**

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**TM/14/02015/FL**

324 Pilgrims Way Wouldham Rochester Kent ME1 3RB

First floor rear addition

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<b>Ditton</b>	<b>570674 159323</b>	<b>20 May 2014</b>	<b>TM/13/03692/FL</b>
Ditton			

Proposal:	Erection 32 no. dwellings, access road, car parking and landscaping at Bellingham Way, Aylesford, Kent
Location:	Ferns Surfacing Ltd Larkfield Depot Bellingham Way Larkfield Aylesford Kent
Applicant:	Ferns Surfacing Ltd

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## **1. Description:**

- 1.1 The application was deferred from APC3 on 9 October 2014 to allow for negotiations to take place with a view to incorporating additional off-street parking spaces to serve the proposed development. Following these negotiations, the application has been amended to remove some of the soft landscaping to allow for the creation of six additional car parking spaces within the development.
- 1.2 A copy of my previous report is attached as an Annex, for ease of reference.

## **2. Consultees (since 9 October 2014):**

- 2.1 None received.

## **3. Determining Issues:**

- 3.1 The main issues are set out in my October report. The following additional assessment is made in response to the issues raised during the debate at the previous Planning Committee and the subsequent submission of the amended layout to increase the level of parking provision.
- 3.2 The amended layout proposes the provision of six additional car parking spaces to serve the 32 dwellings. This would result in the total provision of 56 car parking spaces across the proposed development.
- 3.3 It is proposed that the 3 no. dwellinghouses would be served by two car parking spaces each, with 1.5 spaces to be provided for each two bedroom flat - one allocated and the second as a shared space, 1 space per 1 bedroom flat, and 10 visitor parking spaces. The parking standards required by IGN3, which is adopted for DC purposes, are 1 space per unit for 1 and 2 bedroom flats, and 2 spaces per unit for 3 bedroom houses (which for this development would equate to a total of 35 spaces rather than the 56 now proposed).
- 3.4 I would also mention that parking in the local area (off site) is currently difficult due to it being largely double yellow lined. As such, the over provision of spaces on this site (of an additional 21 spaces) would, in my view, prevent pressure to park on the public highway locally.

3.5 As a result of the amendments made, it is necessary to balance the increased provision of off road car parking against the loss of some elements of soft landscaping which would have contributed to the attractive appearance of the development. In this case, it is considered that the visual impact arising from the loss of the landscaping would be outweighed by the benefits brought about by the provision of additional off road car parking.

3.6 In light of this assessment, I recommend that planning permission be granted.

#### **4. Recommendation:**

4.1 **Grant Planning Permission** in accordance with the following submitted details: Location Plan 9574/01 dated 28.11.2013, Existing Site Plan DHA/9574/02 dated 28.08.2014, Proposed Plans and Elevations DHA/9574/07 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/08 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/09 B dated 28.08.2014, Proposed Plans and Elevations DHA/9574/10 A dated 28.08.2014, Proposed Plans and Elevations DHA/9574/11 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/12 C dated 28.08.2014, Supporting Information 9574-H-01 P1 dated 28.08.2014, Supporting Information 9574-H-02 P1 dated 28.08.2014, Supporting Information 9574-H-03 P1 dated 28.08.2014, Supporting Information 9574-H-04 P1 dated 28.08.2014, Supporting Information 9574-H-05 P1 dated 28.08.2014, Road Safety Audit dated 28.08.2014, Site Layout DHA/9574/03 E dated 15.10.2014 subject to:

4.2 The applicant entering into a Section 106 to secure contributions towards affordable housing schemes and

4.3 The following conditions:

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

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

2. No development shall take place until written details and photographs of all materials to be used externally in the construction of the dwelling have been submitted to and approved by the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

Reason: To ensure no adverse impact upon highway safety resulting from potentially hazardous on-street parking, in accordance with Section 2 of Policy SQ8 of the Managing Development and the Environment Development Plan Document 2010.

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

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

5. The bedroom and bathroom windows on the north elevation of the units on the first and second floor to the western side of the block containing units 19-24 shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the unit to which the window(s) relate is occupied and shall be retained thereafter in perpetuity.

Reason: To minimise the effect of overlooking onto adjoining property, in accordance with Saved Policy P4/12 of the Tonbridge and Malling Borough Local Plan 1998 and paragraph 17 of the National Planning Policy Framework.

6. Prior to the first occupation of the units hereby approved details of a scheme of acoustic protection of habitable rooms shall be submitted and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than 40 LAeq dB in bedrooms or 48 LAeq dB in living rooms with windows open, and shall include acoustically screened mechanical ventilation to bedrooms having openings into facades that will be exposed to a level of road traffic noise in excess of 78dB L<sub>Amax</sub> (slow time weighting). The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

Reason: In the interests of the residential amenity of future occupants.

7. The access details shown on the approved plans shall be completed prior to the use of the site being commenced at a gradient of no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter and shall be maintained in perpetuity.

Reason: In the interests of highway safety.

8. Prior to the first occupation of the development hereby approved vehicle visibility splays shown on the submitted plan numbers 9574-H-02 rev P1, 9574-H-03 rev P1 and drawing number 9574-H-04 rev P1 received on 28.08.14 with no obstructions over 0.6 metres above carriageway level and 2m x 2m pedestrian visibility splays behind the edge of the shared surface on both sides of the access with no obstructions over 0.6 metres above footway level shall be provided and shall be maintained in perpetuity.

Reason: In the interests of highway safety.

9. The development hereby permitted shall not be occupied until the highways improvements as detailed in the Highway Design Drawings dated 28.08.14 have been carried out and brought into use.

Reason: In the interest of highway safety and to ensure compliance with policy SQ8 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.

10. Prior to works commencing on site, details of parking for site personnel as well as details of loading and turning areas for construction traffic shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be provided and retained throughout the development. The approved parking, loading and turning areas shall be provided prior to the commencement of development.

Reason: To ensure provision of adequate parking, loading and turning facilities for vehicles in the interests of highway safety and to protect the amenities of local residents in accordance with policy.

11. Prior to the development hereby approved commencing details of the slab levels of the proposed buildings and the finished levels of the site shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.

Reason: In order to secure a satisfactory standard of development and in accordance with paragraphs 17, 57, 58 and 61 of the National Planning Policy Framework.

12. No development shall be commenced until:

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

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

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

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

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

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

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

Reason: In the interests of amenity and public safety.

13. Prior to the commencement of development details of a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the local planning authority. The affordable housing shall thereafter be provided in accordance with the approved scheme. The scheme shall include:
- i. The numbers, type and location of the site of the affordable housing provision to be made;
  - ii. The timing of the construction of the affordable housing;
  - iii. The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
  - iv. The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

For the avoidance of doubt, the term 'affordable housing' means subsidised housing at below market prices or rents intended for those households who cannot afford housing at market rates. It is usually managed by a registered social landlord.

Reason: To ensure that the housing hereby permitted meets the broad aims of Tonbridge and Malling Borough Core strategy Policy CP17, Affordable Housing Supplementary Planning Document 2008 and paragraphs 50, 54 and 55 of the National Planning Policy Framework 2012.

14. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

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

### **Informatives**

1. Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council- Highways and Transportation (web: [www.kent.gov.uk/roads\\_and\\_transportation.aspx](http://www.kent.gov.uk/roads_and_transportation.aspx) or telephone: 03000 418181) in order to obtain the necessary application pack.



2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement of development.
3. Prior to the demolition work commencing the dutyholder is required to undertake an asbestos demolition survey as required by the Control of Asbestos Regulations 2012.
4. Tonbridge and Malling Borough Council operate a two wheeled bin and green box refuse recycling collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the boundary of the property at the nearest point to the public highway on the relevant collection day.
5. Collection of bins from individual property boundaries or specified bin storage areas can be achieved where vehicle access is permitted i.e. road constructed to highway standard to allow 32 tonne (GVW) refuse freighter and appropriate turning areas (vehicle 12m x 2.5m, with a 6m wheelbase and 4.5m height).
6. Although advice in accordance with the Local Plan states "no carry distance to exceed 25m from either the bin store or house to refuse vehicle", I wish to emphasise that 25m be used as the maximum and that consideration should always be given to a shorter distance that adheres to the above points.
7. The Council also operates a fortnightly recycling box/bin service. This would require an area approximately twice the size of a wheeled bin per property.
8. On the day of collection, the wheeled bin from each property should be placed on the shared entrance or boundary of the property at the nearest point to the adopted KCC Highway.
9. The Council reserves the right to designate the type of bin/container. The design of the development must have regard to the type of bin/container needed and the collection method.
10. You are advised to contact the Council's Waste Services team directly to discuss matters of refuse vehicle access to the site
11. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building,

Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmhc.gov.uk](mailto:addresses@tmhc.gov.uk). To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

Contact: Kathryn Holland

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**Report of 9 October 2014**

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<b>Ditton</b> Ditton	<b>570674 159323</b>	<b>20 May 2014</b>	<b>TM/13/03692/FL</b>
Proposal:	Erection 32no. dwellings (35% affordable), access road, car parking and landscaping at Bellingham Way, Aylesford, Kent (includes demolition of existing structures)		
Location:	Ferns Surfacing Ltd, Larkfield Depot Bellingham Way Larkfield Aylesford Kent		
Applicant:	Ferns Surfacing Ltd		

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**1. Description:**

- 1.1 Full planning permission is sought for the erection of 32 dwellings including 5 x 1 bedroom flats, 24 x 2 bedroom flats, 3 x 3 bedroom houses and 50 car parking spaces. The development is proposed to be laid out in a number of blocks, ranging from three to four storey blocks on the frontage with Bellingham Way, to two storey dwellings to the rear. The two central blocks of units are shown as affordable housing units to be made available at social rent levels. Car parking would largely be provided in car parking courts which are proposed to sit in relatively close proximity to the buildings. The site would be accessed from a new access road which would run through the centre of the site and join to Bellingham Way.

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

- 2.1 The application is being reported to the Planning Committee as it is a departure from the development plan.

**3. The Site:**

- 3.1 The application site is an existing commercial site with a lawful use as a lorry park/transport yard and is currently in use for lorry vehicle sales and situated within the New Hythe Business Park. The site area measures approximately 0.5 hectares and is largely laid to hardstanding, there is an office building on the site which is proposed to remain as part of the development.
- 3.2 The site fronts onto Bellingham Way which is situated to the east of the site and raised slightly above road level. To the west of the site are the rear gardens of residential dwellings which front onto New Hythe Lane. These properties are situated at an elevated ground level from the application site, sitting atop a steep vegetated bank. To the north of the site are residential dwellings and a car parking area at Mercer Close. These neighbouring properties are separated from the site by metal palisade fencing. To the south of the site is the remainder of Ferns Surfacing yard which is proposed to remain in a commercial use.

3.3 The application site is situated on the border between the industrial/commercial land to the south and residential development to the north and west. This creates a generally mixed character to the local area. The residential dwellings to the north east and north are of a relatively modern age and are situated on land which previously formed commercial sites.

3.4 The local area is of no special landscape designations.

#### **4. Planning History:**

None directly relevant to this case.

#### **5. Consultees:**

##### **5.1 East Malling and Larkfield PC:**

- Accept in principle this particular site is acceptable for residential development
- Other sites should be considered as part of the local plan review process with regard to the availability of employment land
- Request conditions be imposed relating to landscaping, archaeology, affordable housing, parking, construction hours, contamination and dropped kerbs for pedestrians.
- Request the Parish Council are consulted on the new road name
- Seek sufficient visitor car parking provision

##### **Ditton PC:**

- Originally raised no objections to the application but following re-consultation after the number of car parking spaces were reduced, sought the number of car parking spaces be increased to 60.

5.2 KCC Highways and Transportation: Raises no objection subject to conditions.

5.3 KCC Heritage: State that the site lies in an area which has some potential for prehistoric remains. About 300m to the south some Palaeolithic flints were located in the New Hythe Pits. Similar remains may survive on the application site. On the basis of the 4<sup>th</sup> ed OS Map and 1940's aerial photographs part of the site appears to have been subject to historic quarrying. But any area which has not been quarried has potential for archaeology and it is therefore recommended that a condition is imposed on any planning permission requiring an archaeological watching brief.

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- 5.4 Kent Police: Request that the applicant's attention is drawn to the Kent Design Initiative Design Out Crime Prevention document to assist them in designing out crime.
- 5.5 KCC Economic Development: Have requested commuted payments for the amount of £31,654.96 towards the provision of primary education, community learning, youth services, libraries and adult social care.
- 5.6 Private Reps: 41/0S/1X/0R + site and press advert

1 letter of objection received raising concern that trees on the site had been removed before development had commenced and that these trees offered environmental protection from factory noise and lights which now shine into the bedroom window.

## **6. Determining Issues:**

- 6.1 The NPPF, along with policy CP1 of the TMBCS (2007) and policy CC1 of the MDE DPD (2010), places 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.
- 6.2 The core planning principles contained within paragraph 17 of the NPPF outline the key objectives that the government consider should be fulfilled by the planning system. These include the encouragement of the effective use of land by reusing land that has been previously developed (brownfield land); and actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling.
- 6.3 Paragraph 22 of the NPPF states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their own merits having regard to the relative need for different land uses to support sustainable local communities.
- 6.4 Policy CP11 of the TMBCS requires that new development is concentrated within the urban areas of the Medway Gap (which includes Larkfield). CP15 states that housing will be permitted which accord with the principles of sustainability and which maintain and respect the settlement hierarchy.
- 6.5 The application site is located on land which is safeguarded for employment uses by policy E1 of the DLADPD. This policy states that proposals for non-employment uses (i.e. uses other than B1/B2/B8) would not be permitted.

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- 6.6 The existing site has permission to be used as a lorry park/transport yard and is currently being used for lorry sales. The lawful employment use has been present at the site since at least the 1970's when planning permission was granted for portable office buildings. The applicant has not provided any supporting evidence to demonstrate that the site is no longer viable for employment purposes; indeed, the site is currently in use for lorry sales (although this does not appear to be a lawful use). However, the owner of the land has moved a proportion of their business to London which has meant that they no longer require the whole site for the transport yard purposes. It is also stated that they do not intend to invest further in the employment site due to the potential noise and disturbance which may be caused to residential neighbours.
- 6.7 Since the commencement of the commercial use of the site the character of the local area has significantly changed, with many of the former employment sites such as the Kent Messenger and Leybourne Park now having been developed for residential purposes. It is also important to note that the Council's policy documents contained within the LDF were formulated prior to the publication of the NPPF. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Proposed development that accords with an up to date Local Plan should be approved and conversely proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF is a material consideration in determining applications as it constitutes guidance issued by the Secretary of State for decision takers. Weight must be placed upon the guidance contained within the NPPF in the consideration of the application for the re-development of the land.
- 6.8 Although the applicant has not sought to demonstrate that the application site is no longer commercially viable, there would be other benefits to the redevelopment of the site for residential purposes. The site has an unfettered commercial use as a transport yard. If used to its full potential this could cause significant noise and disturbance to residential neighbours directly adjacent to the site. The redevelopment of the site would provide some environmental benefits to the local area as a result.
- 6.9 It is also advised that any profits from the sale or development of the land would be re-invested in the neighbouring site which would provide some economic benefit to the local area. No details of this re-investment have been provided and the Council has no mechanism to ensure that the neighbouring site is enhanced by profits from the land sale or redevelopment. So, only limited weight can be attributed to this in the consideration of the application.
- 6.10 Finally, the residential development would include the provision of social rented affordable units of accommodation. This would represent at least 20% of the total residential accommodation on the site. This particular tenure of affordable accommodation is in short supply locally and the Council has a significant under

provision of such accommodation. In light of this, the proposed development offers wider benefits to the local community and this has been afforded considerable weight in the consideration of the principle of the development.

- 6.11 The site is located in a sustainable location in that it has both footpath and public transport links to local amenities as well as the wider urban area. It is surrounded by other residential development which means that a more intensive employment use may now cause significant noise and disturbance to residential neighbours. The site is brownfield and would allow for the provision of affordable homes which would seek to meet the needs of customers on the housing waiting list. These factors all weigh in favour of the development and represent material considerations in the determination of the application.
- 6.12 In light of the above, on balance although the development would represent a departure from the development plan in that it would result in the loss of employment land, the NPPF is supportive of the principle of the re-use of brownfield land. The material considerations outlined above weigh in favour of the development and offer considerable benefits to the local community and as such it is considered that the development is acceptable in principle.
- 6.13 The NPPF emphasises the need for good design in new development and identifies this as a key aspect of sustainable development, positively contributing to making places better for people. Paragraph 57 highlights the importance of a development establishing and maintaining a strong sense of place, creating attractive and comfortable places to live, which respond to local character and are visually attractive.
- 6.14 This is reflected in policies CP24 of the TMBCS and SQ1 of the MDEDPD which seek to ensure that all development is of a high quality design, and to protect, conserve and where possible enhance the character and distinctiveness of the local area. This includes the distinctive setting of and relationship between the pattern of the settlement, roads and the landscape, urban form and important views.
- 6.15 During the course of the application negotiations have taken place with regard to design in order to provide an appropriate balance between the need to ensure the development is viable whilst at the same time ensuring that the site sits comfortably in its surroundings. The site has been designed with buildings at the entrance turning around the corner between Bellingham Way and the new site entrance. The scale of the buildings reduces from the front (road edge) of the site to the back and all have been designed to have a road frontage directly onto the access road.
- 6.16 The buildings themselves have Juliet balconies in order to provide a suitable window to wall ratio, breaking the massing of the buildings and providing articulation to the frontages. Ground floor apartments have also been designed with patio doors in order to provide independent access without the need to use

the communal entrance if desired. This, combined with the variations to the building frontages, allows the buildings to visually reach out to the street and prevent the creation of a bland road frontage.

- 6.17 The variation in design of the blocks would create visual interest and the overall site layout draws the eye along the access road into the site. The end point of the road is proposed to be landscaped and part of the access road has been designed with street trees. These factors soften the building line and positively contribute to the verdant appearance of the development. The street trees would allow for vehicles to park on the highway but would provide designated spaces for doing so, which would improve the appearance of the street scene.
- 6.18 The character of the local area is mixed, with three to four storey apartment blocks to the north east of the site, apartments of a similar scale to the north and large commercial buildings to the south. The development would not detract from the overall character of the locality as it would reflect the scale of other residential development in Bellingham Way and would not be overwhelmed by the large scale commercial buildings to the south. The specific design of the development would allow the development to sit comfortably within its setting and no harm would be caused to the visual amenity of the locality.
- 6.19 The NPPF sets out the need to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings as one of the core planning principles in paragraph 17. This amenity is affected by the quality and standards of both internal and external accommodation.
- 6.20 The proposed residential units would have good sized floor areas with the one bedroom units having floor areas of approximately 50m<sup>2</sup> on average and the two bedroom units with an average floor area of 65m<sup>2</sup>. This would provide adequate internal accommodation for future residents without causing harm to their residential amenity. None of the dwellings are single aspect, the majority being triple aspect which would allow natural ventilation and heating throughout the day. All of the blocks of apartments and the dwelling houses have access to external amenity space, the majority of which is communal. The space is adequately sized in order to provide space for residents to sit outside and for children to play. This would positively contribute to the residential amenity of future occupants.
- 6.21 The application site is located in a commercial area and is affected by noise, mainly from road noise on Bellingham Way. Policy SQ6 of the MDE DPD (adopted 2010) needs to be applied in the context of both the NPPF and NPPG which are now “material considerations” for this purpose. This is a clear steer away from using measures such as the NECs in SQ8 as a means of calculating noise impact.
- 6.22 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new development from being put at unacceptable risk from or being adversely affected by unacceptable levels of noise pollution. Paragraph 123 continues that planning



decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

- 6.23 The Noise Policy Statement for England (2010), which is cited in NPPF, sets out a series of aims which include the avoidance of significant adverse impacts on health and quality of life. The explanatory note to the policy seeks to explain what is meant by significantly adverse and adverse impacts by reference to two concepts established by the World Health Organisation: “No Observed Effect Level” (NOEL) and “Lowest Observed Effect Level” (LOAEL) (the level above which adverse effects can be detected), and extends that concept to include a “Significant Observed Adverse Effect Level” (SOAEL). SOAEL is described as the level above which significant adverse effects on health and quality of life occur. These considerations do not set specific noise levels unlike earlier standards.
- 6.24 The NPPF states that in decision making account should be taken of the acoustic environment and in doing so to consider whether or not a significant adverse effect is occurring or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved. As part of this exercise it would include identifying whether the overall effect of the noise exposure is or would be above or below the SOAEL and LOAEL levels.
- 6.25 At the front of the site the measurements taken demonstrate that the L<sub>Amax</sub> measured never drops below 75dB throughout the night time periods and is more often than not in excess of 80dB.
- 6.26 The report does include a range of attenuation measures to achieve a satisfactory internal climate and these do appear to achieve the desired levels of BS8233:2014. This includes the provision of acoustically screened mechanical ventilation. These ventilation systems would be required where the internal noise levels will exceed 40 L<sub>Aeq</sub> dB in bedrooms or 48 L<sub>Aeq</sub> dB in living rooms with windows open and to bedrooms having openings into facades that will be exposed to a level of road traffic noise in excess of 78dB L<sub>Amax</sub> (slow time weighting). This can be controlled by way of planning condition on any approval.
- 6.27 The application site sits opposite a commercial site entrance where HGV vehicle movements occur on a regular basis – not unlike the adjoining dwellings recently developed. The dwellings on the forward-most part of the site could therefore be subjected to sweeping of the vehicle headlights from the units opposite. The dwellings on the front of the site would be situated approximately 1 metre above road level due to the levels change across the site. The cill height of the windows would subsequently be a further 1.1 metres above ground level. The dwellings have living room/kitchen windows facing onto the road rather than bedrooms and therefore disturbance would be further limited. In light of the height above road level and the nature of the rooms facing onto the road, no detriment would be caused to the residential amenity of future occupants through headlight sweep.

- 6.28 There are residential neighbours in close proximity to the site, to the north are dwellings fronting onto Mercer Close, and to the west are dwellings which front New Hythe Lane. The dwellings to the west are situated at a higher ground level and approximately 33 metres from the boundary of the application site. These factors would prevent an adverse impact from occurring due to overlooking or by the development being overbearing to them.
- 6.29 Dwellings to the north are situated in closer proximity to the site; however they are not directly in line with any of the windows in the residential blocks proposed. There is the potential for some overlooking to occur from the first and second floor bedroom and bathroom windows of the block containing units 19-24. It is therefore considered reasonable and necessary to require these windows to be obscure glazed and non-opening to 1.7 metres above internal floor level. However, the bedrooms all have secondary windows facing to the west providing the occupants with an outlook mitigating the impact of the obscure glazing. The blocks themselves are relatively high, however the position of the block containing units 19-24 in relation to 39 Mercer Close would prevent it from being unacceptably overbearing. No detriment would therefore be caused to the residential amenity of the closest residential neighbours as a result of the proposed development.
- 6.30 In considering new development the NPPF advises that decisions should take account of whether the site provides a safe and suitable access for all people and that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. Policy SQ8 of the MDE DPD states that development will only be permitted where it would not significantly harm highway safety and where there would be sufficient off road car parking provision in line with the Council's adopted parking standards.
- 6.31 The development proposes the provision of 50 car parking spaces to serve 32 residential units which comprises 3 visitor car parking spaces and 47 car parking spaces to serve the dwellings. The majority of the parking would be provided in parking courts which would be overlooked by the neighbouring residential buildings. This would provide passive overlooking which would improve safety for occupants and users of the car park. The level of car parking would exceed those required by IGN3 which seeks a provision of 1 space per 1 or 2 bedroom apartment and two spaces per three bedroom dwellinghouse (a total of 35 spaces). The proposed access road would also provide opportunity for some car parking in bays distinguished by the street trees. This would allow for sufficient off road car parking to serve the development.
- 6.32 KCC Highways has raised concern that details have not been provided with regard to parking for the retained office. This office would be accessed through the site to the south which remains in the ownership of the applicants. This site is an open yard with space for parking vehicles and would have sufficient space to serve the office use.

- 6.33 The residential development would result in vehicular movements to and from the site. The submitted transport assessment uses TRICS data to estimate the number of traffic movements generated by the development and states that the number of two way movements in the AM peak would be 9, with 14 during the PM peak and a total of 125 two way movements throughout the day. However, the site has a lawful B1/B2 use which would generate significant traffic movements of both cars and HGV's. The submitted report states this level to be 39 vehicular movements in the AM peak, 28 in the PM peak and a total of 246 overall. There would therefore not be any significant highway safety implications as a result of the proposed development.
- 6.34 The proposal would require the provision of a new access onto Bellingham Way. At present there is a pedestrian refuge situated almost directly in front of the proposed site access which would be required to be moved in order to provide safe entry and exit. In addition, KCC Highways has raised the issue that the white lining on the road to the front is currently confusing and would need to be altered. These matters could be secured by S.278 agreement with KCC Highways and could be controlled by way of Grampian condition on any planning approval. A condition would also be required to ensure that the gradient of the access was not so steep so as to cause highway safety issues.
- 6.35 Policy CP17 requires the provision affordable housing on all sites of 15 dwellings or above at a level of 40% of the number of dwellings in any scheme. This housing should be provided by way of 70% of the affordable dwellings being socially rented housing and the remainder being intermediate housing. That policy position was established, in 2007, following earlier housing need study work. The development proposes a total of 20% affordable housing (6 of the 32 units) and would be for *social rent*. This specific tenure is in limited supply in new development in the borough due to the under provision in the current market. The level of provision of affordable housing would be acceptable at 20% in order to ensure that all of the units would be for social rent. This would be a preferred tenure of social housing and therefore on balance it is considered that the lesser provision overall would be overcome by the preferential tenure which would meet the needs of those on the housing register. The precise means of ensuring control over this provision is currently anticipated by planning condition – however further consideration is being given as to whether this control may be better achieved by a S106 planning obligation given the market circumstances and the particular nature of the unallocated site.
- 6.36 Commuted sums have been sought from interested parties including Kent County Council Economic Development who seek a contribution of £31,654.96 towards primary education, libraries, social care and youth services and £84,284 towards the provision of open space. The applicants have provided a viability assessment to address the commuted sums which have been requested. This assessment has been reviewed on behalf of the Council and it is considered that the viability report is robust. The desirability of providing social rent affordable housing on the site at

the level proposed means that it would not be reasonable for the Council to also require the payment of commuted sums in this instance as it is the Council's priority to secure properly affordable housing provision – and investigations are in hand to establish if this contribution sum could be more effectively used to bring forward further affordable units.

- 6.37 The application is supported by a desk based archaeological analysis of the site which identifies a low to moderate archaeological potential for early prehistoric periods and the late Iron Age to Roman Period. This is due to its physical position in relation to other archaeological finds in the locality. The report recommends no further mitigation measures are required in this instance. KCC Heritage has requested a condition to require archaeology to be monitored on the site by a qualified person, this would appear to be reasonable in light of the low-to-moderate likelihood of archaeological remains being present.
- 6.38 The site is currently in a commercial use and there is therefore some likelihood of contamination being present on the site. The applicant has not provided a contamination report with the application submission; however a condition requiring contamination surveys to be carried out and necessary remedial works completed before and during development would be sufficient to prevent an adverse impact being caused through contamination, given the particular form of the development.

## **7. Recommendation:**

### **7.1 Approve in accordance with the following submitted details:**

Location Plan 9574/01 dated 28.11.2013, Site Plan DHA/9574/03 D dated 28.08.2014, Existing Site Plan DHA/9574/02 dated 28.08.2014, Proposed Plans and Elevations DHA/9574/07 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/08 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/09 B dated 28.08.2014, Proposed Plans and Elevations DHA/9574/10 A dated 28.08.2014, Proposed Plans and Elevations DHA/9574/11 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/12 C dated 28.08.2014, Supporting Information 9574-H-01 P1 dated 28.08.2014, Supporting Information 9574-H-02 P1 dated 28.08.2014, Supporting Information 9574-H-03 P1 dated 28.08.2014, Supporting Information 9574-H-04 P1 dated 28.08.2014, Supporting Information 9574-H-05 P1 dated 28.08.2014, Road Safety Audit dated 28.08.2014,

## **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 written details and photographs of all materials to be used externally in the construction of the dwelling have been submitted to and approved by the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

Reason: To ensure no adverse impact upon highway safety resulting from potentially hazardous on-street parking, in accordance with Section 2 of Policy SQ8 of the Managing Development and the Environment Development Plan Document 2010.

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

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

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5. The bedroom and bathroom windows on the north elevation of the units on the first and second floor to the western side of the block containing units 19-24 shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the unit to which the window(s) relate is occupied and shall be retained thereafter in perpetuity.

Reason: To minimise the effect of overlooking onto adjoining property, in accordance with Saved Policy P4/12 of the Tonbridge and Malling Borough Local Plan 1998 and paragraph 17 of the National Planning Policy Framework.

6. Prior to the first occupation of the units hereby approved details of a scheme of acoustic protection of habitable rooms shall be submitted and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than 40 LAeq dB in bedrooms or 48 LAeq dB in living rooms with windows open, and shall include acoustically screened mechanical ventilation to bedrooms having openings into facades that will be exposed to a level of road traffic noise in excess of 78dB LAmax (slow time weighting). The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

Reason: In the interests of the residential amenity of future occupants.

7. The access details shown on the approved plans shall be completed prior to the use of the site being commenced at a gradient of no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter and shall be maintained in perpetuity.

Reason: In the interests of highway safety.

8. Prior to the first occupation of the development hereby approved vehicle visibility splays shown on the submitted plan numbers 9574-H-02 rev P1, 9574-H-03 rev P1 and drawing number 9574-H-04 rev P1 received on 28.08.14 with no obstructions over 0.6 metres above carriageway level and 2m x 2m pedestrian visibility splays behind the edge of the shared surface on both sides of the access with no obstructions over 0.6 metres above footway level shall be provided and shall be maintained in perpetuity.

Reason: In the interests of highway safety

9. The development hereby permitted shall not be occupied until the highways improvements as detailed in the Highway Design Drawings dated 28.08.14 have been carried out and brought into use.

Reason: In the interest of highway safety and to ensure compliance with policy SQ8 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.

- 
10. Prior to works commencing on site, details of parking for site personnel as well as details of loading and turning areas for construction traffic shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be provided and retained throughout the development. The approved parking, loading and turning areas shall be provided prior to the commencement of development.

Reason: To ensure provision of adequate parking, loading and turning facilities for vehicles in the interests of highway safety and to protect the amenities of local residents in accordance with policy.

11. Prior to the development hereby approved commencing details of the slab levels of the proposed buildings and the finished levels of the site shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.

Reason: In order to secure a satisfactory standard of development and in accordance with paragraphs 17, 57, 58 and 61 of the National Planning Policy Framework.

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

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

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

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

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

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

(d) a Validation Report shall be provided to the Local Planning Authority by a competent person to confirm that the agreed remediation scheme has been completed and the site is suitable for the permitted end use.

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

Reason: In the interests of amenity and public safety.

13. Prior to the commencement of development details of a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the local planning authority. The affordable housing shall thereafter be provided in accordance with the approved scheme. The scheme shall include:

- i. The numbers, type and location of the site of the affordable housing provision to be made;
- ii. The timing of the construction of the affordable housing;
- iii. The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
- iv. The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

Reason: To ensure that the housing hereby permitted meets the broad aims of Tonbridge and Malling Borough Core strategy Policy CP17, Affordable Housing Supplementary Planning Document 2008 and paragraphs 50, 54 and 55 of the National Planning Policy Framework 2012.

14. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

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

### **Informatives**

1. Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council Highways and Transportation:  
[www.kent.gov.uk/roads\\_and\\_transportation.aspx](http://www.kent.gov.uk/roads_and_transportation.aspx) or telephone:03000 418181 in order to obtain the necessary application pack.
2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and



common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement of development.

3. Prior to the demolition work commencing the dutyholder is required to undertake an asbestos demolition survey as required by the Control of Asbestos Regulations 2012.
4. Tonbridge and Malling Borough Council operates a two wheeled bin and green box refuse recycling collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the boundary of the property at the nearest point to the public highway on the relevant collection day.
5. Collection of bins from individual property boundaries or specified bin storage areas can be achieved where vehicle access is permitted i.e. road constructed to highway standard to allow 32 tonne (GVW) refuse freighter and appropriate turning areas (vehicle 12m x 2.5m, with a 6m wheelbase and 4.5m height).
6. Although advice in accordance with the Local Plan states "no carry distance to exceed 25m from either the bin store or house to refuse vehicle", I wish to emphasise that 25m be used as the maximum and that consideration should always be given to a shorter distance that adheres to the above points.
7. The Council also operates a fortnightly recycling box/bin service. This would require an area approximately twice the size of a wheeled bin per property.
8. On the day of collection, the wheeled bin from each property should be placed on the shared entrance or boundary of the property at the nearest point to the adopted KCC Highway.
9. The Council reserves the right to designate the type of bin/container. The design of the development must have regard to the type of bin/container needed and the collection method.
10. You are advised to contact the Council's Waste Services team directly to discuss matters of refuse vehicle access to the site
11. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](mailto:addresses@tmbc.gov.uk). To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation

Contact: Kathryn Holland

AREA 3 PLANNING COMMITTEE

DATED 9 October 2014

Ditton  
Ditton

TM/13/03692/FL

**Erection 32no. dwellings (35% affordable), access road, car parking and landscaping at Bellingham Way, Aylesford, Kent (includes demolition of existing structures) at Ferns Surfacing Ltd Larkfield Depot Bellingham Way Larkfield for Ferns Surfacing Ltd**

DPHEH: There is a typographical error on the application description on the map on page 39. This description should match that on page 23.

A Primary School contribution has been put forward by the applicants. It is however being investigated whether this contribution could be put towards affordable housing as part of a S106 legal agreement. It is therefore considered that any recommendation should be subject to the applicant entering into a S106 legal agreement, the content of which is to be subject to further negotiation.

#### **AMENDED RECOMMENDATION**

**7.1 Approve subject to the applicant entering into a S106 legal agreement to secure contributions towards affordable housing schemes, and in accordance with the following submitted details:**

**Location Plan 9574/01 dated 28.11.2013, Site Plan DHA/9574/03 D dated 28.08.2014, Existing Site Plan DHA/9574/02 dated 28.08.2014, Proposed Plans and Elevations DHA/9574/07 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/08 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/09 B dated 28.08.2014, Proposed Plans and Elevations DHA/9574/10 A dated 28.08.2014, Proposed Plans and Elevations DHA/9574/11 C dated 28.08.2014, Proposed Plans and Elevations DHA/9574/12 C dated 28.08.2014, Supporting Information 9574-H-01 P1 dated 28.08.2014, Supporting Information 9574-H-02 P1 dated 28.08.2014, Supporting Information 9574-H-03 P1 dated 28.08.2014, Supporting Information 9574-H-04 P1 dated 28.08.2014, Supporting Information 9574-H-05 P1 dated 28.08.2014, Road Safety Audit dated 28.08.2014,**

#### **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 written details and photographs of all materials to be used externally in the construction of the dwelling have been submitted to and approved by the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. The development shall be carried out in accordance with the approved details.**

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

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

**Reason: To ensure no adverse impact upon highway safety resulting from potentially hazardous on-street parking, in accordance with Section 2 of Policy SQ8 of the Managing Development and the Environment Development Plan Document 2010.**

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

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

5. **The bedroom and bathroom windows on the north elevation of the units on the first and second floor to the western side of the block containing units 19-24 shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the unit to which the window(s) relate is occupied and shall be retained thereafter in perpetuity.**

**Reason: To minimise the effect of overlooking onto adjoining property, in accordance with Saved Policy P4/12 of the Tonbridge and Malling Borough Local Plan 1998 and paragraph 17 of the National Planning Policy Framework.**

6. **Prior to the first occupation of the units hereby approved details of a scheme of acoustic protection of habitable rooms shall be submitted and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than 40 LAeq dB in bedrooms or 48 LAeq dB in living rooms with windows open, and shall include acoustically screened mechanical ventilation to bedrooms having openings into facades that will be exposed to a level of road traffic noise in excess of 78dB LAmax (slow time weighting). The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.**

**Reason: In the interests of the residential amenity of future occupants.**

7. **The access details shown on the approved plans shall be completed prior to the use of the site being commenced at a gradient of no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter and shall be maintained in perpetuity.**

**Reason: In the interests of highway safety.**

8. **Prior to the first occupation of the development hereby approved vehicle visibility splays shown on the submitted plan numbers 9574-H-02 rev P1, 9574-H-03 rev P1 and drawing number 9574-H-04 rev P1 received on 28.08.14 with no obstructions over 0.6 metres above carriageway level and 2m x 2m pedestrian visibility splays behind the edge of the shared surface on both sides of the access with no obstructions over 0.6 metres above footway level shall be provided and shall be maintained in perpetuity.**

**Reason: In the interests of highway safety**

9. **The development hereby permitted shall not be occupied until the highways improvements as detailed in the Highway Design Drawings dated 28.08.14 have been carried out and brought into use.**

**Reason: In the interest of highway safety and to ensure compliance with policy SQ8 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.**

10. **Prior to works commencing on site, details of parking for site personnel as well as details of loading and turning areas for construction traffic shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be provided and retained throughout the development. The approved parking, loading and turning areas shall be provided prior to the commencement of development.**

**Reason: To ensure provision of adequate parking, loading and turning facilities for vehicles in the interests of highway safety and to protect the amenities of local residents in accordance with policy.**

11. **Prior to the development hereby approved commencing details of the slab levels of the proposed buildings and the finished levels of the site shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.**

**Reason: In order to secure a satisfactory standard of development and in accordance with paragraphs 17, 57, 58 and 61 of the National Planning Policy Framework.**

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

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

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

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

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

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

**(d) a Validation Report shall be provided to the Local Planning Authority by a competent person to confirm that the agreed remediation scheme has been completed and the site is suitable for the permitted end use.**

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

**Reason: In the interests of amenity and public safety.**

- 13. Prior to the commencement of development details of a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the local planning authority. The affordable housing shall thereafter be provided in accordance with the approved scheme. The scheme shall include:**

- i. The numbers, type and location of the site of the affordable housing provision to be made;**
- ii. The timing of the construction of the affordable housing;**
- iii. The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and**
- iv. The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.**

**Reason: To ensure that the housing hereby permitted meets the broad aims of Tonbridge and Malling Borough Core strategy Policy CP17, Affordable Housing Supplementary Planning Document 2008 and paragraphs 50, 54 and 55 of the National Planning Policy Framework 2012.**

- 14. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.**

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

#### **Informatives**

- 1. Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council Highways and Transportation: [www.kent.gov.uk/roads\\_and\\_transportation.aspx](http://www.kent.gov.uk/roads_and_transportation.aspx) or telephone:03000 418181 in order to obtain the necessary application pack.**

- 2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement of development.**
- 3. Prior to the demolition work commencing the dutyholder is required to undertake an asbestos demolition survey as required by the Control of Asbestos Regulations 2012.**
- 4. Tonbridge and Malling Borough Council operates a two wheeled bin and green box refuse recycling collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the boundary of the property at the nearest point to the public highway on the relevant collection day.**
- 5. Collection of bins from individual property boundaries or specified bin storage areas can be achieved where vehicle access is permitted i.e. road constructed to highway standard to allow 32 tonne (GVW) refuse freighter and appropriate turning areas (vehicle 12m x 2.5m, with a 6m wheelbase and 4.5m height).**
- 6. Although advice in accordance with the Local Plan states "no carry distance to exceed 25m from either the bin store or house to refuse vehicle", I wish to emphasise that 25m be used as the maximum and that consideration should always be given to a shorter distance that adheres to the above points.**
- 7. The Council also operates a fortnightly recycling box/bin service. This would require an area approximately twice the size of a wheeled bin per property.**
- 8. On the day of collection, the wheeled bin from each property should be placed on the shared entrance or boundary of the property at the nearest point to the adopted KCC Highway.**
- 9. The Council reserves the right to designate the type of bin/container. The design of the development must have regard to the type of bin/container needed and the collection method.**
- 10. You are advised to contact the Council's Waste Services team directly to discuss matters of refuse vehicle access to the site**
- 11 The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you**

**are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](mailto:addresses@tmbc.gov.uk). To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.**

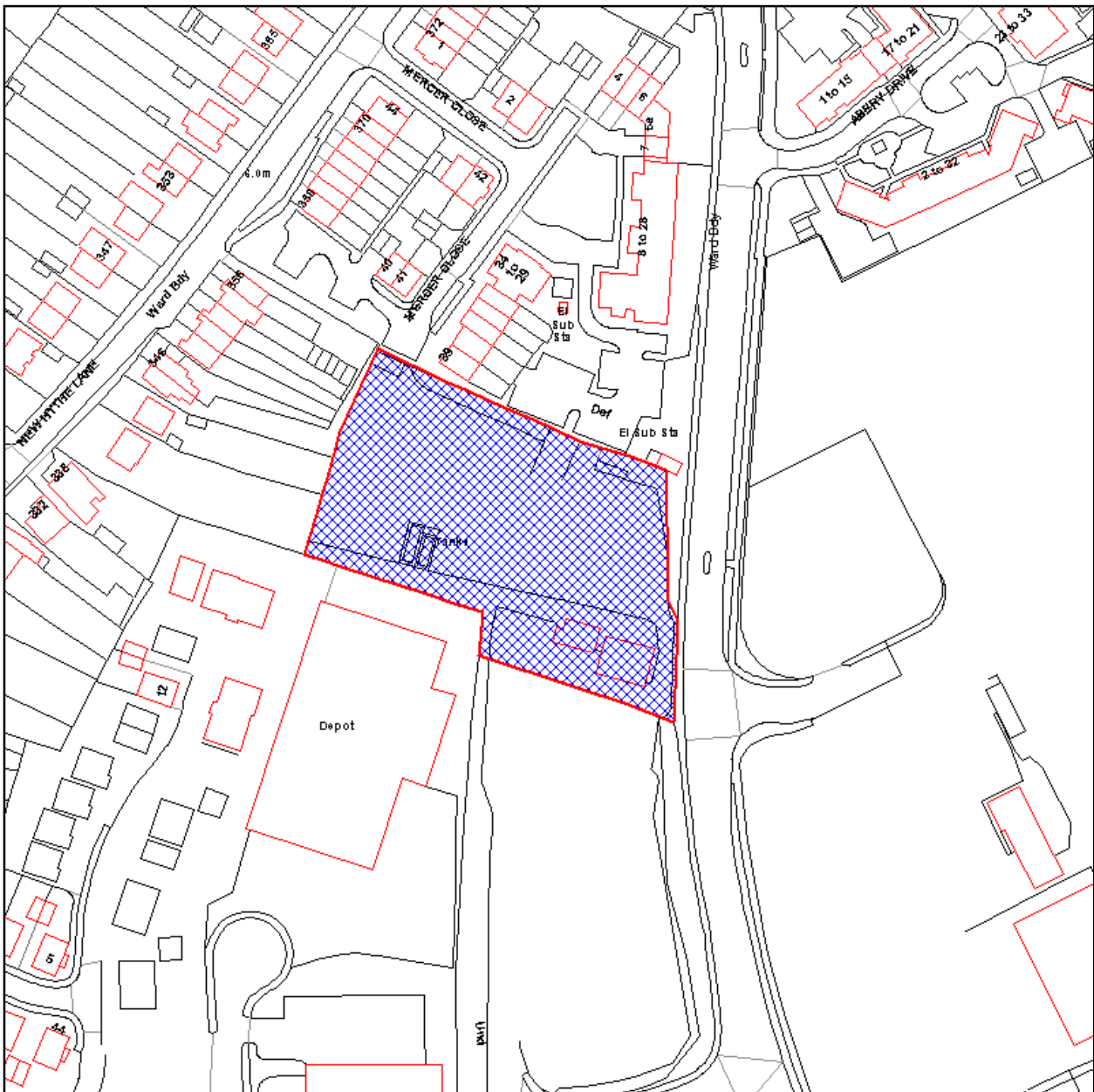


**TM/13/03692/FL**

Ferns Surfacing Ltd, Larkfield Depot Bellingham Way Larkfield Aylesford Kent

Erection 30 no. dwellings (50% affordable), new office headquarters building for Ferns Surfacing and Ferns Drylining (Kent), access road, car parking and landscaping at Bellingham Way, Aylesford, Kent (includes demolition of existing structures)

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- car parking areas, fencing and gates, family viewing area and a memorial garden together with the removal of portable structures;
  - erection of a new hangar type building for MAPS use for the foreseeable future.
- 1.4 The second part of the application (B) is an outline proposal which identifies part of the site for future development, if /when it is required, in order to build in flexibility and allow for future developments in aviation. There is no time frame for development on this part of the site.
- 1.5 Other elements have been included that do not appear to require planning permission but are mentioned for the sake of completeness. These include the creation of a parallel grass runway for use by historic aircraft, the refurbishment of hangar 3 and the minor refurbishment of hangar 4.
- 1.6 The applicants' agent has identified several operational elements which include a limit of 40,000 aircraft movements per annum and a reduction in weekday hours from 24 hours to 0730-1930. There would also be a reduction in weekend and Bank Holiday hours from 24 hour operations to 0830-1730. Home based aircraft would retain the right to use the airport until dusk or 2100 hours.
- 1.7 Runway lighting would remain as existing, although replaced with all other lighting on site being designed to be low level and compatible with aircraft safety.
- 1.8 The second application TM/14/03594/CNA (Medway reference MC/14/2914) is a consultation by Medway Council which is required as the application site crosses the boundary between the two Authorities and is identical to that described above.

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

- 2.1 This is a locally significant project that has attracted significant interest amongst residents within both TMBC and Medway.
- 2.2 The application is being reported to Committee at this stage in order that the views of TMBC can be made known to Medway before the application is determined by their Committee. It is possible that the Medway Council consideration could take place as early as December 2014 but possibly January 2015. Inevitably, in order to meet a reporting timetable that would facilitate TMBC passing its comments to Medway in the above time frame, some aspects of this report are yet to be finalised.
- 2.3 In particular, as the proposal relates to aircraft movements over the Council's area, TMBC has instructed specialist consultants to assess the aircraft noise implications of the project. The findings of that investigation will be critical to the consideration of the matters in hand and will be presented in a Supplementary

Report along with recommendations as to the determination of the Borough Council's position on the cases.

**3. The Site:**

- 3.1 The application site is located on the south western edge of the Medway towns and is under the ownership of Medway Council. It is stated that since 2000 the site has been leased to Rochester Airport Ltd (RAL) although the last lease expired in January 2014. Following extensive discussions and adoption of a Master Plan by Medway Council, RAL has now been granted a further 25 year lease. TMBC was engaged in the preparation of the Master Plan by way of officer level, Duty to Co-operate and working. Such technical working does not commit TMBC to any view on the current applications.
- 3.2 The majority of the project/application site falls within the Medway Council area with the exception of two small areas on the western side that fall within the Tonbridge and Malling Borough. As a result two identical applications have been submitted, one to each Authority with Medway being the lead determining Authority.
- 3.3 The two parts of the site that fall within TMBC area include part of the area which is reserved for future development (not within these applications) and the southern tip of one runway (within the application sites).
- 3.4 The site can be reached from several points leading from Maidstone Road (A229), Rochester Road, Laker Road and Marconi Way. The site is adjoined by retail and hotel development fronting Maidstone Road and also the Medway Innovation Centre, BAE Systems complex of industrial buildings. To the south of the site is the Woolmans Wood Caravan Park.
- 3.5 The airport site comprises a cluster of buildings and structures positioned towards the southern end of the site including hangars, workshops, café, portacabins and the control tower.
- 3.6 The airport currently has two cross wind grass runways, 16/34 and a lit and drained 02R/20L with a parallel relief runway 02L/20R. Runway 02/20 extends to some 830m in length and has a width of 32m. It is stated that the current use of these runways is split approximately 70% on vehicle runway 02/20 and 30% on 16/34. The airport is used by leisure flyers, for pilot training, emergency services, very light cargo traffic, surveys for utility companies, MoD and aerial photography. Due to the length and type of the runway and its surface the use is self-limiting in terms of the types of aircraft able to use the airport.
- 3.7 It is stated by the applicant that the airport currently handles some 32,000 movements per annum although this number will fluctuate according to weather and economic conditions. There are currently no restrictions on the number of daily flights and on a busy day the applicant asserts that this could reach 400-500



TM/08/01537/A10    Approved

25 June 2008

Article 10 Consultation by Medway Council for revised access involving internal rearrangement of 132 space car park and associated plant and incorporating stand-by generator and chiller

**5. Consultees** (focussed on TM/14/03341/FL):

- 5.1 Burham PC: Would not like to see an increase in the number of flights over Burham or larger noisier aircraft using the new runway. Airport to close and become a business park providing more employment for Medway and the surrounding area.
- 5.2 Aylesford PC: No objection.
- 5.3 Wouldham PC: Supports the application.
- 5.4 KCC Highways: The current proposals subject to this application would not be likely to have any significant implications on the highway. The future development however of land currently used for runway 16/34 will require a transport assessment, should that be proposed in detail in due course.
  - 5.4.1 The application includes the identification of the future development site and seeks outline permission for this. If this means the land can be developed thus generating significant levels of traffic, the details of this and the effects arising from this should be considered at this stage in a transport assessment.
- 5.5 Highways Agency: Directs that planning permission not be granted for a specific period expiring on 11<sup>th</sup> December 2014. The reason for this direction is that there is insufficient information presently available to the Secretary of State to ensure that the neighbouring trunk roads continue to serve their purpose as part of the national system of routes for through traffic in accordance with Section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety on these roads.
- 5.6 Environment Agency: Object to the application on the grounds that there is insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable. The site is an extremely sensitive setting overlying a principle aquifer and in an SPZ of a public water abstraction point. There is no information on pollution control measures, fuel storage and re-fuelling areas or management of any de-icer equipment. There is no site contamination report indicating where previous pollution could have occurred, how this was addressed in the past or still requires to be addressed. The applicant should therefore provide information to satisfactorily demonstrate how these matters can be overcome.
- 5.7 Natural England: Having reviewed the application and in particular noise and visual impact, Natural England does not wish to comment on this development. The proposal relates to the Kent Downs Area of Outstanding Natural Beauty and it

is recommended that the advice of the AONB partnership organisation is sought regarding any impact upon the wider landscape setting.

- 5.8 Kent Downs AONB Unit: No response received at the time of preparing the report.
- 5.9 Kent Wildlife Trust: The application is the product of a fundamental review of operations and development at the airport at the start of a new lease period. It represents an excellent opportunity to consider how this extensive open area of land could be adapted and its habitats managed to achieve a significant enhancement of local biodiversity.
- 5.10 The ecological scoping survey report recommends a series of measures to achieve this goal and those that do not conflict with operational procedures are supported. The Trust is keen to see the implementation of the works to the pill box, broadening the native floral composition of the amenity grassland and adopting a Biodiversity Management Plan to steer the continuing maintenance of the grassland and other key habitat features. It is recommended that these measures are implemented by way of planning conditions. It is also considered that the applicants should be asked to consider the use of green/brown roofs to the buildings. A condition is recommended to prevent an increase in the number of flights into and out of the airport in any one year.
- 5.11 Kent Fire and Rescue Services: Confirm that the means of access is considered satisfactory.
- 5.12 KCC Heritage: No response received at the time of preparing this report.
- 5.13 Private Reps: To date representations have been received from 14 individuals, some living in Kent and some from other parts of the country including Maidenhead, Northamptonshire, Cheltenham and Farningham. A variety of comments have been received both for and against the application.

5.13.1 ***Support for the proposal***

- Asset to the economy and leisure facilities and the area generally.
- Haven for wildlife.
- Hard runway will help take off and reduce noise and provide improved accessibility.
- Useful training facility for pilots.
- Air traffic will be distributed more evenly over the year to the benefit of flying schools.
- Restrictions on the numbers and days/times of operation.



- Other airports in Kent have been lost in recent years.
- Airport is well placed to provide an essential emergency service to North Kent and the surrounding area.

#### 5.13.2 ***Against the proposal***

- Noise associated with helicopters, gyrocopters, microlights and night flights by emergency services.
- Masterplan is biased and not impartial.
- Waste of ratepayers money.
- Commercialisation of airport.
- Lack of Environmental Impact Assessment.
- Suggested cap on flight numbers will be exceeded.
- Increase in air/light and noise pollution to the detriment of the residents quality of life.
- The single direction runways will concentrate all air traffic over a highly populated area including several schools and nursing homes.
- Availability of runway for more and heavier aircraft.
- Recent development in the area has resulted in a reduction in the amount of space available for an emergency drop zone.

5.13.3 Various other matters have been raised about the procedures followed by Medway through the production of a Masterplan and the EIA screening opinion. This does not have any bearing on the consideration of these applications.

5.13.4 Reference has also been made to the operation of the airport in terms of safety standards as identified by the Civil Aviation Authority. In its document CAP 168 "Licensing of Aerodromes" (February 2014) the Civil Aviation Authority indicates that *"A proposal to use land as an aerodrome may be the subject to the requirements of the Town and Country Planning Acts and applicants are advised to consult the Local Planning Authority before embarking on any such project. The application for planning permission and the request for the aerodrome licence are not interdependent and are made separately."*

**6. Determining Issues:**

- 6.1 The applications must both be determined in accordance with the provisions of the relevant Development Plan, either that which covers the TMBC area or that which applies in Medway. However, one further key consideration is whether such development plans have been superseded or updated by the provisions of national policy, in these cases, The National Planning Policy Framework (NPPF).
- 6.2 NPPF provides the national policy context for determining planning applications. Amongst its aims the NPPF states that the planning system should do everything to support economic growth and should not act as an impediment for sustainable economic growth and should support existing business sectors. Planning authorities should seek to secure a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings. Emphasis is also placed on conserving and enhancing the natural environment and minimising impacts on biodiversity.
- 6.3 The Tonbridge and Malling Core Strategy was adopted some time before the NPPF was published. Relevant policies are CP1, CP7 (development affecting an AONB) in so far as the part of the site in TMBC area is *quite close* to the AONB boundary which is on the southern side of M2 and planes from the site will take-off directly over the AONB boundary) , CP24 (standard of development). Also relevant are MDE DPD policy SQ6 (the impact of noise), NE3 (impact of development on Biodiversity) and SQ4 (air quality). (Both of the these latter policies are to be considered in light of the approach now adopted in NPPF.) There is no site specific policy relating to airfield related development in any TMBC planning policy.
- 6.4 In Medway there is a section in the Adopted Medway Local Plan 2003 which deals with the airfield. The adopted policy reads:

*“POLICY S11: ROCHESTER AIRFIELD*

*Rochester Airfield, as defined on the proposals map, is allocated for a high quality business, science and technology development comprising Class B1, B2 and B8 uses.*

*A development brief, approved by the council, will guide Development”*

- 6.5 Medway Council will need to consider the application that they deal with carefully to assess the proposal in light of this policy.
- 6.6 By way of background information the applicants have advised that two submissions were made for an Environmental Impact Assessment (EIA) “Screening Opinion” for the proposed works, or project, to Medway Council. After

the first submission a decision was reached that an EIA was necessary due to the characteristics of the site and the project and the need to identify any significant effects on nearby sensitive areas. This decision was reached following submissions made by Natural England (NE) and KCC. The concerns expressed by NE/KCC (as to whether EIA is required – not whether the proposal is acceptable) were addressed in more detail and a second screening submission was made. In August 2014, Medway Council issued a further “Screening Opinion” to the effect that, subject to certain constraints on flying practice, no Environmental Impact Assessment would be necessary. It is believed that there may be a challenge to this latest “Screening Opinion” by way of an approach to the Secretary of State. TMBC has received no formal notice of such a challenge and must rely on the later of the two “Screening Opinions”.

- 6.7 It is understood that Rochester Airport was first established in 1933 and has been fully operational as a General Aviation flying site ever since. Medway Council has worked for several years to identify a financially viable way to protect the airport and provide greater access for aviation and heritage/leisure uses. A full Statement of Community Involvement was prepared by Medway Council in January 2012 and summarises work to that date. A Master Plan was prepared and was the subject of further public consultation and adopted in January 2014. It is understood that the planning application follows on from feedback from the above consultations in the context of the Masterplan preparation.
- 6.8 In support of the proposal several documents have been submitted. These include a noise report, flood risk assessment, ecological appraisal, drainage design statement, desk based archaeological assessment, tree survey and arboricultural report. In determining the applications the project as a whole will be considered but the recommendations will inevitably have to reflect the parts of the site that fall within the relevant Council areas and the nature of the application in each.
- 6.9 Neither application, in respect of the runway improvements etc, appears to be supported by a specific and express policy aimed at promoting, facilitating or encouraging a proposal of the character of the overall project the subject of the applications. Nevertheless, the use of the site for flying is historically well established. So, the key is whether the new works, especially the hard surfacing and realignment of the runway (mostly in Medway and a small portion in TMBC area) will bring about different impacts from the current position and if so whether these impacts are or are not acceptable. The outline portion (B) of the proposals appears to be in broad compliance with Policy S11 of the Medway Local Plan 2003.
- 6.10 Noise - This Council has appointed a specialist independent Noise Consultant to assess the submitted Noise Report which seeks to clarify noise impacts from the overall project (which is facilitated by the small part of the hard runway that is proposed with the Borough). It is important that, should the flying facilities be enhanced, the noise climate remains acceptable having particular regard to

residential amenity with the Borough. This is a vital consideration because once a pattern of flying is committed by a planning permission then there is no residual power to control aircraft noise. Abatement Notice procedure, for instance, is not possible in respect of aircraft noise. The results of this independent noise assessment will be reported in a Supplementary Report.

- 6.11 Lighting - Where illumination is needed adjacent to the aircraft buildings, high output floodlights will be used and directed at the ground using appropriate light reflections to control the spread of illumination. Low energy LED lights would be used to illuminate fixed aircraft ground routes. The level of illumination for buildings will be in accordance with CIBSE (Chartered Institute of Building Services Engineers) Lighting Guide and the level of illumination for aircraft manoeuvring areas will be in accordance with CAA CAP 168. In this respect the major impacts relate to that part of the project that lies in Medway Council area and Medway must satisfy itself that its assessment of the proposal reflects the position set-out on NPPF and Planning Practice Guidance. Further comment as to the potential visual impact in TMBC area will be provided in a Supplementary Report.
- 6.12 Site operation safety - The issue of safety in association with the operation of the airport has been raised by some residents. The submitted documents suggest that safety will be improved by the construction of a paved runway. The airport will continue to be licensed by the CAA and operate in accordance with their requirements – CAA document CAP168 deals extensively with safety (over 420 pages). Although the operation of the airport is not a matter that can be controlled by a planning permission, the applicants' agent has stated that the airport will continue to be subject to the scrutiny of and continuous assessment by the CAA.
- 6.13 Visual impact - The physical changes to the site will include the repositioning of the café, public viewing area and memorial garden. In addition, the positioning of the new control tower and re-cladding of the hangars should not materially harm the visual qualities of the area. The application site does not fall within the AONB, is located between 0.4 to 0.6km to the west of the airport and is separated from it by the M2 motorway and the HS1 route. It is considered that views across the airport will not be affected by the proposed development and there should be no harm to the character of the nearby AONB.
- 6.14 The existing vegetation will remain unaffected by the development. Low shrubs are proposed in the public access areas around the car parking to the hub and café/restaurant, public viewing area and memorial garden.
- 6.15 A low grassed bund will be provided from material excavated from the site works to the north west of runway 02-20, which would delineate the boundary from the area of the site to be developed by Medway Council in the future. For operational reasons the bund would be restricted in height and no extra material would be imported in to the site.

- 6.16 On the face of it, and bearing in mind the current facilities at and around the Rochester Airport site and also bearing in mind the implications of Medway policy S11 I do not consider that the detailed elements or the outline proposals give rise to overriding concern in terms of visual impact.
- 6.17 Ecology - From an ecological point of view Kent Wildlife Trust has suggested a number of measures that could be implemented to enhance biodiversity at the site. These measures are welcomed and would need to be covered by safeguarding conditions.
- 6.18 Highways - The application has been considered in relation to the provision of parking and the impact upon the associated highway network. It is noted that the Highways Agency (responsible for traffic in relation to M2) has issued a Direction that planning permission should not be granted until after 11<sup>th</sup> December as they consider that a Transport Assessment is required in association with the outline proposal for part of the site. It is stated that this information is required in order to assess the impact of future development on the site. The KCC Highways has noted that the proposals would not be likely to have any significant highway implications on Kent roads (Medway Council is a highways authority in its own right) and that there would be little change in the overall context of traffic movements at the site. Parking will be provided within the site to vehicle standards. The future redevelopment of the land currently used for runway 16/34 will however require a transport assessment and this will need to be dealt with before a planning decision can be made by either Tonbridge and Malling Borough or Medway Councils.
- 6.19 Archaeology - At the time of preparing the report no response had been received from the KCC Archaeological Officer in respect of the part of the site in TMBC area. Any comments received will be included in the supplementary report. It is entirely conceivable that defence related
- 6.20 The Environment Agency has commented on the application in terms of the risk to controlled waters, ground water protection and land contamination. It is necessary for satisfactory information to be provided to demonstrate that the risks to controlled waters have been fully understood and can be addressed through appropriate measures. At the present time, an objection is raised by the Environment Agency as insufficient information has been submitted to demonstrate that the level of risk posed by this proposal is acceptable and the application has failed to provide assurance that the risks of potential pollution are understood. These matters will need to be brought to the attention of the applicants. My own officers agree that in light of the previous use of all parts of the site a full assessment of potential contamination is appropriate.
- 6.21 It is clear that Rochester Airport is an asset to the local area and provides recreational activities, heritage links and local employment. It also serves utility companies, the police and air ambulance and so is of benefit to the wider

community. The proposed redevelopment of the airport site will result in significant visual improvement throughout the whole site and will upgrade the disparate and largely unsightly, poor quality and temporary structures.

- 6.22 It is understood that the Medway Council produced Masterplan for the airport sets out a strong case for its redevelopment in terms of policy S11 and economic benefits to the wider Medway area, albeit that the Masterplan carries only very limited weight at this time. The proposed development will allow for an improved operation notwithstanding the loss of the crosswind runway. The scale and nature of the proposals will be appropriate to the size of the airport. However because of the general effects of the airport flying proposals in particular it is necessary to consider the more specific impact of the development on the small sections of the land that fall within the Tonbridge and Malling Borough. It is noted that only a tiny section of the southern end of runway 01/20 and the aircraft holding area falls within TMBC area. This section of the runway lies adjacent to Rochester Road and close to the M2 with warehouse premises to the north. There are very few residential properties in the vicinity of this part of the airport site that fall within TMBC area.
- 6.23 The potential future development to the north-west of the operational site (which subject to the outline portion of this application) will undoubtedly add to employment opportunities for the area. However, such proposals will require careful and detailed consideration and in the absence of a greater level of information concerning the potential types of use and the amount of development intended it is not possible to comment in more detail at this stage on this aspect of the submission. Crucially, KHS have requested in their representations that a TA is required in order to make an informed judgement as to the acceptability of the principle of such development which I consider to be an entirely reasonable request in these circumstances.

## **7. Recommendations:**

**Further details of the investigation of matters identified above, and in particular an assessment of the impact of aircraft noise on the TMBC area, together with detailed Recommendations will be provided in a Supplementary Report.**

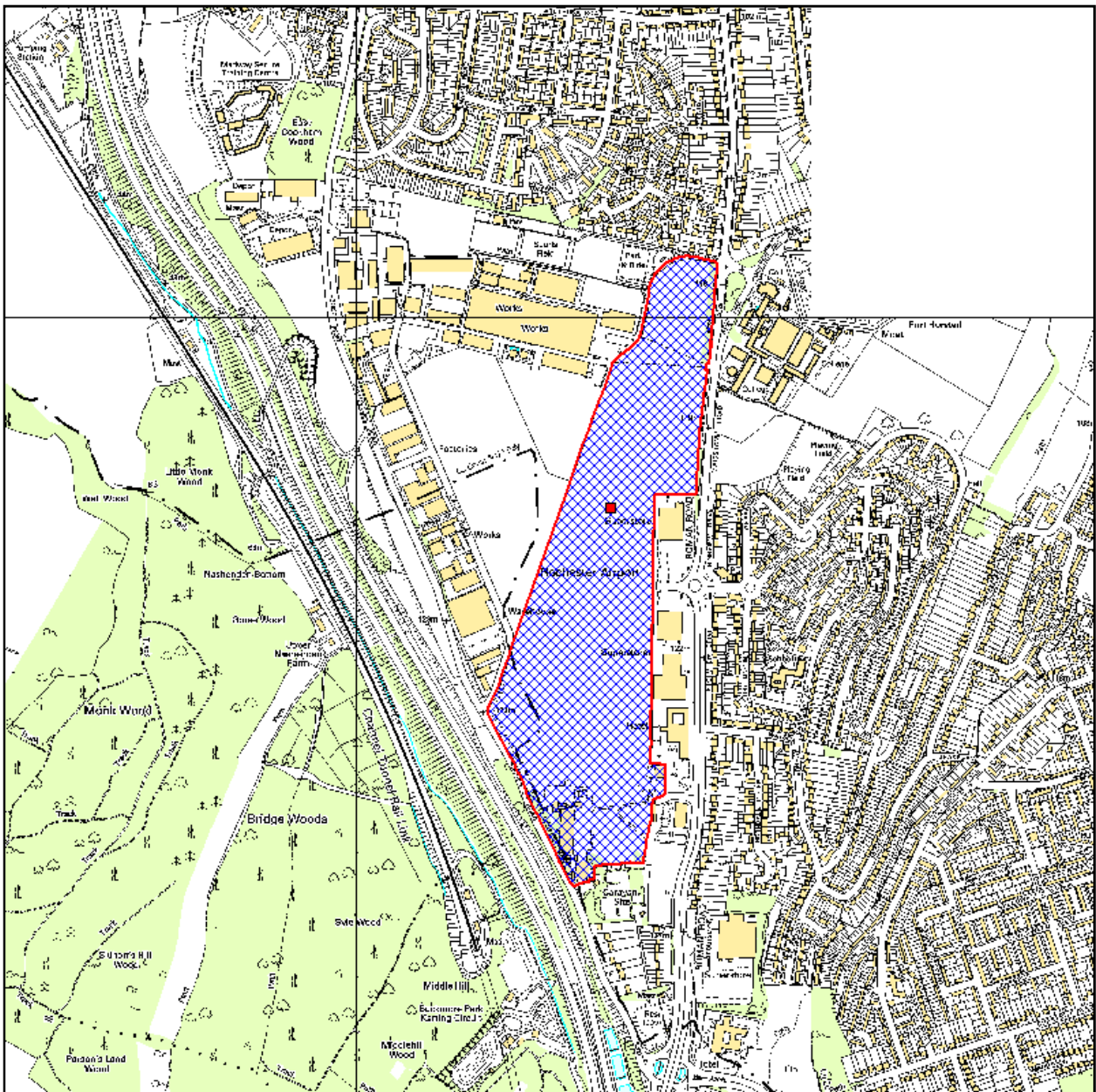
Contact: Hilary Johnson

**TM/14/03341/FL & TM/14/03594/CNA**

**Rochester Airport Maidstone Road Chatham**

Hybrid Application: A: Formation of a lit paved runway with parallel grass runway, formation of grassed bund, re-siting of helipads, erection of two hangars, a hub building with control tower and associated building, erection of fencing and gates, formation of associated car parking areas, fuel tank enclosure, family viewing area and a memorial garden (detailed submission) plus demolition of a range of structures (identified on plan) and removal of portable structures and B: Identification of future development site (outline submission)

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## **Alleged Unauthorised Development**

**East Malling**  
East Malling

**14/00289/WORKM**

**010002 916143**

Location: Invicta Works Mill Street East Malling Kent

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### **1. Purpose of Report:**

- 1.1 To report unauthorised works undertaken in association with the conversion of the Invicta Works building which do not accord with the plans approved under TM/06/02433/FL and TM/08/03540/RD. The works include a number of different elements which considered on a cumulative basis have detracted considerably from the appearance of the converted rural building and the character of the Conservation Area.
- 1.2 To report the unauthorised change of use from paddock to individual residential curtilages in association with 6, 7, 8, 9, 10 and 11 Darcy Court, Mill Street, East Malling.

### **2. The Site:**

- 2.1 The site lies to the west of Mill Street at the western edge of the village. It is located within the Mill Street Conservation Area and comprises predominantly new build dwellings set back from Mill Street and also includes the conversion of the Invicta works building which now comprises four apartments. The site is bordered to the south and the west by an area of agricultural land with a public right of way running to the north of the site.

### **3. Alleged Unauthorised Development:**

- 3.1 (1) The conversion and extension of the historic works building to provide four apartments not in accordance with the plans approved under TM/06/02433/FL and TM/08/03540/RD. (2) The unauthorised change of use of the paddock to residential curtilage associated with 6, 7, 8, 9 and 10 Darcy Court, Mill Street, East Malling.

### **4. Determining Issues:**

- 4.1 Planning permission was granted on 19 January 2007 for the redevelopment of the site to include the conversion of the former works building to provide four apartments, 9 terraced dwellings and 7 flats under application reference TM/06/02433/FL.
- 4.2 Condition 3 of the planning permission required that, '*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*'. The details pursuant to

this condition were subsequently approved on 27 April 2009 under reference TM/08/03540/RD. The approved details indicated that the windows to be installed in the converted works building would be double glazed wooden frame windows of a conservation-style casement (as shown in drawing no 08.77.09 of TM/08/03540/RD).

- 4.3 Rather than installing windows in accordance with the approved details, the windows in place are white upvc windows. In total, the windows which have not been installed to the required specification include seven windows to the front elevation of the building, two windows to the side (south) elevation of the building, four windows to the rear elevation of the building and four windows to the side (north) elevation of the building.
- 4.4 The approved doors were shown on the plans as wooden conservation-style doors with a "false" door of a similar specification to be located at first floor level of the front elevation of the building, which has not been provided. The doors which have been installed are all upvc doors and do not meet the specification of the approved joinery details.
- 4.5 In addition, there are a number of further alterations to the building which do not accord with the approved plans which are summarised below.
- 4.6 Most significantly, to the front elevation of the building the approved plans proposed double doors to the ground floor and a wooden false door to the first floor level, which was a prominent feature of the original building. The development does not incorporate the false door to first floor level and instead has been replaced with a small window to match those on the front elevation of the building. The double door to ground floor level has not been installed and instead a smaller single door has been incorporated.
- 4.7 A main character feature of the building was considered to be two painted signs displaying the words 'Darcy Products' and 'Invicta Works', which were proposed to be retained as part of this scheme for conversion. The signage has been removed, most probably as a result of the wider building having been cleaned and to date those signs have not been reinstated.
- 4.8 There has also been some repositioning of doors and the windows to the rear elevation of the building from their approved locations. The original report to the Planning Committee, when recommending the scheme for conversion for planning permission, made reference to the importance of retaining the position of the original openings within the building in ensuring the development was of an acceptable quality.
- 4.9 When viewed cumulatively, the works undertaken, as described above, have amounted to a development which has undoubtedly caused harm to the appearance of the converted building and the character of the Mill Street CA. Furthermore,

Members will be aware that policies governing the conversion of rural buildings seek to ensure that such conversions are undertaken in a suitable manner to ensure they do not become overly domestic in appearance, thus losing their historic character or significance within the landscape. This includes for example a requirement to, as far as reasonably practical, reuse existing openings rather than to create additional windows and doors.

- 4.10 For these reasons in its current form the development as built is in conflict with paragraphs 131 of the NPPF 2012, Policy CP24 of the TMBCS 2007 and Policies DC1 and SQ1 of the MDEDPD 2010. As such I believe that it is expedient to take enforcement action to require:
- Reinstatement of the signage as shown on approved plan number 05.22.SK4A in accordance with a detailed specification to be included in the Notice;
  - Installation of windows and doors in a form that accords with the approved plans in planning applications TM/06/02433/FL and TM/08/03540/RD along with the carrying out of any associated remedial work to brickwork and window cills in accordance with a detailed specification to be included in the Notice.
- 4.11 The nine dwellings on the southern side of the site were approved with moderately sized private gardens, with open paddocks beyond in order to ensure that the wider countryside and open landscape would not be encroached upon in a harmful way as a result of this development. However, it has become clear that six of the individual householders have extended their gardens to incorporate parts of the paddock , with subdivision having taken place, along with boundary planting extending along the entire west and south sides of the site and turf has been laid up to the new extended boundary.
- 4.12 The use of the paddock as residential curtilages serving the individual properties is a material change of use of the land which requires the benefit of planning permission. In this instance, such planning permission would not be forthcoming as the change of use is considered to have caused direct harm to the open and rural character of the countryside by virtue of the encroachment of a more suburban use of the land. The change of use is therefore contrary to policies CP14 and CP24 of the TMBCS 2007 and Policy SQ1 of the MDEDPD 2010.
- 4.13 As such I believe that it is also expedient to take enforcement action to require the use of the paddock as residential curtilage to cease including the removal of any associated domestic paraphernalia and the reinstatement of the approved site boundary.

**5. Recommendation:**

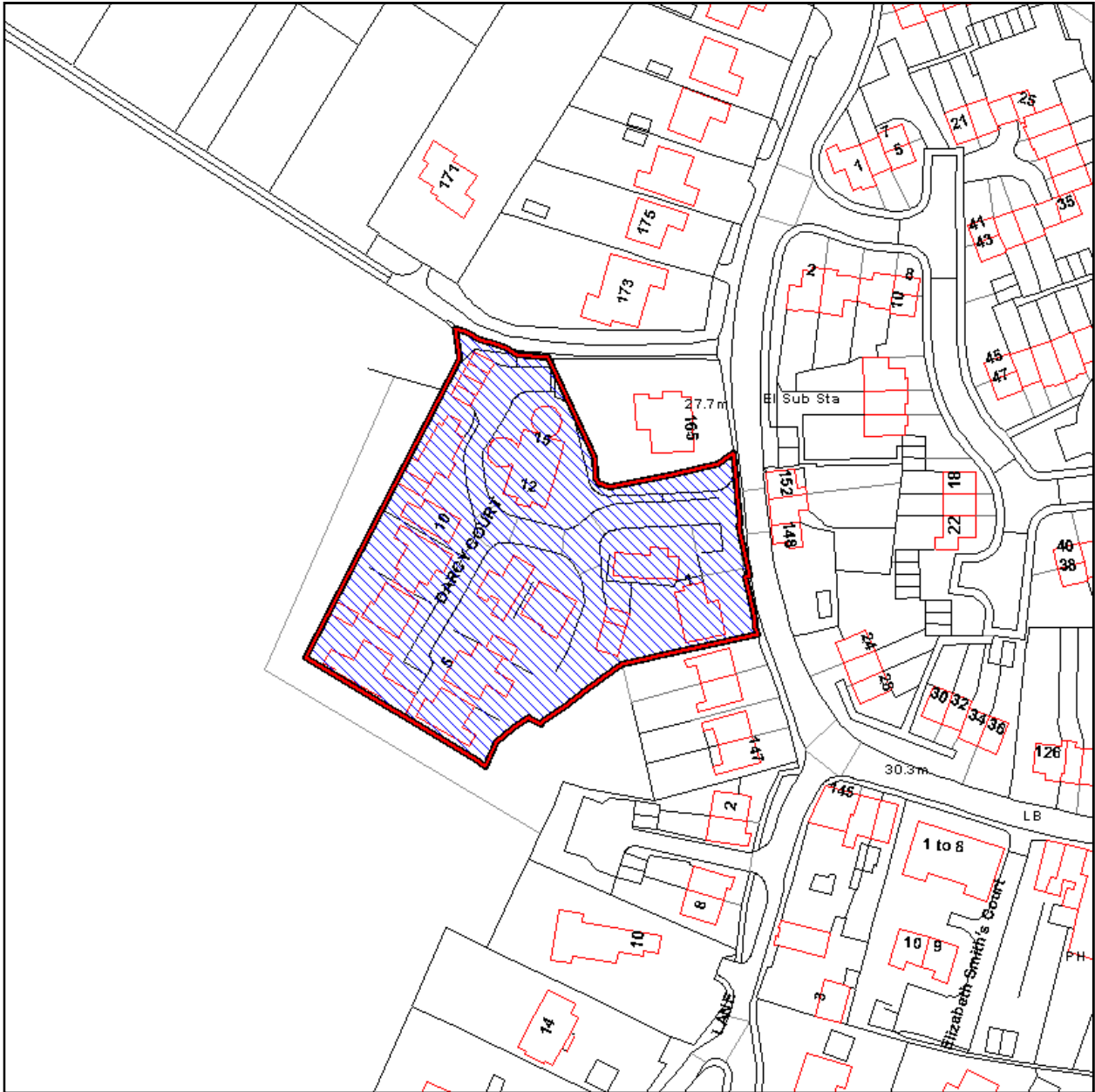
- (1) An Enforcement Notice **BE ISSUED**, the detailed wording of which to be agreed with the Director of Central Services, to reflect paragraph 4.10 of this report.
- (2) Enforcement Notices **BE ISSUED**, the detailed wording of which to be agreed with the Director of Central Services, to reflect paragraph 4.13 of this report.

Contact: Paul Batchelor

14/00289/WORKM

Invicta Works Mill Street East Malling West Malling Kent

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