

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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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
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21 February 2017

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

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 2 Planning Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Wednesday, 1st March, 2017 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

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

PART 2 - PRIVATE

12. Urgent Items

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

MEMBERSHIP

Cllr Mrs F A Kemp (Chairman)
Cllr S R J Jessel (Vice-Chairman)

Cllr Mrs J A Anderson
Cllr M A C Balfour
Cllr Mrs S M Barker
Cllr R P Betts
Cllr M A Coffin
Cllr Mrs S L Luck
Cllr B J Luker

Cllr P J Montague
Cllr L J O'Toole
Cllr S C Perry
Cllr H S Rogers
Cllr Miss J L Sergison
Cllr T B Shaw
Cllr Miss S O Shrubsole

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TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

Wednesday, 25th January, 2017

Present: Cllr Mrs F A Kemp (Chairman), Cllr S R J Jessel (Vice-Chairman), Cllr Mrs J A Anderson, Cllr Mrs S M Barker, Cllr R P Betts, Cllr M A Coffin, Cllr Mrs S L Luck, Cllr B J Luker, Cllr P J Montague, Cllr L J O'Toole, Cllr S C Perry, Cllr H S Rogers, Cllr Miss J L Sergison and Cllr T B Shaw

Councillors N J Heslop and M Taylor were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors M A C Balfour and Miss S O Shrubsole

PART 1 - PUBLIC

AP2 17/1 DECLARATIONS OF INTEREST

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

AP2 17/2 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 2 Planning Committee held on 14 December 2016 be approved as a correct record and signed by the Chairman.

DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 1, PART 3 OF THE CONSTITUTION

AP2 17/3 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.

AP2 17/4 TM/16/01245/FL - 4 WROTHAM ROAD, BOROUGH GREEN

Section 73 Application to vary condition 13 of TM/14/03560/FL (as varied by non-material amendment TM/16/00688/NMA) to remove the chamfer from the rear of the building, relocation of escape door, insertion of additional escape door, retention of existing covered porch, amendment to main entrance door, reduction in width and relocation of new access stairs, revised position of two car parking spaces at 4 Wrotham Road, Borough Green.

RESOLVED: That planning permission be GRANTED in accordance with the submitted details, conditions, reasons and informatives set out in the main report of the Director of Planning, Housing and Environmental Health; subject to

- (1) Substitution of the plan/document list at paragraph 7.1 of the main report with that set out in the supplementary report and repeated below:

Proposed Plans H104 C received 23.01.2017, Email received 16.11.2016, Drawing SSLBOROUGHGREEN(LOCAL).1 TK09 received 17.11.2016, Drawing SSLBOROUGHGREEN(LOCAL).1 TK07 received 17.11.2016, Environmental Assessment PHASE1 AND II received 17.11.2016, Letter received 17.11.2016, Site Plan received 04.05.2016, Elevations P-121603-201 A received 18.04.2016, Drawing TK10 car entering plan received 18.04.2016, Drawing TK11 car exit plan received 18.04.2016, Elevations P-1211603-203 B received 18.04.2016, Elevations P-1211603-204 B received 18.04.2016, Floor Plan P-121603-102 D received 18.04.2016, Floor Plan P-121603-111 A received 18.04.2016, Parking Layout P-121603-115 C received 18.04.2016, Elevations P-121603-202 A received 18.04.2016, Drawing P-121603-300 MECHANICAL LAYOUT received 18.04.2016, Letter received 18.04.2016, subject to the conditions set out in the main report;

- (2) Amended Condition:

6. The loading area and the area shown within the tracking plots on drawing numbers SSLBOROUGHGREEN(LOCAL).1/TK09 and SSLBOROUGHGREEN(LOCAL).1/TK07 as tracing for the 18t Rigid Vehicle for entering and exiting the loading area in forward gears 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 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position to preclude vehicular access to this reserved loading bay and turning area.

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

(3) Additional Informative:

4. The applicant is reminded that Condition 9 has been discharged on the basis of no external storage of waste being required and all waste being stored internally other than on a collection day (weekly). As such, should an external bin be required at a later day then a scheme will be required to be submitted to the Council for approval pursuant to this condition.

[Speaker: Mr G Morris – agent]

**AP2 17/5 TM/16/01766/FL - PHASE 3 PLATT INDUSTRIAL ESTATE,
MAIDSTONE ROAD, PLATT**

Erection of 3 Industrial buildings for mix of B2 (General Industry) and B8 (Storage/Distribution) use, and associated vehicle access and parking at Phase 3, Platt Industrial Estate, Maidstone Road, Platt.

RESOLVED: That planning permission be GRANTED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Services; subject to

(1) Substitution of the plan/document list at paragraph 7.1 of the main report with that set out in the supplementary report and repeated below:

Proposed Elevations 4863-006 C received 06.12.2016, Proposed Floor Plans 4863-011 B received 06.12.2016, Proposed Floor Plans 4863-014 B received 06.12.2016, Roof Plan 4863-015 A received 06.12.2016, Site Plan 4863-003 G received 08.12.2016, Transport Assessment 614034 REPORT 932 V1.0 received 07.11.2016, Other AADT DATA received 07.11.2016, Arboricultural Survey 161008 V2 ADDENDUM received 29.11.2016, Other DRAINAGE CALCULATIONS received 24.11.2016, Letter received 22.11.2016, Sustainable drainage scheme 201 A received 11.01.2016, Proposed Floor Plans 4863-009 C received 11.01.2016, Proposed Floor Plans 4863-010 C received 11.01.2016, Proposed Floor Plans 4863-012 C received 11.01.2016, Proposed Floor Plans 4863-013 C received 11.01.2016, Proposed Elevations 4863-007 C received 11.01.2016, Proposed Elevations 4863-008 C received 11.01.2016, Sections 4863-005 D received 11.01.2016, Location Plan 4863-001 received 06.06.2016, Survey J20112 REPTILE received 01.07.2016, Tree Report 131102 V2 received 01.07.2016, Desk Study Assessment 90507 Phase 1a _ 1b received 01.07.2016, Habitat Survey Report LM-P1BBG-2009 received 01.07.2016, Planning, Design And Access Statement received 10.06.2016, Topographical Survey 4863-016 received 16.08.2016, Unilateral

Undertaking received 24.01.2017, subject to the conditions set out in the main report;

(2) Additional Condition:

27. This permission shall be an alternative to outline planning permission TM/11/03020/0A granted on 21.07.2015 and shall not be exercised in addition thereto or in combination therewith.

Reason: The exercise of more than one permission is likely to harm the character and appearance of the site.

(3) Amended Condition:

23. Prior to the commencement of development, details of the junction alterations and a strategy and timetable for measures to improve both the safety and the environmental conditions of the access roads for vehicles and pedestrians around the A25/Platt Industrial Estate junction shall be submitted to and approved by the Local Planning Authority. The junction alterations and strategy shall be implemented as approved.

Reason: In the interest of public safety and amenity.

(4) Additional Informative:

11. The junction alterations and strategy pursuant to condition 23 will need to be drawn up in liaison with KCC (Highways and Transportation) and the Environmental Protection Team of TMBC and will be expected to have examined issues such as (i) traffic visibility at the junction; (ii) safety of the pedestrians at the new junction; (iii) cleaning of roadways; (iv) HGVs idling within the site; (v) waiting restrictions and (vi) acoustic fencing.

[Speakers: Platt Parish Council – Mr T Bonser]

AP2 17/6 TM/16/02936/FL - 68 WESTERN ROAD, BOROUGH GREEN

Change of use from Class A1 (shop) to Class A5 (hot food takeaway) and external alterations - including the installation of extraction and ventilation equipment at 68 Western Road, Borough Green.

RESOLVED: That planning permission be GRANTED 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) Amended Condition:

4. Notwithstanding the provisions of Class B of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 or any

order amending, revoking or re-enacting that Order, no change of use from the use hereby approved to Use Class A3 (as specified in the Town and Country Planning (Use Classes Order) 1987) shall take place without a grant of planning permission from the Local Planning Authority.

Reason: To control the nature of the use in the interest of residential amenity.

[Speaker: Mr Karatay – member of the public and Mr Roberts - agent]

AP2 17/7 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 9.00 pm

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TONBRIDGE & MALLING BOROUGH COUNCIL

AREA PLANNING COMMITTEES

Report of the Director of Planning, Housing & Environmental Health

Part I – Public

Section A – For Decision

DEVELOPMENT CONTROL

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

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

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

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

GLOSSARY of Abbreviations and Application types

used in reports to Area Planning Committees as at 23 September 2015

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
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
DMPO	Development Management Procedure Order
DPD	Development Plan Document
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 2015
GPDO	Town & Country Planning (General Permitted Development) Order 2015
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
LB	Listed Building (Grade I, II* or II)
LDF	Local Development Framework
LLFA	Lead Local Flood Authority
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
MWLP	Minerals & Waste Local Plan
NE	Natural England
NPPF	National Planning Policy Framework
PC	Parish Council
PD	Permitted Development
POS	Public Open Space
PPG	Planning Policy Guidance
PROW	Public Right Of Way

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
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 (as amended)
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
RD	Reserved Details
RM	Reserved Matters (redefined by Regulation from August 2006)
TEPN56/TEN	Prior Notification: Telecoms
TNCA	Notification: Trees in Conservation Areas
TPOC	Trees subject to TPO
TRD	Tree Consent Reserved Details
TWA	Transport & Works Act 1992 (determined by Secretary of State)
WAS	Waste Disposal Planning Application (KCC determined)
WG	Woodland Grant Scheme Application

Borough Green
Borough Green And
Long Mill

14 June 2016

TM/16/01859/FL

Proposal: Demolition of 6 industrial buildings and construction of a replacement industrial unit and a flexible change of use within Use Classes B1, B2 and B8 as well as use by Robert Body Haulage for parking and maintenance of vehicles and office use as an administrative base

Location: Development Site Long Pond Works Wrotham Road Borough Green Sevenoaks Kent

Applicant: Robert Body Haulage

Go to: [Recommendation](#)

1. Description:

- 1.1 Members will recall that this application was originally reported to APC2 on 14 December 2016, with a recommendation to refuse planning permission. The Planning Committee deferred determination of the application to enable officers to advise further on the possible existence of very special circumstances in light of the requirements of the NPPF as set out at paragraphs 87 – 89.
- 1.2 Members are reminded that none of the exemptions in paragraph 89 of the NPPF apply in this case (as set out in the annexed report) and therefore in order to satisfy Green Belt policy requirements, there must be “very special circumstances” justifying this development if planning permission is to be granted.
- 1.3 In deferring determination of the application, the Planning Committee also requested that officers provide a list of planning conditions that might be imposed should the Committee consider that very special circumstances outweighing the harm to the Green Belt did exist and were minded to grant planning permission on this basis.
- 1.4 Copies of the previous Committee and Supplementary reports are annexed for ease of information.

2. Determining Issues:

- 2.1 Since the previous deferral, the agent for the applicant has submitted a statement outlining what he considers to be the case for very special circumstances in this instance. In making this statement, the agent considers there to be a “*significant number of matters*” that, in their view, amount to very special circumstances outweighing the identified harm to the Green Belt. For the avoidance of any doubt, these are reproduced in full below:

“The proposal results in a reduction of footprint and a reduction in dispersal such that in overall terms there is no increased impact on openness;

While some parts of the replacement building are taller than some of the existing buildings, they are dug into the ground such that actual impact is minimised, and no greater than currently exists;

The proposal relates to two existing businesses and the intention is to meet the needs of those businesses to help preserve jobs as well as to provide good quality speculative floor-space;

The majority of people employed in the two existing businesses (significantly in excess of 10) are local residents living within a two mile radius;

The current buildings have structural issues that require significant investment. The current buildings are not well suited to modern business needs with some of the eaves heights meaning that they are only suitable for a relatively limited market and for this reason there is little point the owner investing in the repair of the buildings. Investment in floor space that is fit for the intended purpose is a matter of significant weight;

The construction of buildings suitable for the market would be consistent with the approach taken at Nepicar Park, where buildings 2m higher than those applied for were considered acceptable;

The replacement buildings will have no greater visual impact than what is being replaced when seen from public vantage points and are lower than other buildings on the site and lower than storage that takes place on the adjacent site and could take place on the application site, so there is no additional impact;

There is potential for new landscape planting on surrounding "blue" land that could be secured by condition. This could otherwise not be achieved".

2.2 The agent also goes on to question the need for very special circumstances to be demonstrated given that the site is a major developed site within the Green Belt meaning that policy M1 of the DLA DPD applies and his assertion that the development complies with this policy.

2.3 These arguments can be grouped into several main themes as follows, and it will be these on which the basis of my assessment will follow:

Absence of harm:

2.4 The agent argues that in this case the proposed footprint would be reduced and consolidated and that the height would be limited through digging down, meaning that there would be no "actual" harm to the openness of the Green Belt over and above the definitional harm arising from the fact that the development is inappropriate development.

2.5 In terms of the policy underlying Section 9 of the NPPF any inappropriate development in the Green Belt is by definition harmful and harms openness as a

result. Quite simply, it is well established in law that the absence of harm is not a factor capable of amounting to very special circumstances. I therefore do not intend to explore the arguments set out concerning relative footprints and heights any further.

Compliance with policy and proposed mitigation:

- 2.6 The agent also argues compliance with development plan policies, the lack of visual harm arising from the proposal and the potential mitigation of visual appearance through additional tree planting on adjoining land.
- 2.7 As I have explained, the absence of harm is not capable of amounting to a very special circumstance. Furthermore, the Courts have held that the existence of very special circumstances must go beyond straightforward compliance with the normal development control policy requirements. As such, the fact that the development would not, in the view of the applicant, have any greater visual impact than the buildings to be replaced combined with the assertion that planting could be achieved to afford screening to the development, are matters that are normal requirements of planning policy in assessing any development proposals and therefore are not “very special” in terms of outweighing the identified harm to the Green Belt.
- 2.8 Furthermore, in response to the references to the visibility of the site from surrounding public vantage points and the suggestion of screening through landscaping measures, it is important to recognise the difference between the Green Belt concept of openness and the ordinary planning consideration of visual impact. Development can be harmful to the openness of the Green Belt despite the fact that it cannot be seen and perhaps has little visual impact. Again, this is a matter which has been determined by the court. The two concepts are distinct because the development is harmful to openness *by definition* quite irrespective of its impact in terms of its visual impact.
- 2.9 As such, these matters are not capable in law of amounting to, or contributing to a cumulative case, of very special circumstances; they are simply matters that are required of all good quality development across the Borough.

Economic considerations:

- 2.10 The planning agent has set out that there would be benefits to the two existing businesses on site plus employment benefits for local people arising from the proposed development and that the substantial investment needed to improve the existing buildings on site would not be equitable. Reference has also been made to the nearby Nepicar Park development in terms of a precedent having been set.
- 2.11 It is accepted that the contribution of development towards supporting economic growth is capable of amounting to a very special circumstance. Indeed, paragraphs 18 and 19 of the NPPF support sustainable economic growth, on

which significant weight should be placed. Paragraph 28 supports a prosperous rural economy and confirms the commitment to supporting economic growth in rural areas to create jobs and prosperity. It advises that support should be given for the sustainable growth and expansion of all types of business and enterprise in rural areas through well designed new buildings.

- 2.12 Improvements to this site through built development would accord with these wider aims. However, it is important to recognise that the planning system would not be able to seek to control the specific occupiers of the resultant floorspace and similarly would have no jurisdiction in terms of who might be employed by those companies. Rather than relying on any kind of specific local benefits as set out by the applicant, those benefits would simply be in the wider sense of providing commercial floorspace and associated investment within the Borough.
- 2.13 Notwithstanding the fact that the planning system does not operate within the context of precedents, I do not consider that there are any specific or useful comparisons that can be drawn between this application site and Nepicar Park. The site specific and locational contexts are far removed and have little bearing on the considerations of this case.
- 2.14 Whilst economic benefits in the broadest of senses could potentially amount to a case of very special circumstances, the case put forward in this particular respect is limited. There is in fact little quantifiable evidence provided to suggest what those benefits might be in real terms and the reliance on the local connections of occupiers and employees in an attempt to justify very special circumstances is not tenable in my view.

Conclusions:

- 2.15 I would remind Members that the tests regarding very special circumstances as set out in paragraphs 87 and 88 of the NPPF are as follows:

“87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

“88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”

- 2.16 Matters which may or may not constitute very special circumstances are ultimately for the Courts to determine, and the limitations of this application in that context are summarised within the preceding assessment. However, the determination as to whether very special circumstances exist within that legal framework is a matter for the decision maker. The weight to give to the various elements identified which

either individually or cumulatively are both capable of and considered to constitute very special circumstances is a matter of planning judgement and must be weighed against the Green Belt harm by way of inappropriateness, and any other harm that may exist. In this respect, whether very special circumstances exist is the ultimate issue to be determined and the critical question on the path to that determination is whether such circumstances *clearly* outweigh the harm by reason of inappropriateness and any other harm.

2.17 The Planning Committee must therefore give due consideration to the prevailing circumstances of this case, either individually or cumulatively, and to determine whether or not they clearly outweigh the harm and in so doing has to exercise a judgement and assess the quality of factors according to planning principles and considerations.

2.18 It remains my judgement that the circumstances put forward by the agent in seeking to justify this development are either not capable of amounting to very special circumstances as a matter of law or, where they are capable of amounting to very special circumstances, do not outweigh the harm to the Green Belt in this case sufficiently to allow for a grant of planning permission. As such, my recommendation remains that planning permission should be refused for the reasons set out at paragraph 3.1 of the report below.

Suggested planning conditions:

2.19 Notwithstanding my conclusions above, the application was also deferred so that officers could suggest potential conditions if Members are minded to grant planning permission contrary to Officer's recommendation. The suggested conditions are set out at paragraph 3.2 of the report. In general terms, these would seek to control the aesthetics of the building and wider site, technical matters including contamination, noise and drainage and the logistics of the demolition and development itself.

2.20 In terms of the demolition aspects, the applicant has indicated through supporting information submitted during the course of the application that the demolition and redevelopment of the site would take place on a phased basis. The information submitted in this regard suggested a phased approach which could potentially render the scheme partially implemented insofar that new buildings would be constructed with some of the older existing buildings being retained for an unspecified period of time, which could be unacceptable in visual terms. As such, should Members be minded to grant planning permission contrary to the recommendation set out below, a condition requiring a detailed phasing plan should be imposed to ensure that the development comes forward in an acceptable way.

3. Recommendation:

3.1 **Refuse planning permission** for the following reasons:

Reasons

- 1 The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined by paragraph 89 of the National Planning Policy Framework and Policy CP3 of the TMBCS 2007. The proposal would result in a significant increase in the height and bulk of the existing buildings, and would therefore have a greater impact on the openness of the Green Belt, contrary to Policy M1 of the DLADPD 2008. The Local Planning Authority does not consider that any very special circumstances have been demonstrated to justify setting aside the policy objections.
- 2 The site lies within the designated countryside. The Local Planning Authority does not consider that the proposal would improve the visual appearance of the countryside. Consequently, the development does not fall within any of the categories of development listed within policy CP14 of the TMBCS 2007 as being acceptable, in principle, within the countryside.
- 3.2 Should the Planning Committee be minded to grant planning permission contrary to the recommendation set out above, the following planning conditions are recommended:

Conditions:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.
- 2 No development shall take place until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the area or the visual amenity of the locality.
- 3 The premises shall be used for Class B1(b) or (c) Business use, B2, B8 or haulage offices only and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument amending, revoking and re-enacting that Order).

Reason: To protect the amenities of neighbouring occupiers and to ensure that the development does not harm the character of the area or affect highway safety
- 4 No development shall take place until a plan showing the finished floor level of the building and finished ground levels within the site in relation to existing ground

levels has been submitted to and approved by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details

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

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class I, O, P or T of Part 3, or Class H of Part 7, of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto

Reason: To control development that could otherwise be carried out under permitted development rights that may have the potential to harm the character of the area and highway safety.

- 6 No retail sales shall take place from the premises

Reason: . The site is not located in a suitable location for retail sales.

- 7 Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or the Town and Country (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order), the layout of the development shall not be varied by means of sub-division or amalgamation of any units, nor by the insertion of additional floors, without the prior permission in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to assess the impact of any variation in parking and vehicle circulation in the interests of safe and free flow of traffic.

- 8 The building(s) shall not be occupied until the areas shown on the submitted layout as turning and vehicle parking space have been provided, surfaced and drained. Thereafter those areas 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 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to this reserved turning and parking space.

Reason: Development without adequate vehicle turning and parking provision is likely to lead to hazardous on-street parking.

- 9 The premises shall not be in use (including for any deliveries to or from the site) outside the hours of 07:00 to 19:00 Mondays to Fridays, with no working on Saturdays, Sundays or Public and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance to nearby residential properties.

- 10 No materials, plant or other equipment of any description shall be kept or stored in the open other than in areas and to such heights as may be approved in writing beforehand by the Local Planning Authority.

Reason: To avoid obstruction of vehicle parking/turning areas and to ensure the character and appearance of the development and the locality is not significantly harmed.

- 11 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 (including the acoustic fencing along the site frontage). All existing trees to be retained shall be shown and landscape plantings across the front of the site shall include suitable species with a high urban air quality score. 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 similar structures as may be approved shall be erected prior to first occupation of the building(s).

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

- 12 No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 13 No external lighting shall be installed on the site, except in accordance with a scheme of external lighting that has been submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure the character and appearance of the development and the rural amenity of the locality is not harmed.

- 14 No development shall take place until details of how the development will be connected to mains drainage have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development is served by satisfactory drainage.

- 15 No development approved by this permission shall be commenced prior to noise attenuation measures being identified by the developer/ applicant, submitted to and approved by the Local Planning Authority. In determining any noise impact, regard shall be given to relevant standards such as BS4142:2014. Further information on compliance with this condition should be sought from the Local Planning Authority. At any time when the nature of the work/ business within any of the units changes, the incoming tenant/ occupier shall carry out a noise impact assessment of their proposed use and provide adequate noise insulation/ attenuation work following discussion and agreement with the Local Planning Authority prior to the proposed occupation. In determining the noise impact, regard shall be given to relevant standards such as BS4142:2014. Use of the units shall not commence until the noise insulation/ attenuation works have been carried out to the satisfaction of the Local Planning Authority.

Reason: To protect the amenities of nearby dwellings.

- 16 No drainage system for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is not resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To protect the underlying groundwater from the risk of pollution and in accordance with the requirements of the NPPF.

- 17 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect the underlying groundwater from the risk of pollution.

- 18 No development of any phase of the development (or part thereof) shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:

(a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the particular phase of development (or part thereof) will be made suitable for its approved end use through removal or

mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the particular phase of development (or part thereof) cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

(b) prior to the commencement of each phase of the development (or part thereof) the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme of works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 19 Following completion of the approved remediation method statement for each phase of the development (or part thereof), and prior to the first occupation of the relevant phase a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place within any phase of the development (or part thereof) such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 20 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has

submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: In the interests of amenity and public safety and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 21 Prior to the commencement of the development hereby approved a scheme for the phasing of the development including the phasing and timetable for the demolition of the existing buildings shown to be removed relative to the construction of the new buildings, shall be submitted to and approved by the Local Planning Authority, and the development shall be carried out in strict accordance with the approved details.
- 22 Reason: To avoid an over-intensive use of the site and in the interests of highway safety.

Informatives:

- 1 In implementing the above consent, regard should be had to the requirements of the Bye-Laws of the Environment Agency, Orchard House, Endeavour Park, London Road, Addington, West Malling, Kent ME19 5SH
- 2 During the demolition and construction phase, the hours of working (including deliveries) shall be restricted to Monday to Friday 07:30hours – 18:30hours

Contact: Glenda Egerton

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Report from 14 December 2016

Borough Green
Borough Green And
Long Mill

14 June 2016

TM/16/01859/FL

Proposal: Demolition of four industrial buildings and construction of a replacement industrial unit and a flexible change of use within Use Classes B1, B2 and B8 as well as use by Robert Body Haulage for parking and maintenance of vehicles and office use as an administrative base.

Location: Development Site Long Pond Works Wrotham Road Borough Green Sevenoaks Kent

Applicant: Robert Body Haulage

Go to: [Recommendation](#)

1. Description:

- 1.1 The proposal seeks planning permission to demolish six of the existing industrial buildings and for the construction of a replacement building, which is shown to contain four units. It is proposed that two of these units will be used as a base by the applicant, Robert Body Haulage, and the remaining floorspace and other existing buildings are intended to be let for flexible B1/B2/B8 uses.
- 1.2 It is proposed that one unit would comprise a mezzanine floor and double height storage space and small reception area located to the front of the unit.
- 1.3 The existing buildings have ridged roofs and range in height from 3.25m to 5.50m, and with an eaves height of between 2.14 and 3.9m. The footprint of the existing buildings to be removed is 926sqm.
- 1.4 The proposed building would measure 51.8m by 17m. The height of the proposed building ranges from 6.04m to 6.8m and the eaves height ranges from 4.4m to 5.33m, and has been designed with a shallow sloping roof. The height varies to accommodate the changes in ground level of the site. The footprint of the proposed building is 880sqm.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllr Mike Taylor to ensure sufficient weight given to policy.

3. The Site:

- 3.1 The site is approximately 0.8 hectares in size and comprises a former fencing manufacturing and distribution yard, which lies adjacent to Borough Green Sandpit. A number of industrial units are located within the site, many of which appear to be disused.

-
- 3.2 A number of mature trees and shrubs surround the site. To the north-west lies Borough Green sandpit and landfill, and further units lie to the west. The sandpit is still in operation.
- 3.3 The site lies outside of the settlement confines of Borough Green, within the open countryside and Metropolitan Green Belt. Borough Green lies to the south-west of the site
- 3.4 The site is accessed from the A227 Borough Green Road by a private road, which also served the sandpit and landfill, along with the other units in the yard.
- 3.5 The site was previously a gas works.

4. Planning History (relevant):

TM/02/01799/FL grant with conditions 19 September 2002

Change of use of land for open storage for fencing and buildings contractors firm

TM/03/03140/FL Grant with conditions 22 December 2003

Change of use of land to include mobile platforms and erection of 7 structures on site

5. Consultees:

- 5.1 PC: No objections but any approval should be conditional on:
1. Lorries must not use the High Street, Borough Green. They should enter/exit the site from the north, using the Whitehill roundabout Wrotham.
 2. A robust condition should be imposed stressing that this is not a 'halfway house' to any future housing development;
- 5.2 EA: The site is located in a sensitive setting for groundwater resources, and therefore it is critical that environmental risks of historic contamination and interactions with the proposed development are very carefully considered and managed during any development. No objection, subject to conditions requiring further details relating to potential risk to the groundwater resource in the underlying aquifer and pollution.
- 5.3 KCC (Highways): The existing access is of a good standard and exhibits a low crash record. The Transport Statement mentions a condition requiring the applicant to agree a Construction and Environmental Management Plan prior to implementation, which would be advisable.

- 5.4 KCC (Archaeology): The site is within an area of archaeological potential associated with Palaeolithic remains and later prehistoric and post medieval remains. No objections, subject to condition requiring the submission of an archaeological investigation to be submitted prior to development.
- 5.5 Private Reps: 24/0S/0X/1R + Art 15 Site Notice. Two letters received, objecting on the following grounds:
- concerns about additional traffic resulting from the proposal;
 - increased noise to adjacent dwellings. A Noise Assessment should be required if planning permission is approved given that the site is to be used for nearby vehicle noise;
 - there should be constraints on the running and revving of engines to within normal work hours;
 - noise attenuation barriers should be placed between the development and the surrounding residential areas.

6. Determining Issues:

- 6.1 The site lies within the open countryside and Metropolitan Green Belt.
- 6.2 Policy CP3 of the TMBCS advises that National Green Belt policy will apply. Paragraph 87 of the NPPF states that *“as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”*
- 6.3 Paragraph 88 follows, stating that “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.
- 6.4 Policy M1 of the DLA DPD identifies the site as a Major Developed Site in the Green Belt (MDS) which, notwithstanding the Green Belt location, confirms this site as one where infill development or redevelopment will be permitted in principle. It derives from a national planning objective in paragraph 89 of the NPPF to achieve environmental benefits from encouraging reasonably beneficial uses for such previously developed land.
- 6.5 Policy M1 includes a number of criteria to be applied when considering applications for redevelopment. These include:
- It does not lead to any greater impact on the openness of the Green Belt and the purposes of including land within it;

- It leads to an overall improvement in the environment, does not harm the landscape setting, includes provision for maintenance of landscaped areas and appropriately integrates within its surroundings;
- Any changes to traffic generated can be satisfactorily accommodated without conflict with rural amenity and without prejudice to highway safety;
- It does not exceed the height of existing buildings;
- For infill development, it does not result in an extension to the currently developed extent of the site; and
- For redevelopment, the proposed coverage of the site by buildings is no larger than the ground floor extent of the original buildings.

6.6 In addition, there are also site specific caveats in respect of Long Pond Works (section d), which the site is also known as. These are:

- Investigation and remediation of any land contamination;
- Any necessary mitigation measures identified as a result of an archaeological assessment;

6.7 Policy CP14 of the TMBCS restricts development in the countryside to specific development listed in the policy. The redevelopment of defined Major Development Sites in the Green Belt which improves visual appearance, enhances openness and improves sustainability is listed.

6.8 The site is also allocated within Policy E2(i) of the DLA DPD as being a site suitable for continued employment use subject to new development creating no unacceptable impact on residential or rural amenity by virtue of noise, dust, smell, vibration or other emissions, or by visual intrusion, or the nature and scale of traffic generation.

6.9 Therefore, the principal of this use in this location is acceptable in policy terms.

6.10 The footprint of the existing buildings to be removed is 926.14 sqm and the footprint of the proposed building is 880.6sqm. Therefore, the footprint of the proposed building is less than the existing buildings to be removed by 5%.

6.11 The height of the existing ridged roof buildings to be removed is a maximum height of 5.5m high. Buildings 2 and 4 are the lowest of the buildings proposed to be removed and measure 4m in height. The height of the proposed replacement building is 6.2m, an increase of 0.7m compared with the highest of the buildings to be removed (unit 10), and an increase of 2.2m compared with the lowest of the buildings to be removed. Whilst the applicant has amended the proposal to remove more buildings from the site which have a higher ridge height, the overall

height of the proposed building remains greater than most of the buildings to be replaced. The majority of the proposed units would be single storey. However, a mezzanine is proposed to be installed in Unit 1. In light of this, I am of the opinion that the proposal does not comply with Policy M1(d). This increase in height of the buildings will also have a greater impact on the Green Belt, contrary to Policy M1(a). The proposed replacement building has been designed with a shallow monopitch roof, resulting in a significant amount of additional bulk within the roofslope. This in itself will have a greater impact upon the openness of the Green Belt, in my opinion.

- 6.12 Consequently, I am of the opinion that the proposed development will worsen the existing impact of the site on the visual amenity of the surrounding locality.
- 6.13 The applicant is seeking to address this issue and is proposing to reduce the height of the buildings by reducing the ground level by 1m so that the overall height of the proposed buildings is similar to the existing. However, I am of the opinion that this will not overcome the impact that the proposal will have upon the openness of the Green Belt. The overall height of the proposed building remains greater than most of the buildings to be replaced. Whilst setting the building further into the ground would reduce the overall height of the building, I am of the opinion that the proposed building would still have a greater impact on the openness of the Green Belt than the existing development and the rural amenity of the countryside, particularly given the mono-pitch roof design, which gives the building a greater volume than the existing. The engineering operation involved in lowering the ground level would also be problematic in itself within the Green Belt. The intention of Policy M1 is not that the proposed building should not exceed the highest unit within the site, but the height of the buildings to be replaced.
- 6.14 The applicant suggests that the proposed building has to be of the height proposed to allow fork-lift trucks to access into the units. However, I do not consider that this provides sufficient justification to increase the height of the buildings. The policy relating to the site could equally apply to uses not requiring access by a fork-lift truck.
- 6.15 Whilst I appreciate that some of the site has planning permission for open storage up to 7 metres in height, and some of the remaining buildings measure 8.17m high, I do not consider this justification for replacing the existing buildings with taller buildings. The overall impact upon the rural amenity of the surrounding locality and the openness of the Green Belt will be greater.
- 6.16 I note that there is some degree of mature tree screening around the periphery of the site on land within the applicant's control. However, I am of the opinion that this does not adequately mitigate against the impact that the proposed buildings would have upon the openness of the Green Belt and the surrounding countryside.
- 6.17 Whilst I note the recent planning permission for a similar scheme at Nepicar Park, which was also allocated as a site under Policy M1 of the DLA DPD, where taller

buildings have been approved on the site, there are a number of differences between the two sites, such as the topography, the site history relating to Nepicar Park, and the proximity of the site to three trunk roads and two motorways, including the elevated M26.

- 6.18 The proposed development results in additional employment provision in accordance with Policies CP1, CP21 and CP24 of the TMBCS, which should be supported, in line with the NPPF, in particular paragraphs 18-21.
- 6.19 The building proposed would be of a steel-framed construction with a steel profile clad roof. The existing buildings are concrete block/brick buildings with metal/asbestos roofs. Whilst the existing buildings are relatively old and reaching the end of their useful life, I am of the opinion that the proposed building, with its monopitch roof, would not be in keeping with the surrounding rural locality.
- 6.20 It is proposed to use the existing access from Borough Green Road to serve the development. It is proposed to widen the area for access within the site to allow for OGV movements within the site. KCC (Highways) is of the opinion that the net potential trip generation of the proposal is not severe. The access is of a good standard and exhibits a good (low) crash record. In light of this, KCC (Highways) raises no objections to the proposal on highways grounds. The submitted Transport Statement suggests a condition requiring the applicant to agree a Construction and Environmental Management Plan prior to implementation, which I consider would be a good opportunity to consider the access arrangements in light of the Parish Council's comments
- 6.21 Issues relating to noise attenuation and ground contamination can adequately be dealt with by condition. I note the comments of the EA and am satisfied that these matters can be dealt with by appropriate conditions.
- 6.22 In light of the adjacent Borough Green Sandpit operation and the existing use as industry, I do not consider that the proposal will have a significant adverse effect upon residential amenity in terms of dust, smell and vibration on residential or rural amenity.
- 6.23 In light of the above considerations, I am of the opinion that the proposal cannot be supported in its current form.

7. Recommendation:

7.1 Refuse

1. The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined by paragraph 89 of the National Planning Policy Framework and Policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007. The proposal would result in a significant increase in the height and bulk of the existing buildings, and would therefore have a greater impact on the openness of the Green Belt, contrary to

Policy M1 of the Development Land Allocations Development Plan Document 2008. The Local Planning Authority does not consider that any special circumstances have been demonstrated to justify setting aside the policy objections.

2. The site lies within the open countryside. The Local Planning Authority does not consider that the proposal would improve the visual appearance or enhance the openness of the countryside. Consequently, the development does not fall within any of the categories of development listed within policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007 as being acceptable, in principle, within the countryside.

Contact: Glenda Egerton

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 14 DECEMBER 2016

**Borough Green TM/16/01859/FL
Borough Green And Long Mill****Demolition of four industrial buildings and construction of a replacement industrial unit and a flexible change of use within Use Classes B1, B2 and B8 as well as use by Robert Body Haulage for parking and maintenance of vehicles and office use as an administrative base at Development Site Long Pond Works Wrotham Road Borough Green for Robert Body Haulage**

Applicant/Agent: A leaflet in support has been sent to the Members of Area 2 Planning Committee.

DPHEH: The leaflet sets out how the applicant considers the proposal to comply with Policy M1 of the DLA DPD. It suggests that the policy requires that the proposal does not exceed the height of existing buildings and does not specifically state that the proposal should not exceed the height of the buildings to be demolished. The applicant has emphasised in their leaflet that the other buildings on the site are taller than those being proposed, and therefore that the proposal does not conflict with policy.

Policy M1(4) states it should “not exceed the height of existing buildings”.

However, the height of the proposed building is greater than most of the buildings and therefore I am of the opinion that the proposal does not comply with Policy M1(d). This increase in height of the buildings will also have a greater impact on the Green Belt, contrary to Policy M1(a).

I note that the applicant has sought advice from Core Commercial regarding marketability. However, no firm evidence has been supported with the application relating to marketing requirements or of any marketing exercise having been carried out.

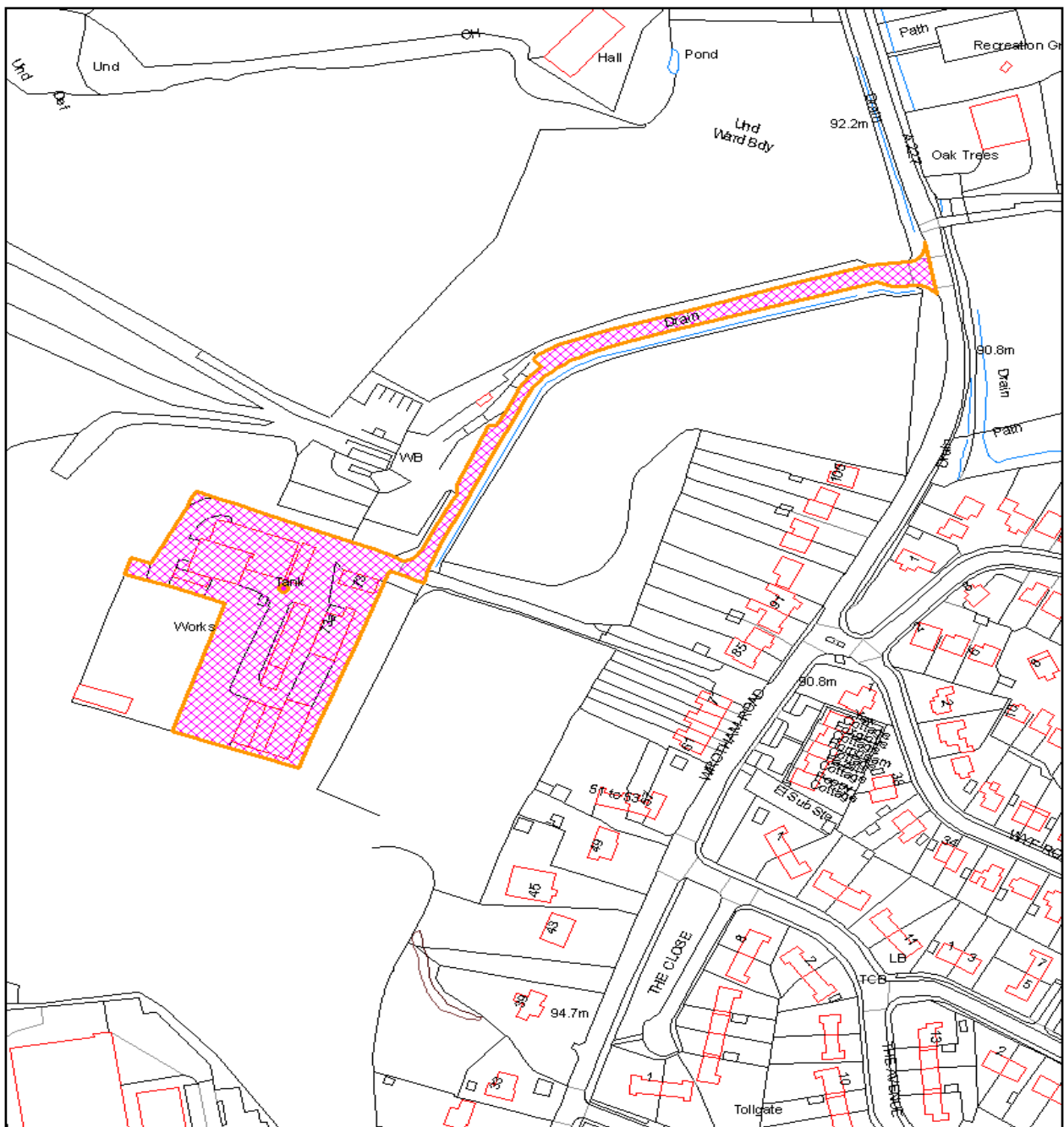
RECOMMENDATION UNCHANGED

TM/16/01859/FL

Development Site Long Pond Works Wrotham Road Borough Green Sevenoaks Kent

Demolition of 6 industrial buildings and construction of a replacement industrial unit and a flexible change of use within Use Classes B1, B2 and B8 as well as use by Robert Body Haulage for parking and maintenance of vehicles and office use as an administrative base

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Addington
Downs And Mereworth

28 September 2016

(A) TM/16/02318/FL
(B) TM/16/02947/RD

Proposal:

(A) Section 73 application to vary condition 6 (Opening hours) of Planning Permission TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

(B) Details submitted in pursuant to condition 7 (Lighting) of Planning Permission TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

Location: Big Motoring World London Road Addington West Malling Kent ME19 5PL

Applicant: Big Motoring World

Go to: [Recommendation](#)

1. Description:

- 1.1 Applications (A) and (B) for Big Motoring World are inter-related and therefore have been presented together within this single report.
- 1.2 Application (A) proposes to make changes to Condition 6 (Operating hours) of the original planning permission (TM/10/00938/FL) under Section 73 of the Town and Country Planning Act 1990 (as amended).
- 1.3 An application under Section 73 is, in strict legal terms, an application “for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted”. In dealing with such an application, the local planning authority may refuse the application (in which case the pre-existing condition(s) will remain in force) or grant permission subject to conditions that are different from those that appear on the previous permission.

The precise form of those “new” conditions need not necessarily match any wording proposed by the applicant and in that sense this is not, strictly, an application to “vary” the relevant conditions to achieve specific ends. However, any conditions that are imposed must meet all the “tests” that apply to any other case where conditions are contemplated. Moreover, the legislation requires that the local planning authority can only consider the question of the conditions subject to which permission should be granted – in other words the principle behind the initial permission itself cannot be re-visited.

- 1.4 The condition proposed to be changed relates to the hours of operation of the motor vehicle sales yard. This condition currently states that:

The business shall not be carried on outside the hours of 08.30 to 18.00 Mondays to Saturdays and 10.00 to 16.00 on Sundays and Bank and Public Holidays unless otherwise approved by the Local Planning Authority.

The applicant has applied to extend the hours of operation of the use to 08:00 to 21:00 Monday to Friday and 08:00 to 18:00 Saturday, Sunday and Bank and Public Holidays.

- 1.5 The extended hours beyond 6pm would be for car sales and office administration only. It has been confirmed that the last sales appointment will be 7pm and that all viewing and test driving of cars will be completed and the gates to the car display/storage area closed by 9pm. The lighting to the car display area would also be switched off at 9pm. The completion of any sale and other administrative activities would be undertaken in the office building up to 9.30pm. Staff and customers would leave the premises by 9.30pm.
- 1.6 It has been confirmed that no repairs, valeting or delivery of cars will take place after 6pm on any day. It has also been advised that delivery of cars to the premises is no longer undertaken by a HGV transporter but rather driven to the site from the Snodland base. There are also now no workshops on the site. This information clearly indicates that the way in which this business operates has evolved considerably since it first occupied the site.
- 1.7 The applicant has outlined in the supporting information that the proposed extended hours of trading amount to approximately 35% of turnover and that without the additional hours there would be substantial job losses (estimated 70 jobs) and loss of revenue that would impact the local economy.
- 1.8 It has been stated that Big Motoring World is internet based, responding to the role that modern technology plays in people purchasing second hand cars. It acknowledges that these days many customers research vehicles for sale on-line before visiting car sales premises. The business therefore predominantly operates a by-appointment, where booking can be made on-line or by phone.

- 1.9 Application (B) submits lighting details in order to discharge the requirements of Condition 7 of the original planning permission (TM/10/00938/FL). Condition 7 states that:

No external lighting shall be erected within the site until details of such lighting has been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

- 1.10 A supporting letter covering both applications, a lighting strategy plan, lighting detail and an External Lighting Report (Charles D Smith & Associates Ltd Consulting Engineers) have been submitted with the application.
- 1.11 Lighting has been installed on the site and has been in situ for a number of years, albeit this has been unauthorised and previously at a far greater level. The lights have recently been altered and baffles added to some of the lights around the access and along the west boundary.
- 1.12 An external lighting report has been submitted detailing the proposed lighting and showing the resultant illumination levels. The report has been revised to more accurately show the layout of the site and the proposed lighting. The lighting comprises of 88W floodlights, some with baffles, mounted on columns 3m - 6m high.
- 1.13 A Lighting Strategy Plan has also been provided. This indicates that the front car park area is to have lights on until 9pm, the lights to the front display yard area to have motion sensors after 6pm timed to switch off after 2 minutes when triggered and the larger rear display area to have motion sensors after 6pm timed to switch off after 4 minutes when triggered.

2. Reason for reporting to Committee:

- 2.1 Applications (A) and (B) have both been called-in to Committee by Councillor Kemp due to local concern and impact on the Green Belt and neighbours.

3. The Site:

- 3.1 The application site is located on the south side of London Road (A20), about 175m to the east of St Vincents Lane, to the east of the settlement of Wrotham Heath. The site lies between the Old Bakery/Jubilee Bungalow (west) and the residential property Bonheure (east). Bonheure is also under the ownership of the applicant. The site lies adjacent to National Rail land at the rear. The West Malling Golf Course is situated directly to the north on the opposite side of London Road.

and vehicle display areas)

TM/11/00669/FL Approved 14 December 2011

New vehicle preparation bay with associated car parking area and photographic studio (retrospective)

TM/11/02658/AT Approved 14 December 2011

Advertisement for existing business, showing logo, telephone number and award winner statement

TM/13/01901/RD Approved 8 August 2013

Details of materials pursuant to condition 1 of TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

TM/15/03964/RD Application Withdrawn 8 March 2016

Details of external lighting submitted pursuant to condition 7 of planning permission TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

5. Consultees:

(A) TM/16/02318/FL:

5.1 PC: Objection to the application for the following reasons:

- The premises is an over-developed site in a rural metropolitan green belt.
- An extension to operating hours would be harmful to residential amenities and the green belt in terms of noise and light pollution.

5.2 KCC (Highways): No objection.

5.3 Network Rail: No objection.

5.4 Private Reps: 5 + Site Notice/0X/5R/0S. The concerns raised from 5 objectors have been summarised below:

- Additional noise pollution into the evening from cars revving, wheels spinning, headlights, car alarms and shouting.
- The extended hours would be disruptive to neighbouring properties, local wildlife and the rural area.
- The additional evening hours will increase light pollution.
- Activities on the site would extend beyond 9pm.

(B) TM/16/02947/RD:

5.5 PC: Objection to the application. The Parish does not believe that the information given discharges the condition. We remain concerned that the on-site staff car parking area has not been surveyed and included in the proposal. Generally we feel that all the lighting columns could be reduced in height which would reduce the amount of light pollution.

5.6 KCC (Highways): No objection.

5.7 Private Reps: 2/0X/2R/0S. The concerns raised from the 2 objectors have been summarised below:

- The external lighting with the extended hours to 9pm would be intrusive and not suited to the rural area.
- Timers on the lights would disrupt the dark hours for minutes at a time which would be intrusive and result in light pollution.
- The light columns would be higher than adjacent properties, exacerbated by the slope of the land and they would have no cowls, resulting in light pollution.

6. Determining Issues:

6.1 The two applications brought before the Committee consist of an extension of the operating hours for the premises and details of a lighting scheme for the site. These inter-relate and therefore it is prudent that they be assessed and presented together.

6.2 The two planning applications are intended to formalise the unauthorised extended hours for motor vehicle sales and for external lighting which have both been in operation for many years. The Section 73 application concerning the change in hours of operation, if approved, will provide a revision to Condition 6 and additional conditions added relating to the hours of operation of the site that are considered to be required to make the development acceptable. This will provide improved enforceability and will allow for an opportunity to afford a comprehensive level of control over the operation of the site.

- 6.3 The main issues are the effect of the extended hours of the use and associated lighting on the site on neighbouring residential amenity and on the character and visual amenity of the rural area.

Principle of development:

- 6.4 The site lies within the Metropolitan Green Belt. The change in hours of operation involves no operational development or physical change to the site itself and therefore there is no objection to this application on grounds of harm to green belt objectives.

The lighting columns do constitute operational development. However, it should be recognised that the 2010 planning permission accepted the principle of external lighting of some description but sought to control by condition the type, amount and intensity of any such lighting scheme. The scheme as submitted will enable such control to take place in terms of detailed arrangements. It is also prudent to note that the NPPF has been introduced since the 2010 permission was granted but there is no material change to national policy in respect to lighting.

Character and visual amenity:

- 6.5 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance.
- 6.6 The extended hours would result in some additional activities and vehicle movements on the site within the evening period Monday to Friday and in the mornings on all 7 days, and any potential impact of this needs to be considered.
- 6.7 The proposed earlier opening time for the premises of 8am each day, and extended hours to 6pm on Sundays, would reasonably be within normal working hours and would therefore be acceptable.
- 6.8 The more significant change to the hours is the later trading between 6pm and 9.00pm on weekdays. In this respect, the applicant has given a detailed account of how the business operates during this evening period. These are restricted to the viewing of cars in the display area, test driving and office activities. Although the site is within a rural setting, is situated on the A20 which is a busy classified road. The railway line also lies to the rear of the site and a mix of commercial and residential properties are situated to the west. In light of this, I do not consider that the nature and scale of the activities proposed within the extended evening hours would add any significant visual harm to the area.
- 6.9 However, there is a level of impact on the visual amenity of the area from the introduction of new column mounted lights and the operation of the lighting in the proposed evening period. The columns will be visible from the highway and from adjoining properties and there will be some light spill over the side and rear

boundaries of the site and towards the highway, which has been shown on the proposed lighting plan. However, I do not consider the black lighting columns to be visually unsympathetic to the site or street-scene and the level of light spill has not been shown to be substantial. Also, on my recent night-time inspection of the front of the site, the lights were sufficiently contained within the site and any light spill was not intrusive.

- 6.10 The lights for the vehicle display areas have motion sensors which will be triggered when there is movement within these areas after 6pm during the night-time period. Between 6pm and 9pm the lights in these areas would turn on and off as necessary with activity. For the remaining night-time period there is likely to be only infrequent triggering of the lights. Infrared CCTV is installed but the applicant has advised that lighting is still needed to come on for adequate definition for prosecutions. I consider this reasonable for security purposes.
- 6.11 I do not consider that this impact is demonstrably harmful, particularly given the site is situated between the A20, railway line and predominantly commercial development to the west, which comprises the approach to Wrotham Heath. The imposition of additional conditions on any permission granted under the Section 73 application will also provide clear revised restrictions on the operating times of the use which together with the submitted lighting scheme will improve enforceability.

Highways:

- 6.12 The proposals do not change the use of the site or the access or parking arrangements. KCC (H+T) has reviewed the proposals for extended hours of the use and lighting and has no objection on highway grounds. I am therefore satisfied that the development would not result in any significant harm to highway safety and that any residual cumulative impacts on the transport network would not be severe. The proposal therefore accords with Policy SQ8 of the MDE DPD and paragraph 32 of the NPPF.

Neighbouring residential amenity:

- 6.13 There are several residential properties nearby the site. However, Jubilee Bungalow (20m to the west) is separated from the application site by the associated commercial buildings of Adpine Antiques. Leafdale is sited further to the west between Jubilee Bungalow and Endeavour Park (commercial office development). The residential property of Bonheure adjoins the site to the east. The light columns are lower along this boundary and a number of TPO trees are situated between the application site and the dwelling of Bonheure that provide a good level of screening. Also, the main movements during the evening period would be around the office and car park adjacent to Adpine Antiques. Aldon Farm is the closest residential property to the south but the railway line and a thick line of trees intervene. I do not consider that the extended hours of the use would result in an unacceptable level of noise impact given the traffic noise that would be experienced from traffic on the A20 in any event. I am therefore of the view that

the proposed extended hours of use and lighting proposed would not demonstrably harm neighbouring residential amenities, in terms of aural and visual amenity.

Representations:

6.14 I note the concerns raised by the Parish Council and some local residents relating to overdevelopment of the site and the generation of noise and light pollution that would impact on residential amenities. The proposals would not further intensify the existing use but rather extends the hours of the use within its current arrangement. The noise and light impact from the proposals have been discussed in some detail above. The Parish Council also raised the point that the car parking area had not been depicted accurately. A plan (Drawing No.1101/LG/101) has now been submitted that shows the on-site customer car parking layout and the relevant lighting. The position of the lights shown on this plan is consistent with those on the Luminance Levels Plan within the lighting report, but the applicant has advised that the lighting report is being updated to show the correct car parking layout. This will be provided within a supplementary report.

Conclusion

6.15 There would be a change in the effect on the visual amenity of the area as a result of the lighting to support some additional evening trading and some additional activity. However, I do not consider that this would be demonstrably harmful sufficient to refuse the application particularly when considering the emphasis the NPPF places on the planning system supporting economic growth and prosperity. I make these concluding remarks on the basis of the imposition of conditions as outlined below to assist in the ongoing management and more effective enforceability of the site in planning terms.

6.16 In light of the above, I consider that the applications accord with the relevant provisions of the Development Plan and NPPF, and therefore approval is recommended.

7. Recommendation:

(A) TM/16/02318/FL:

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

Other AMENDED APPLICATION FORM dated 28.09.2016, Supporting Information dated 28.09.2016 and Location Plan dated 26.08.2016, subject to the following conditions:

Conditions:

- 1 This permission shall be an alternative to the following permission(s) and shall not be exercised in addition thereto, or in combination therewith. (Permissions under references TM/09/02132/FL and TM/09/02384/FL both granted on 26 March 2010.

Reason: In the interests of the amenity of the area

- 2 The scheme of landscaping and boundary treatment shown on the approved plan no. 1101C.04 shall be carried out within the first planting season. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

- 3 The HGV turning facilities shall be provided as shown on approved Drawing No. 1101C.04 and shall be retained free from obstruction at all times thereafter.

Reason: In order that delivery vehicles may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

- 4 Surface water drainage within the site shall accord with the scheme approved under planning reference TM/11/00669/FL.

Reason: To minimise the risk of surface water flooding onto the public highway and to prevent pollution of the environment.

- 5 The business shall not be carried on outside the hours of 08.00 to 21:30 Mondays to Fridays and 08:00 to 18.00 on Saturdays, Sundays and Bank and Public Holidays, unless otherwise approved by the Local Planning Authority.

Reason: In the interests of the amenity of the area.

- 6 The external lighting on the site shall be installed and operated in strict accordance with the details submitted under planning reference TM/16/02947/RD, including the Lighting Strategy (Drawing No. DHA/11758/SK01), unless otherwise approved by the Local Planning Authority.

Reason: To minimise harm to the visual amenity of the locality.

- 7 The vehicle parking space shown on Drawing No. 1101C.04 shall be provided, surfaced and drained and 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 2015 (or any order amending,

revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 8 The premises shall be closed to customers at 19:00 Mondays to Fridays, other than to those customers who are on the premises at that time.

Reason: In the interests of the amenity of the area.

- 9 All areas of the site, other than the main office building and customer car parking area, shall be closed to the public outside the hours of 08:00 to 21:00 Mondays to Fridays and 08:00 to 18:00 on Saturdays, Sundays and Bank and Public Holidays, unless otherwise approved by the Local Planning Authority.

Reason: In the interests of the amenity of the area.

- 10 There shall be no repairs, valeting or repositioning of motor vehicles for display on the premises, or delivery of motor vehicles to the site, outside the hours of 08:00 to 18:00 any day.

Reason: In the interests of the amenity of the area.

(B) TM/16/02947/RD:

- 7.2 **Approved** in accordance with the following submitted details:

Site Layout 1101/LG/101 Car Park Lighting received 13.02.2017, Details LIGHTING DISTRIBUTION received 29.09.2016, Details LIGHTS received 29.09.2016, Other PICTURE LIGHTING received 29.09.2016, Letter JAC/SG/11758 received 29.09.2016, Drawing DHA/11758/SK01 Lighting Strategy received 29.09.2016, Email received 04.01.2016, Lighting PM1437/15 Report received 04.01.2017.

Contact: Mark Fewster

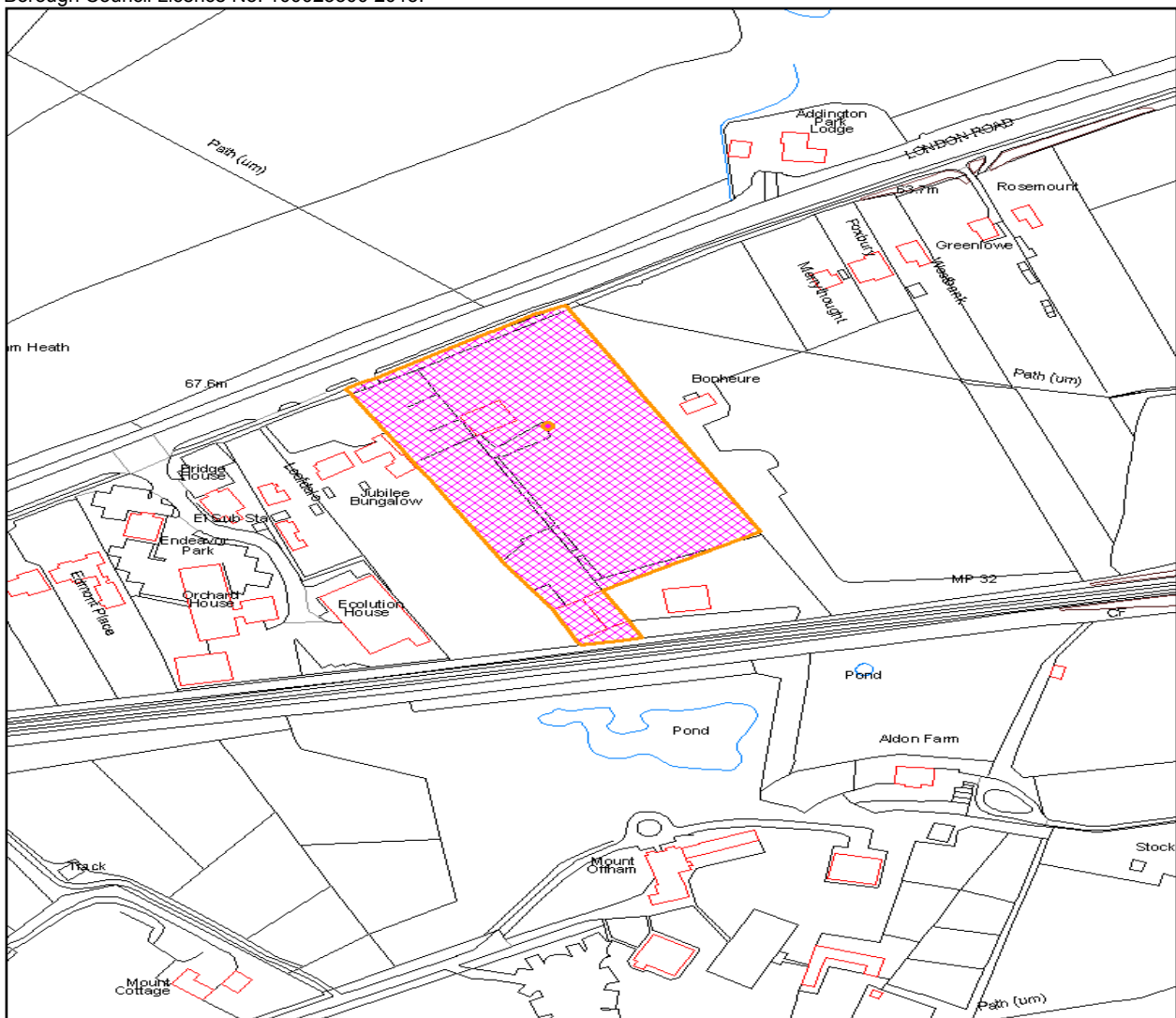
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(A) TM/16/02318/FL & (B) TM/16/02947/RD

Big Motoring World London Road Addington West Malling Kent ME19 5PL

(A) Section 73 application to vary condition 6 (Opening hours) of Planning Permission TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas) & (B) Details submitted in pursuant to condition 7 (Lighting) of Planning Permission TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

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West Malling
West Malling And
Leybourne

12 September 2016

TM/16/02592/FL

Proposal: Change of use of ground floor residential unit to Class A4 (Drinking Establishment) with associated external alterations to the building and installation of an Air Conditioning unit and condenser

Location: 52 High Street West Malling Kent

Applicant: Mr D Catterall

Go to: [Recommendation](#)

1. Description:

- 1.1 The application proposes to change the use of the ground floor unit of the building of 52 High Street (which fronts King Street) from a residential unit to a Class A4 drinking establishment (pub), and carry out external alterations to the building. An Air Conditioning (A/C) unit and condenser are also proposed to be installed.
- 1.2 The layout of the pub is to comprise a public bar area, back bar, store rooms and refrigerated room within the main building, WC facilities within the former toilet/store in the northwest corner of the premises, an enclosed courtyard area (19.5m²) and an open courtyard area (27m²). A bin storage enclosure is to be provided within the open courtyard.
- 1.3 The alterations to the building are to include the following:
 - Pub entrance door and new separate door for first floor flat on south elevation.
 - Existing timber gates in west (King Street) elevation to be replaced with new insulated wall comprising a timber door for delivery access and windows.
 - New walls to enlarge the building into the existing internal garage/courtyard, which will be retained but made smaller.
 - Fire exit door within northern courtyard wall opening out onto an alleyway.
- 1.4 The proposed operating hours are 12:00 to 21:00 each day, including bank holidays; 12:00 to 01:00 Christmas Day and New Year's Eve. The outdoor courtyard area is to close at 20:00 daily.
- 1.5 An A/C unit and condenser are to be installed on a flat roof element within the premises.

- 1.6 It has been estimated that there will be 2-4 deliveries per week by van with the deliveries being undertaken within a reserved area in front of the existing gates on King Street.
- 1.7 A Design Access Statement, Environmental Noise Survey and Plant Noise Assessment Report and a copy of a community presentation have been submitted with the application.
- 1.8 Members may wish to note that an application has also been submitted for a Premises Licence under the Licensing Act 2003, which is currently pending. The details of the Licensing application reflect the details submitted with this planning application.
- 1.9 It is also noted that planning permission was granted for a change of use of the same ground floor unit to Class A1 (Shop) use in January 2016 under reference TM/15/03364/FL. However, this permission has not been implemented.

2. Reason for reporting to Committee:

- 2.1 The application has been called in to Committee by Councillor Luck due to potential impact on residential amenity in King Street.

3. The Site:

- 3.1 The application site is located on the east side of King Street in the centre of West Malling. Despite its address it has no frontage to the High Street proper. It comprises the ground floor unit and courtyard of a two storey building attached to the rear of 48 High Street (The Crop Shop Hairdressers) and 50 High Street (The Heart of Kent Hospice Charity Shop). It is also situated between 35 King Street (dwelling) to the north and 54 High Street (Viner & Sons Funeral Directors) to the south, both of which are separated from the application site by Public Right of Way (PROW) footpaths that create alleyways linking King Street with the High Street. The application unit was a former residential flat but has now been stripped out and is currently vacant. The unit above is in residential use (currently vacant) and is under the ownership of the applicant. There is one existing entrance door that provides access to both the ground and first floor units situated within the centre of the south elevation of the building within the alley. A vehicle access and timber gates with lattice screen are situated within the centre of the King Street elevation. This provides access to a car parking space and small courtyard within the site.
- 3.2 The site is within the settlement confines of West Malling, the West Malling Conservation Area (CA) and an Area of Archaeological Potential. The site is also within a designated Retail Policy Area (R1). The High Street is a Classified Road. Several 3-storey blocks of flats lie to the west with a row of terraced cottages to the northwest along the western side of King Street.

4. Planning History (relevant):

TM/15/03364/FL Approved 5 January 2016

Change of use from residential to Retail shop (A1)

5. Consultees:

5.1 PC: Supportive of the application for the following reasons:

- The addition of a micro pub to the West Malling business community will have a positive impact on our High Street and bring a different type of business to our town.
- We have been very impressed by the consultation and engagement with local residents by the applicants. They have listened to and taken into account their comments in coming up with the final planning application.
- We did note that this property is located adjacent to a residential area in the heart of the West Malling Conservation Area. The planning application calls for 2 condensers to be installed. Due to concerns about excessive noise (King Street is already affected by the excessive noise from other businesses on the High Street), the applicant has confirmed verbally at our meeting tonight that the quietest ones on the market would be installed. This is to minimise any noise pollution to neighbouring residential and business properties. We would like you to ask the applicant to supply the details of the exact ones to be installed so we can be assured of their quietness.

5.2 KCC (Highways): I note from the Design and Access Statement that deliveries will be undertaken by van. It would be helpful if this could be a condition of any approval notice. I write to confirm however on behalf of this authority that I do not consider there to be sustainable grounds for this authority to consider a refusal and that I have no objection to the proposal.

5.3 KCC (PROW): Public Right of Way MR585 footpath runs along the northern boundary of the application site and will be slightly affected by the application. I would like to make it aware that no doors should open up onto the path as all doors alongside a public right of way must open internally. I appreciate that an exception can be made for the use of a fire door providing that the door is either alarmed or has some sort of breakaway glass to make it very clear it is only a fire door and not an exit onto the public right of way. Public Right of Way MR584 runs along the southern boundary of the application site and should not be affected. No objects or machinery should be placed on or at the entrance of either path that would restrict the use for a pedestrian.

5.4 Kent Police: No comment to make.

5.5 Private Reps: 22/1X/1R/20S + site notice + press notice (PROW/CA/LB). The concerns raised have been summarised below:

- There is a lack of parking facilities on the site.
- The use may result in parking in front of the funeral directors garage doors at 54 High Street obstructing access.
- The use would further increase noise and unsociable behaviour.

5.6 The supporting comments received have been summarised below:

- The proposal will help curb the trend of the loss of pubs from towns and villages.
- The proposal shows a responsible attitude to avoiding disturbance to neighbouring residents.
- The sale of locally brewed beer supports UK businesses.
- The proposal will result in benefits to the West Malling community and the local economy.
- The town has a strong presence of pubs and restaurants which the proposal will support.

6. Determining Issues:

6.1 The main issues are the principle of the use on retail vitality and viability, whether the proposed development would affect the appearance and character of the CA, highway safety or neighbouring residential amenity.

6.2 The site is within the settlement confines of West Malling where changes of use of premises are permitted in principle under Policy CP12 of the Tonbridge and Malling Borough Core Strategy (TMBCS).

Retail Policy:

6.3 The application site is within a designated Retail Centre. Policy R1 of the DLA DPD therefore applies, where West Malling is defined as a District Centre for the purposes of retail hierarchy within the Borough.

6.4 Policy CP22 of the TMBCS advises that new retail development will be permitted if it maintains or enhances the vitality and viability of the existing retail centres and respects the role of the retail hierarchy outlined in the policy. At the top of the hierarchy are sites located within the defined limits of the town, district and local centres.

6.5 The application site is within the centre of West Malling, which is a district centre. Pubs/drinking establishments are considered appropriate in West Malling based on being an area suitable for typical town centre uses. The proposed use replaces a residential dwelling and therefore there is no impact overall on vitality and viability. The proposal would therefore accord with Policies CP12 and CP22 of the TMBCS and Policy R1 of the DLA DPD.

Appearance and Character:

6.6 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area.

6.7 Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require planning authorities to give special attention to the desirability of preserving the setting of a listed building or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the CA.

6.8 The timber gates/doors and lattice within the centre of the King Street elevation are to be removed and replaced with a new rendered wall with traditional timber door, sash windows and fascia to enclose this section of the building. This would not visually harm the building and would also be sympathetic to the character of the CA and the building's setting with the surrounding listed buildings.

6.9 A new door will be installed within the southern side elevation to replace the existing window opening. This will be used for a separate entrance for the upstairs flat. The existing door will be replaced by a new entrance door for the pub. These works are located in the centre of the alley and would have a minimal effect on the appearance of the building.

6.10 A sign with external illumination has been indicated on the plans but this does not form part of the application. Express advertisement consent would need to be obtained for any pub signage proposed.

6.11 I am therefore satisfied that the proposed external changes to the building would not harm the appearance or character of the CA and would preserve the setting of the adjacent listed buildings. The proposal therefore satisfies Policies CP24 of the TMBCS and SQ1 of the MDE DPD, and would accord with Section 7 (Requiring good design) and paragraphs 129 and 131 (Heritage Assets) of the NPPF.

Highways:

6.12 The premises are in the centre of the West Malling where parking is provided within formal public car parks. The premises are relatively small and in any event I

would not expect that the proposed use would result in any noticeable cumulative increase in vehicular traffic or parking pressure in the village.

- 6.13 Deliveries are stated to be undertaken by van 2-4 times a week which would not be substantial. There is an existing access/forecourt area immediately in front of the premises within King Street which has been used to access the covered courtyard area within the site. This is sufficient to allow a van to park without obstructing traffic flow along King Street. KCC (H+T) has no objection to the development but has suggested that a condition be imposed on any permission granted requiring deliveries to and from the site to be made by van. However, this is not considered to be reasonably enforceable as it would be requiring the applicant to ensure something which is likely to be outside of their control. In any event, the nature of the site and surrounding streets are such that it would not be practical or desirable for deliveries to be made in larger vehicles meaning that effectively the matter is self-regulating.
- 6.14 PROW footpaths (alleyways) extend past the southern and northern elevations of the premises. KCC PROW has no objection to the development but has advised that no doors should open out onto the public footpaths. An exception can be made for the fire door proposed, as long as it is either alarmed or is made of breakaway glass so that it is clear that it is not to be used by the public to enter or exit the premises. It has been added also that no objects or machinery should be placed on or at the entrance of either path that would restrict the use for a pedestrian. Conditions can be added to any permission granted addressing these concerns.
- 6.15 I am therefore satisfied that the development would not result in any significant harm to highway safety and that any residual cumulative impacts on the transport network would not be severe. The proposal therefore accords with Policy SQ8 of the MDE DPD and paragraph 32 of the NPPF.

Neighbouring Amenity:

- 6.16 The application premises are situated adjacent to several blocks of flats and a number of dwellings that are located on the western side of King Street, as well as adjacent to the dwelling of 35 King Street to the north, on the opposite side of the public footpath/alley. An existing flat is also situated on the first floor directly above the proposed pub. The new pub use therefore has the potential to impact on neighbouring residential amenity in respect to noise, nuisance, smells and odours.
- 6.17 The central façade of the building facing King Street is to be enclosed with a new insulated stud wall with a delivery door. This will assist in insulating noise from the use and in particular activities within the proposed open courtyard/beer garden within the centre of the site.

- 6.18 The pub opening hours are proposed to be 12:00 to 21:00 each day. The outside courtyard is proposed to be closed at 20:00. The entrance door to the pub will be within the southern alleyway adjacent to the mostly blank walls of the funeral directors office and garage/store. This would minimise impact from patrons entering and leaving the premises. Some level of noise impact would be experienced by neighbouring residents, in particular the future occupants of the above flat and those occupying the dwelling at 35 King Street to the north which is situated adjacent to the outside courtyard/beer garden. However, I am of the view that the hours proposed would not be unacceptable given the central village location where a certainly level of noise at these times is expected.
- 6.19 Extended opening hours are proposed for Christmas Day and New Year's Eve until 1am the next morning. I consider this to be acceptable as once-a-year exceptions.
- 6.20 A noise assessment report has been submitted that comprises a 24 hour daytime and night-time noise survey to establish the prevailing environmental noise climate around the site. It was determined that the main source of noise would be plant noise from the proposed A/C unit and condenser. It was concluded that with the installation of specified attenuation in the form of a proprietary acoustic enclosure to reduce the atmospheric noise emissions by about 20dBA, that noise levels from the use on the nearest noise sensitive window (first floor flat) would satisfy the relevant British Standards. I consider that subject to a condition requiring the proposed attenuation to be submitted for approval that noise impact from the proposed plant equipment would not harm the living conditions of neighbouring residential occupiers.
- 6.21 A condition can also be imposed restricting the time when refuse is emptied into bins to minimise noise impact on neighbours. Conditions restricting times for deliveries to the premises can also be imposed.
- 6.22 Bars and pubs have the potential to generate anti-social behaviour and associated nuisance. However, I am satisfied that the restricted opening hours proposed for the new pub would assist in minimising such incidents. Also, the main pub entrance is located within the alley on the southern side of the building which would provide more focused access directly in from and out to the High Street, and therefore away from King Street. To prevent the use of the doors within the west (King Street) and north (footpath/alley) for normal public access to the pub, a condition can be imposed. This would help minimise the likelihood of patrons congregating around King Street or alley near 35 King Street.
- 6.23 It is noted that there is no designated smoking area and the beer garden is substantially enclosed by walls and therefore is unlikely to comply with the Smoke-free (Premises and Enforcement) Regulations 2006. Therefore patrons would need to leave the site to smoke which could lead to nuisance and obstruction of the southern alleyway. However, patrons could be directed towards the High

Street to smoke where the alley widens. Notwithstanding this, it is important to recognise that legislation beyond the planning system governs such matters and it would not be possible to seek to control such activity by planning condition particularly given that the activity in question would be taking place beyond the extent of the site boundary. Instead, it would be for the management of the premises to take steps to ensure the legislation was complied with appropriately and make all reasonable steps to ensure patrons behaved in a neighbourly manner.

- 6.24 The application details do not specify whether the proposed pub will include food preparation. However, such provision of facilities for the cooking of food as part of this use would be acceptable. As such, a condition can be added in respect to any ventilation/extraction system required in the future to safeguard any future impact from noise, smell and odour from cooking of food associated with the use.
- 6.25 I am therefore of the view that with the imposition of the conditions advised above, that the use can be operated such that impacts on neighbouring residential amenities would not be demonstrably harmful.

Representations:

- 6.26 I note the concerns raised by several representors relating to parking, vehicle access for adjacent properties and nuisance and anti-social behaviour. The premises is in the centre of the West Malling where public parking is available and sufficient space for a delivery van is provided in front of the premises which should not affect neighbouring vehicle access. The relatively modest opening hours proposed should minimise incidence of nuisance and anti-social behaviour from the proposed use.
- 6.27 In light of the above, I consider that the proposal accords with the relevant provisions of the Development Plan and NPPF, and therefore approval is recommended.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Email NOISE ASSESSMENT INFORMATION dated 10.01.2017, Noise Assessment 23835/PNA1 Rev2 dated 13.12.2016, Email dated 17.10.2016, Proposed Floor Plans 549.03.01 E dated 17.10.2016, Proposed Elevations 549.01.02 B dated 17.10.2016, Existing Floor Plans 549.02.01 + Location Plan dated 12.09.2016, Existing Elevations 549.01.01 A dated 12.09.2016, Design and Access Statement Revision A dated 12.09.2016, subject to the following conditions:

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 plans and application details hereby approved and the fire door within the north elevation shall be of timber to match the other doors, 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 The use hereby approved shall not be in operation outside the hours of 12:00 to 21:00 on any given day, other than Christmas Day and New Year's Eve where the use shall not be in operation outside the hours of 12:00 to 01:00 the following day, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the amenities of neighbouring residents.

- 4 The outside courtyard area shall close and patrons shall vacate the area by 20:00 hours on any given day.

Reason: To protect the amenities of neighbouring residents

- 5 No deliveries or collections relating to the use of the premises shall be carried out outside the hours of 07:00 to 19:00 Mondays to Saturdays, with no deliveries or collections on Sundays or Bank Holidays.

Reason: To protect the amenities of neighbouring residents.

- 6 The designated bin storage area shown on approved plan 549.03.01 E shall be kept available for the storage of refuse bins and recycling boxes at all times.

Reason: In the interests of residential amenity

- 7 No refuse from the use hereby approved shall be emptied into any bins between the hours of 21:00 and 09:00 daily.

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

- 8 No amplified music/speech shall be played within the courtyard and any music played within the building shall be inaudible outside of the building.

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

- 9 The use shall not be commenced until details of acoustic attenuation as recommended in the submitted 'Environmental Noise Survey and Plant Noise Assessment Report' prepared by Hann Tucker Associates (ref.23835/PNA1 Rev2 and dated 12 December 2016), or any variation to the plant equipment that meets BS 4142:2014, have been submitted to and approved by the Local Planning Authority. The details shall include the exact siting and appearance of the plant units and any attenuation. The plant units and acoustic attenuation shall be installed in strict accordance with the approved details prior to commencement of the development and shall be retained at all times thereafter.

Reason: To achieve acceptable external site noise levels to protect the living conditions of occupants of the neighbouring properties.

- 10 No ventilation/extraction system shall be installed on the premises until details of such a system have been submitted to and approved by the Local Planning Authority. The details shall include its method of construction, odour control measures, noise levels and its appearance and finish. No cooking of food shall take place on the premises unless the approved ventilation/extraction system is being operated. Thereafter, any such system shall be installed and operated in strict accordance with the approved details.

Reason: To protect neighbouring residential amenity.

- 11 No external lighting, including lighting within the outside courtyard, shall be installed on the site, except in accordance with a scheme of external lighting that has been submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.

Reason: To protect neighbouring amenity and visual amenity of the area.

- 12 Any doors adjacent to the public right of way footpaths shall open internally only, except for any fire escape door which shall be alarmed or be made of breakaway glass.

Reason: To avoid obstruction of the public footpaths.

- 13 The doors within the west (King Street) and north (public footpath) elevations of the premises shall not be used by patrons to enter or exit the premises, except in the case of fire or emergency.

Reason: In the interests of neighbouring residential amenity and to avoid obstruction of the public footpaths.

Informatives

- 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.
- 2 The applicant/developer should be aware that any signage and associated illumination relating to the permitted use will require express advertisement consent.
- 3 Deliveries to the premises should preferably be undertaken by van or light goods vehicle only

Contact: Mark Fewster

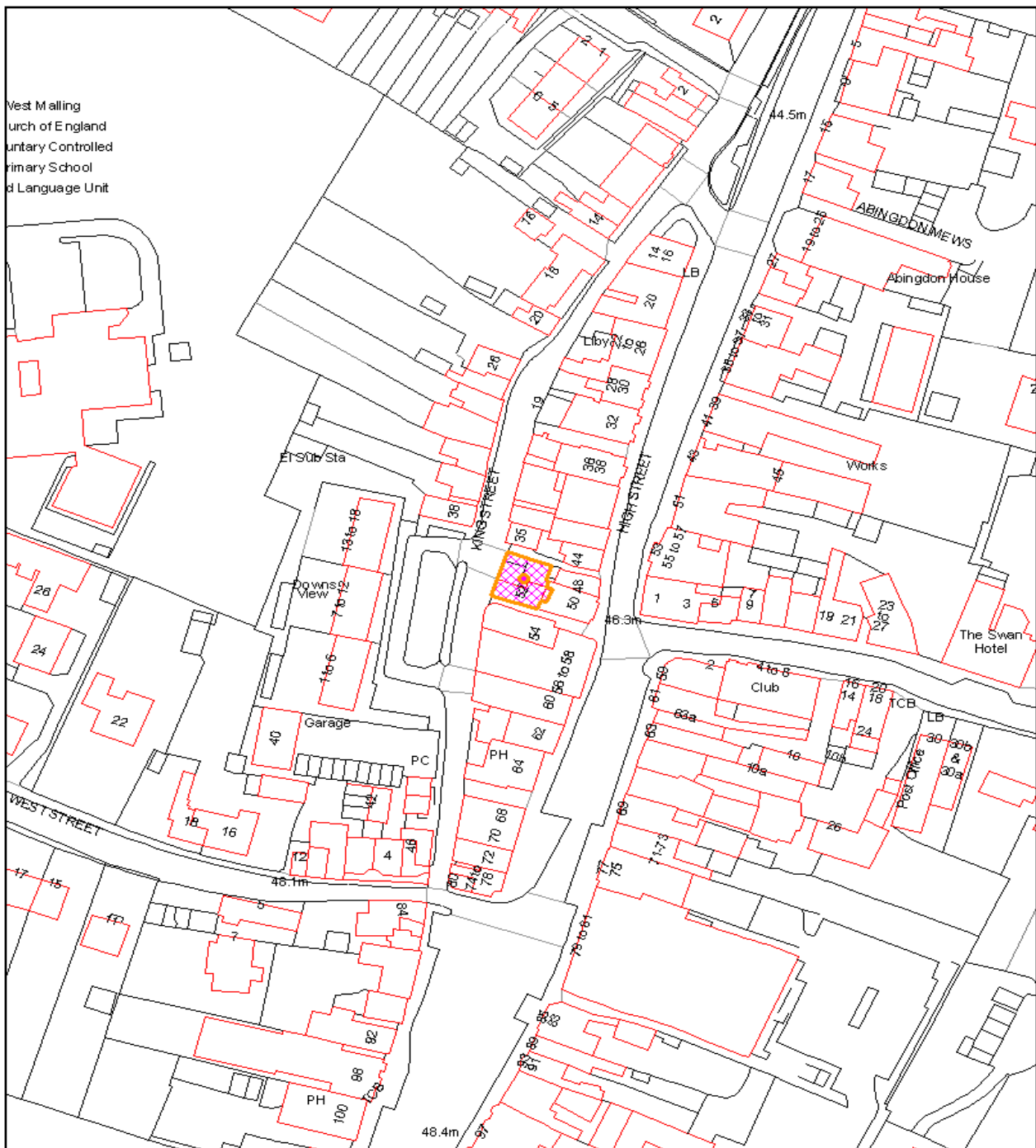
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TM/16/02592/FL

52 High Street West Malling Kent

Change of use of ground floor residential unit to Class A4 (Drinking Establishment) with associated external alterations to the building and installation of an A/C unit and condenser

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Wrotham

30 November 2016

TM/16/03038/FL

Wrotham, Ightham And
Stansted

Proposal: Conversion of garage, loft conversion, installation of 4 No. dormer windows and installation of patio doors to west elevation of former annex to Park View House
Location: Rose Cottage Bull Lane Wrotham Sevenoaks Kent TN15 7RF
Applicant: Mr J Garlinge
Go to: [Recommendation](#)

1. Description:

- 1.1 This application seeks planning permission for the conversion of garage, loft conversion, installation of 4 No. dormer windows and installation of patio doors to the west elevation of a former annex now used as a separate dwelling known as Rose Cottage.
- 1.2 The existing double garage is to be converted into habitable accommodation. The garage doors are to be removed with a single window to be installed in the opening. The remainder is to be infilled with matching brickwork. Patio doors are to be installed to the north and west elevations.
- 1.3 Additional bedroom accommodation is to be provided within the existing loft space, facilitated through the installation of four dormer windows.

2. Reason for reporting to Committee:

- 2.1 Called in by Cllr Coffin due to the nature of the planning history of the site.

3. The Site:

- 3.1 The application site lies to the south of Bull Lane, Wrotham. It is located outside the built confines of Wrotham, within the Metropolitan Green Belt and North Downs Area of Outstanding Natural Beauty.
- 3.2 The site consists of the original host dwelling (Park View House) and the former annexe (Rose Cottage). The planning history is complex and planning permission was granted at appeal under application reference TM/94/01712/FL for the erection of two outbuildings, one being for a residential annexe. Since that time the residential annexe appears to have been adapted internally to provide first floor accommodation and has been rented as a separate dwellinghouse (known as Rose Cottage) in breach of the planning condition imposed under TM/94/01712/FL. The annexe has been separately banded by Council tax since 1999 as an independent dwelling.

4. Planning History (relevant):

TM/94/01712/FL Appeal allowed

Erection of two single storey outbuildings to provide 5 No. garaged parking spaces and a residential annexe.

5. Consultees:

5.1 Wrotham PC: Objects (summarised):

- Rose Cottage has a separate unconsented access to the north and is an outbuilding of Park View House;
- Two single storey outbuildings granted at appeal in 1994. One for a three parking bay garage and one for a two parking bay garage and one-bedroom annex for elderly relative;
- Single storey building between Park View House and 'Rose Cottage' now has dormers and is used as ancillary accommodation to Park View House. The change of use and the dormers appears to be unconsented development;
- The single storey 1 bedroom annex appears now to have had dormers and an upstairs added and it's a 2 bedroom building without an intervening planning application;
- WPC understands why the current owner believe that the current application is a reasonable one, however when you consider the totality of what has been gained to date and that the 78% increase in volume has been exceeded by unconsented dormers and a loft extension in both of the outbuildings, then this has a bearing on consideration of the current application;
- Current application would again increase the volume of the building to perhaps double its original size, which is contrary to the opens of the Green Belt. Moving internal parking externally would cause harm to the beauty of the AONB without justification.

5.2 Private Reps (Article 15 Site Notice/0X/0R/0S)

6. Determining Issues:

Background matters and planning history:

- 6.1 Concern has been raised by the PC relating to the unconsented works that have taken place on site. These works include internal alterations to create a first floor within the annexe, the provision of dormer windows and the formation of a new vehicular access to the north of Rose Cottage. In addition to this the building

allowed at appeal was restricted by condition so that it could only be used in connection with Park View House rather than as a separate unit of accommodation. However it appears to have been occupied as a separate residential unit without the benefit of planning permission in breach of this condition.

6.2 The PC is correct that no planning permission has been granted for the works outlined above. However, it must be recognised that development becomes immune from enforcement if no action is taken:

- Within 4 years of substantial completion for a breach of planning control consisting of operational development;
- Within 4 years for an unauthorised change of use to a single dwellinghouse;
- Within 10 years for any other breach of planning control (essentially other changes of use).

6.3 These time limits are set out in Section 171B of the Town and Country Planning Act 1990.

6.4 It is my understanding that the unauthorised operational development was undertaken shortly after the building was constructed, if not at the time of construction itself. As such, these aspects are immune from enforcement action and effectively have become “lawful” in planning terms under Section 191 of the Town and Country Planning Act 1990.

6.5 In terms of the separate occupation of the building in breach of the condition, it is clear that the building has been banded for council tax purposes and let out since 1999 and therefore is also now lawful in planning terms.

6.6 It should be noted that internal alterations to a building in their own right do not amount to development as defined by the Act and no permission would have been required for such works alone.

6.7 In light of the above, the previous unauthorised works and the separate residential occupation of the building are considered to be lawful and as such it is only possible to consider the built development now proposed by this planning application and it is on this basis that the following assessment takes place.

Principle of development:

6.8 Paragraph 89 of the NPPF advises that new buildings should be regarded as inappropriate in the Green Belt. There are, however, exceptions and one of these includes the extension or alteration of an existing building provided that it does not result in disproportionate additions over and above the size of the original building.

Policy CP3 of the TMBCS requires proposed development within the Green Belt complies with National Policy.

- 6.9 Whilst the internal floor area of the building has been increased through the provision of a first floor, these works do not amount to development and cannot be considered in terms of an increase to the building for the purposes of applying Green Belt policy. The external alterations to date, if not included at the time of the original construction, have been minimal in the form of three dormer windows. I consider that the insertion of additional dormer windows would not represent disproportionate additions to the original building and as such the works do not constitute inappropriate development within the Green Belt.
- 6.10 The garage conversion and the alterations to facilitate the conversion amounts to a re-use of existing built footprint rather than any addition to the existing building and is therefore not considered to be inappropriate development within the Green Belt.
- 6.11 Policy CP14 of the TMBCS restricts development within the countryside to (inter alia) appropriate extensions of existing dwellings. The development proposed is considered to be appropriate in this regard given that the dormers proposed are small in scale and nature and the remainder of the works seek to utilise existing footprint. As such, the development accords with this policy.

Visual impact:

- 6.12 In general terms, policy CP24 of the TMBCS requires that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD. More specifically, saved policy P4/12 of the TMBLP states that dormer windows should be in keeping and in scale with the roof area in which they are installed. In this respect, the proposed dormers achieve this in terms of their proportions and appearance. All the dormers are to be tile hung to match the existing dwelling. All windows are proposed to be painted timber with the brickwork to match the existing building.
- 6.13 Paragraph 115 of the NPPF requires that great weight to be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which has the highest status of protection in relation to landscape and scenic beauty. Policy CP7 of the TMBCS states that development will not be permitted which would be detrimental to the natural beauty and quiet enjoyment of the AONB. The proposal seeks minimal external alterations to the building which would not harm the landscape of the AONB for the reasons given above. Given the limited scale of the proposed works and that materials are to match the host building the proposal will not be detrimental to the natural beauty or quiet enjoyment of the AONB. As such, the requirements of paragraph 115 of the NPPF and policy CP7 of the TMBCS are met.

Residential amenity:

- 6.14 The only nearby residential property is Park View House, to the immediate south of Rose Cottage.
- 6.15 The patio doors and dormer windows located to the north, west and east elevation of the building do not overlook residential properties and therefore will have no impact on amenity.
- 6.16 The south facing dormer window and two new ground floor windows will face towards the shared parking courtyard which separates the two buildings at a distance of around 17m. Given that two dormer windows already face towards Park View House, and given the distances involved, I do not consider that the insertion of a further dormer in this roof slope would cause any harmful overlooking to occur.

Parking provision:

- 6.17 The proposed works would increase the number of bedrooms within the building from two to three. This would increase the need for parking to serve the building from 1.5 spaces to 2 independently accessible spaces when applying KHS IGN3: Residential Parking. The submitted plans indicate that the building is already served by an area that can accommodate four vehicles and as such this requirement is met.

Conclusions:

- 6.18 In light of the above considerations, it is clear that the unauthorised development that has taken place here is now lawful and cannot be considered any further within the context of this application. The development proposed by this application accords with the requirements of the NPPF and LDF and as such the following recommendation is put forward:

7. Recommendation:

- 7.1 **Grant planning permission** in accordance with the following submitted details: Existing Floor Plans 16-38-02 dated 10.10.2016, Existing Elevations 16-38-03 dated 10.10.2016, Proposed Floor Plans 16-38-04 dated 10.10.2016, Email dated 30.11.2016, Location Plan 16-38-01 A dated 16.01.2017, subject to the following conditions:

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 match those of the existing building.

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

Informative:

- 1 As you are proposing to convert a garage/workshop to living accommodation you are advised to incorporate an impermeable vapour membrane within the floor slab of the development to act as a barrier against any oils or chemical that could have been used or stored there. Any services entering/leaving the structure should either be located above the vapour impermeable membrane or be sealed with appropriate top hat and tape to current guidelines.

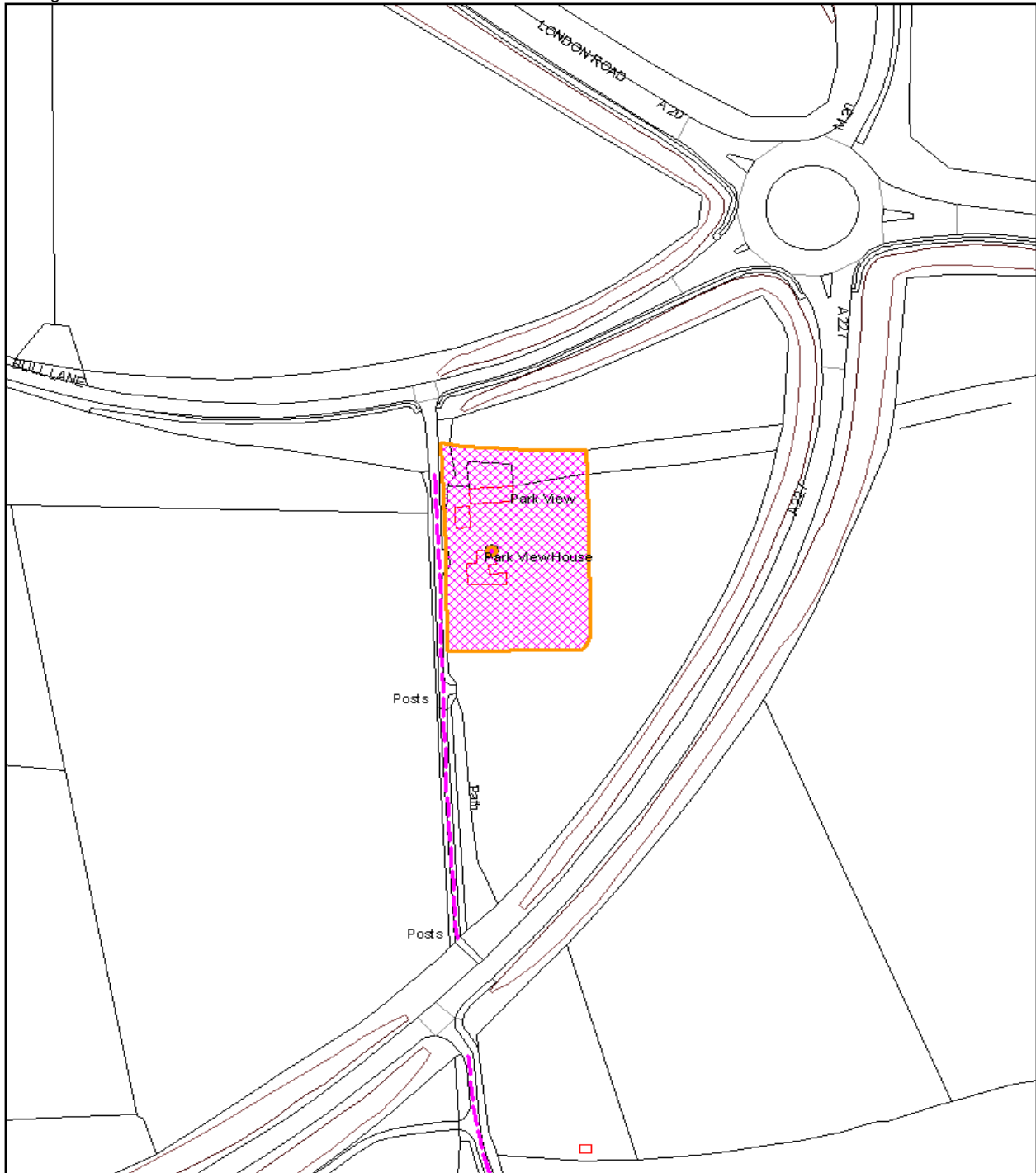
Contact: Paul Batchelor

TM/16/03038/FL

Rose Cottage Bull Lane Wrotham Sevenoaks Kent TN15 7RF

Conversion of garage, loft conversion, installation of 4 No. dormer windows and installation of patio doors to west elevation

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Alleged Unauthorised Development
Addington 16/00350/WORKM
Downs And Mereworth

Location: The Birches Sandy Lane Addington West Malling Kent ME19
5BX

1. Purpose of Report:

- 1.1 To report the unauthorised construction of rear extension, described as a covered swimming pool and gym.

2. The Site:

- 2.1 The site is located on the north side of Sandy Lane, about 200m east of Ford Lane, immediately to the north of the settlement confines of Wrotham Heath and therefore in the countryside. The site is large, providing an area of 0.31ha, and is occupied by a chalet bungalow that has been extended at the rear and both sides.
- 2.2 The site is located within the Metropolitan Green Belt and countryside and a Water Catchment Area. It is surrounded to the north, east and west by woodlands that are covered by an Area Tree Preservation Order (TPO). The woodlands to the west are designated as Ancient Woodlands. A number of residential properties within the settlement confines are located to the south.

3. Planning History:

TM/47/10110/OLD grant with conditions 10 January 1947

Bungalow.

TM/68/10446/OLD grant with conditions 14 May 1968

Extension and double garage.

TM/87/11053/FUL grant with conditions 27 February 1987

Side extension, sun lounge and porch.

TM/97/00543/FL Refuse 9 June 1997

Extensions to existing house including new roof construction to form a 5 bedroom house.

TM/97/01412/FL Refuse 9 October 1997

Extension to existing house including new roof construction to form a 5 bedroom house.

TM/97/02059/FL Grant With Conditions 4 February 1998

Extensions to existing house including new roof construction to form a 5 bedroom house.

TM/15/03255/LDP Application Withdrawn 9 December 2015

Lawful Development Certificate Proposed: erection of a detached pool house to accommodate a swimming pool, changing facilities, sauna, steam room, plant room and gym. Conversion of attached garage to games room. Erection of detached triple garage.

TM16/01204/FL Refused; Appeal dismissed 4 January 2017

Single storey rear extension housing swimming pool, gym and garage, addition of 2 front dormers and conversion of the garage to living space.

4. Alleged Unauthorised Development:

4.1 Without planning permission the construction of a rear extension.

5. Determining Issues:

5.1 Planning permission was refused in July 2016 for the construction of a single storey rear extension housing a swimming pool, gym and garage along with the addition of 2 front dormers and conversion of an existing garage. Planning permission was refused for the following reasons:

“The proposed extension, by virtue of its significant cumulative size, would result in disproportionate additions over and above the size of the original building. The proposal is therefore inappropriate development that by definition would be harmful to the Green Belt and no very special circumstances exist that would outweigh this harm. The proposal is therefore contrary to policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007 and paragraphs 87-89 of the National Planning Policy Framework 2012.”

“The proposed extension, due to its significant size and resultant unsympathetic appearance would harm the character of the existing dwelling and the visual amenity of the area. The proposal is therefore contrary to policies CP1, CP14 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document 2010 and paragraphs 17, 56, 60 and 64 of the National Planning Policy Framework 2012.”

5.2 Despite this decision, the Council received information that works had commenced on site in September 2016. At the end of September 2016, the owner of the site

appealed against the refusal of planning permission but the appeal was dismissed in January 2017, with the Planning Inspector concluding as follows:

“The proposed development would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. The proposal would have a harmful effect upon appearance of the host dwelling. This carries significant weight. In contrast, the other considerations carry minimal or limited weight and are not sufficient to clearly outweigh the harm to the Green Belt. Consequently very special circumstances do not exist as the harm, by reason of inappropriateness, and the other harm that has been identified above, is not clearly outweighed. The proposed development would conflict with Policy CP1, CP3, CP14, CP24 of the TMBCS and Policy SQ1 of the MDE DPD, and the advice in the Framework.”

- 5.3 The unauthorised development on site comprises foundations and brick walls to a height of around 2m, extending to a depth of around 16m from the back of the main house. Given the refusal of permission and the dismissal of the appeal, it is now appropriate to seek authorisation to issue an enforcement notice to remove the unauthorised development and as such the following recommendation is put forward:

6. Recommendation:

- 6.1 An Enforcement Notice **BE ISSUED** to seek the removal of the unauthorised extension and the infilling of the unauthorised foundations, the detailed wording of which is to be agreed with the Director of Central Services.

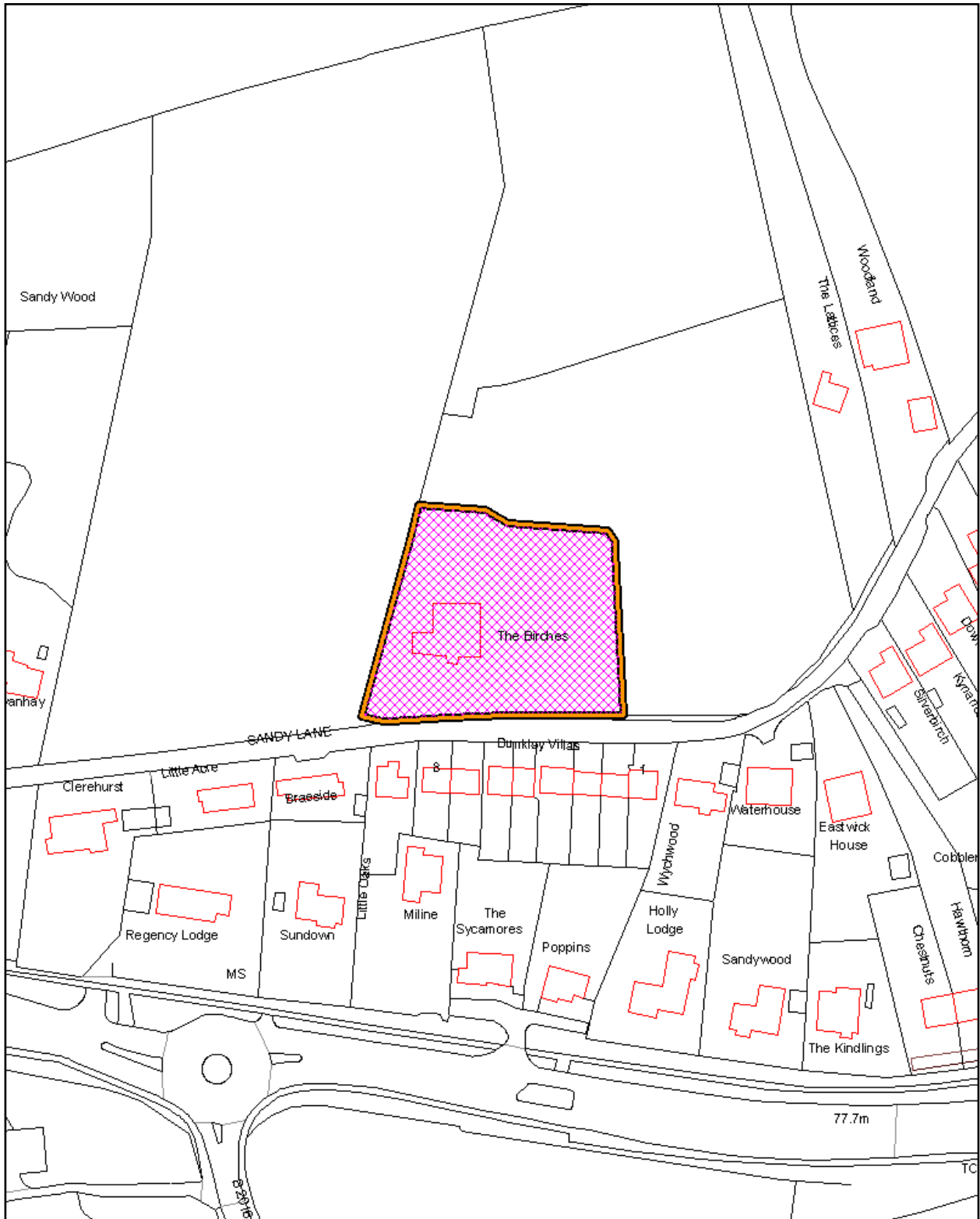
Contact: Richard Edmonds

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16/00350/WORKM

The Birches Sandy Lane Addington West Malling Kent ME19 5BX

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Agenda Item 11

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.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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