

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

Julie Beilby BSc (Hons) MBA

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

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

4 April 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, 12th April, 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

1. Apologies for Absence
2. Declarations of Interest

3. Minutes 5 - 10

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 1 March 2017

**Decisions to be taken by the Committee**

4. Development Control 11 - 14

Introduction and Glossary

5. TM/16/00990/FL - Land adjacent to Downsview, 8 Green Lane, Trottiscliffe 15 - 34

6. TM/16/01753/FL - The Nursery, Taylors Lane, Trottiscliffe 35 - 44

7. TM/16/03581/FL - Church House, Stumble Hill, Shipbourne 45 - 60

8. Urgent Items

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

**Matters for consideration in Private**

9. Exclusion of Press and Public 61 - 62

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**

10. Urgent Items

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

## **MEMBERSHIP**

Cllr 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, 1st March, 2017

**Present:** Cllr Mrs F A Kemp (Chairman), Cllr S R J Jessel (Vice-Chairman), Cllr Mrs J A Anderson, Cllr M A C Balfour, Cllr R P Betts, 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 and Cllr Miss S O Shrubsole

Councillors O C Baldock, N J Heslop, D Lettington, Mrs A S Oakley and M Taylor were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors Mrs S M Barker and M A Coffin

### PART 1 - PUBLIC

#### **AP2 17/8 DECLARATIONS OF INTEREST**

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

However, for reasons of transparency, Councillor Mrs Luck advised the Committee that, in respect of Application TM/16/02318/FL, she owned business premises within the High Street, West Malling. As this did not represent either an Other Significant Interest or Disclosable Pecuniary Interest there was no requirement to leave the meeting.

[Subsequent to this agenda item and prior to the discussion for application TM/16/03038/FL (Rose Cottage, Bull Lane, Wrotham) Councillor Perry became aware of an Other Significant Interest (OSI) on the grounds that he knew a member of the Applicant's immediate family. He immediately withdrew from the meeting and did not participate in the debate or vote on the application.]

#### **AP2 17/9 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 2 Planning Committee held on 25 January 2017 be approved as a correct record and signed by the Chairman.

### DECISIONS TO BE TAKEN BY THE COMMITTEE

#### **AP2 17/10 DEVELOPMENT CONTROL**

Decisions were taken on the following applications subject to the pre-

requisites, informatives, conditions or reasons for refusal set out in the report of the Director of Planning, Housing and Environmental Health or in the variations indicated below. Any supplementary reports were tabled at the meeting.

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

**AP2 17/11 TM/16/01859/FL - DEVELOPMENT SITE, LONG POND WORKS, WROTHAM ROAD, BOROUGH GREEN**

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 at Development Site, Long Pond Works, Wrotham Road Borough Green.

**RESOLVED:** That planning permission be GRANTED for the following reason:

It is considered that the overall economic benefits that would arise from the proposed development of this site amounts to a case of very special circumstances that clearly outweighs the substantial harm to the Green Belt caused by the inappropriate development and the other harm identified in accordance with the requirements set out in paragraphs 87 and 88 of the National Planning Policy Framework (2012).

Planning Permission was granted subject to the conditions set out in the report of the Director of Planning, Housing and Environmental Health and with the amendment of conditions 3, 8, 9 and 10 as follows:-

3. The premises shall be used for Class B1(b) or (c) Business use, B2, B8 or haulage (with ancillary office space for haulage in unit 1 only as hereby approved) 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 the Class in any statutory instrument amending, revoking and re-enacting that Order).

Reason: to protect the amenities of the neighbouring occupiers and to ensure that the development does not harm the character of the area or affect highway safety.

8. No part of the building(s) shall be occupied until the related areas shown on the submitted layout as turning and vehicle space for that part of the building 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 or 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. There shall be no deliveries to or from the site outside the hours of 0700 to 1900 Monday to Friday or 0700 to 1300 on Saturdays. The office premises shall not be in use outside the hours of 0630 to 1930 Mondays to Fridays or 0630 to 1330 on Saturdays. There shall be no deliveries or working Sundays or Public and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity.

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. The access road shall be kept clear of all materials, plant or other equipment and there shall be no vehicle parking on the access road.

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.

[Speaker: Mr J Collins – Agent]

**AP2 17/12 (A) TM/16/02318/FL AND (B) TM/16/02947/RD - BIG MOTORING WORLD, LONDON ROAD, ADDINGTON**

(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 Café 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 Café 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 Café 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 Café building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas.) at Big Motoring World, London Road, Addington, West Malling.

**RESOLVED:** That

In respect of Application (A) TM/16/02318/FL, 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.

In respect of Application (B) TM/16/02947/RD, 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) Substitution of the plan/document list at paragraph 7.2 of the main report with that set out in the supplementary report and repeated below:

Site Layout 1101/LG/101 Car Park Lighting received 13.02.2017, Lighting PM1437/15 REV B Report received 17.02.2017, 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, subject to the conditions set out in the main report and

- (2) The amendment of Conditions 5 and 6

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, and the site shall be vacated by all persons by 21:30 Mondays to Fridays, unless otherwise approved by the Local Planning Authority.  
Reason: In the interests of the amenity of the area.

6. Within one month of the date of this decision, the external lighting scheme including any and all modifications shall be installed and made operational in strict accordance with the Lighting Report (ref.PM1437/15 Rev B) and Lighting Strategy (Drawing No. DHA/11758/SK01) approved under planning reference TM/16/02947/RD and retained at all times thereafter unless otherwise approved by the Local Planning Authority.

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

[Speakers: Mr M Thompson and Mr D Garrett – members of the public; Mr J Collins – Agent]

**AP2 17/13 TM/16/02592/FL - 52 HIGH STREET, WEST MALLING**

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 at 52 High Street, West Malling.



**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 the addition of Informative

4. The applicant is strongly encouraged to take all reasonable steps to ensure patrons behave in an appropriate manner particularly when leaving the premises to ensure the residential neighbours do not experience any undue disturbance.

[Speakers: Mr R Selkirk – West Malling Parish Council; Mr P Trill – Architect to the Applicant]

**AP2 17/14 TM/16/03038/FL - ROSE COTTAGE, BULL LANE, WROTHAM**

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 at Rose Cottage, Bull Lane, Wrotham.

**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.

[Speakers: Mr A Garlinge – Applicant]

**AP2 17/15 ALLEGED UNAUTHORISED DEVELOPMENT 16/00350/WORKM - THE BIRCHES, SANDY LANE, ADDINGTON**

The report of the Director of Planning, Housing and Environmental Health set out details of an Alleged Unauthorised Development at The Birches, Sandy Lane, Addington.

**RESOLVED:** That 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 to be agreed with the Director of Central Services.

**AP2 17/16 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 9.08 pm

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### AREA PLANNING COMMITTEES

#### Report of the Director of Planning, Housing & Environmental Health

#### Part I – Public

#### Section A – For Decision

#### DEVELOPMENT CONTROL

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

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

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

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

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#### GLOSSARY of Abbreviations and Application types

#### used in reports to Area Planning Committees as at 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

**Trottscliffe**  
Downs And Mereworth

**23 September 2016**

**TM/16/00990/FL**

Proposal:                   Erection of a two-storey detached house  
Location:                   Land Adjacent To Downsview 8 Green Lane Trottscliffe West  
                                  Malling Kent ME19 5DX  
Applicant:                 Mr Daniel Dryden  
Go to:                      [Recommendation](#)

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## 1. Description

- 1.1 Determination of this application was deferred from the APC2 meeting on 14 December 2016 to allow for verification of the accuracy of the submitted plan/documents, clarification on proposed drainage runs near to the protected trees and further consultation with Parish Council thereafter.
- 1.2 Following that meeting, the applicant decided to further amend the proposal with the aim of more closely following the dimensions and appearance of the existing two-storey houses in the surrounding development enclave. This has involved a reduction in the maximum ridge height, from 9m to 8.3m, and a reduction in the maximum depth, from 9m to 7.6m.
- 1.3 In terms of drawings and documents, the agent's covering letter confirms that the proposed elevations, floorplans, block plans and site plans are all on one sheet, drawing number 16.1240.01 Revision B (received by the Council on 1 February 2017). The block plan incorporated into this drawing includes the tree root protection zones. In response to the question as to whether drains run across the site, the agent reports that the applicant has investigated but can find no evidence of any drainage infrastructure under the site.

## 2. Consultees (since 14 December 2016)

- 2.1 PC: No objections, but suggested that the proposed dwelling be "flipped" to improve how it sits in the local area. The PC noted that the applicant had made a significant reduction to the scale of the building and felt that the materials to be used and overall appearance are in keeping with neighbouring properties.
- 2.2 Private Reps: Neighbours were notified of the amended scheme 8 February 2017. There is no record of any responses to this reconsultation. However, following the APC2 meeting in December 2016 (but before the most recent amendment was submitted), two further representations were received, raising the following issues:
  - Strongly object: the previous design was somewhat large for the plot but the current proposal is totally unsuitable for this plot in a conservation area. Footprint too large, significantly taller than any other in the vicinity. Incredibly ugly. Presumably designed to achieve the largest dwelling at the lowest cost;

- Green Lane features a number of listed ancient properties along with some sympathetically designed more modern properties, including the group of eight at the end which won a design award. This property would tower over and dominate the approach to these eight. It would obscure the wonderful view over rolling fields towards the North Downs from the approach to the site and along the bridle path. This view would be lost for ever;
- Totally inappropriate and unsuitable: would not be acceptable even in a derelict inner city industrial estate, let alone in this beautiful village in the heart of a conservation area, next to a path used by so many walkers and horse riders;
- Design is totally unsympathetic and unimaginative: would create a huge carbuncle on the surrounding outstanding landscape;
- Likelihood of severe damage to property by construction vehicles, particularly to a fine Georgian or older brick and stone wall around Trottiscliffe House which flanks a major section of Green Lane;
- Increased vehicular traffic resulting from the development, where there are no footways, putting dog walkers, horse riders, children, the elderly and other pedestrians at even greater risk than now.

### **3. Determining Issues**

3.1 Key planning policies and guidance, the main issues and the assessment of the application are set out in the report to the December 2016 APC2 meeting. The discussion that follows therefore focuses on the changes to the application embodied in the amended drawing received on 1 February 2017 and on the further consultation responses received since the December 2016 meeting.

*Reduction in height and depth and the implications of these changes:*

3.2 As a result of the change in the depth of the new dwelling, the proposed footprint area would now be just over 92m<sup>2</sup>, with 64m<sup>2</sup> of floor area at first-floor and 37m<sup>2</sup> at second-floor, making a total of 193m<sup>2</sup>. This compares with the previous proposal which showed a footprint of 110m<sup>2</sup> and total floor space of just under 250m<sup>2</sup>. The original report noted that the total floor space would comply with the 250m<sup>2</sup> cited in an informative attached to the decision notice for outline planning permission reference TM/15/01758/OA.

3.3 The reduction in footprint and floor area now proposed is significant and is a positive amendment which supports the recommendation to grant planning permission.

3.4 As a result of the reduction in the depth of the proposed new dwelling, the depth of the rear garden would increase from approximately 8m to between 9.5m and 10m, with correspondingly greater depth available behind the single-storey element.



Although the private garden area and separation from plot boundaries were considered acceptable in the previous version of the scheme, this amendment and its consequent benefits would further support the application.

- 3.5 The applicant further reviewed the proposal in light of the PC's suggestion that the building be handed, but has concluded that this would not be practical because of the conflict with the mature sycamore growing on adjacent land. In practical terms, this would give rise to potential conflict with root protection zones of trees on the site or on adjoining land as the siting and footprint of the proposed house were specifically tailored to avoid the root zones. In any event, the design as proposed now is acceptable in all respects and whilst this may be a *preference* of the PC it would be unreasonable to seek further amendments to the scheme in light of that acceptability.
- 3.6 The applicant also makes reference to the fact that although the PC wishes to retain a vista through the site, it should be recognised that the site was previously enclosed by thick conifers and other vegetation and a view has only opened up because these were removed.

*Other considerations arising:*

- 3.7 The issue raised by the Parish Council as to possible discrepancies within the submitted drawings and documents has been satisfactorily resolved.
- 3.8 As set out at paragraph 1.3 of this report, the question as to whether the development might affect existing drainage runs across the site has been addressed by the applicant and should not prevent a decision now being made on the planning application.
- 3.9 For the avoidance of any doubt, the site lies within the Kent Downs Area of Outstanding Natural Beauty but, as explained in the previous report, it is not within the Metropolitan Green Belt and is not within any designated Conservation Area. The assessment of the impact on the AONB is set out within the previous report. In terms of the latest representations received, I can confirm that the nearest listed buildings are in fact located some 190m away, to the southwest, and the proposal would not affect them or their settings given the relationships involved.
- 3.10 The potential for property to be damaged by delivery and construction vehicles during the construction phase is not a material consideration and cannot be a justified reason to withhold planning permission on any development scheme. Should any such damage occur, it would be a private matter to be resolved by the parties involved and is not a matter for the planning system.
- 3.11 Once in occupation, the addition of one dwelling in this location would not create extra vehicular movements such that there would be any severe impact on highway safety (as set out in paragraph 32 of the NPPF).

Conclusion:

3.12 The amendments proposed by the applicant following the initial consideration by APC2, together with the clarification provided of the application drawings and documents, serve to support the original recommendation to grant planning permission subject to conditions. The other issues and points raised in representations received after the meeting in December do not materially affect that recommendation. I therefore recommend that planning permission be granted, subject to the imposition of conditions which are set out in the recommendation that follows:

**4. Recommendation**

4.1 **Grant planning permission** in accordance with the following submitted details: Letter FROM AGENT received 01.02.2017, Proposed Layout 16.1240.01B received 01.02.2017, 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. No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

3. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

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

4. The construction of the car parking spaces shall not be carried out except in accordance with the 'no dig' methods set out in BS 5837:2012 - Trees in relation to design, demolition and construction.

Reason: To avoid damage to the health and long-term growth of the protected Willow tree, in the interests of the visual amenities of the area.

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 Classes A, B, C or E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To allow the local planning authority to retain control over the future development of the site, in order to avoid overdevelopment and an adverse impact on the Kent Downs Area of Outstanding Natural Beauty.

6. The development shall not be carried out except in accordance with a plan which shall, before construction of the new dwelling commences, be submitted to and approved in writing by the Local Planning Authority, to show the proposed finished floor, eaves and ridge levels of the new dwelling in relation to the existing levels of the site and the equivalent levels on the adjoining site to the north and the dwelling number 8 Green Lane.

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

### **Informatives**

1. To protect the aural environment of nearby dwellings, no noisy work or deliveries shall be carried out before 8am or after 6pm on Mondays to Fridays; before 8am or after 1pm on Saturdays, and no noisy work shall be carried out at any time on Sundays or Public and Bank Holidays.
2. To protect the amenities of residents of nearby dwellings, no materials shall be burnt on the site.
3. No works may be undertaken on a Public Right of Way without the express consent of the Highways Authority. This means that the Public Right of Way

must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width at any time and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

3. In case of doubt, the developer should contact the Highway Authority before commencing any works that may affect the Public Right of Way. Should any temporary closure(s) be required to ensure public safety then the application for such closure(s) will be considered on the basis that:
  - The applicant pays for the administration costs;
  - The duration of the closure is kept to a minimum; and
  - Alternative routes will be provided for the duration of the closure.
4. A minimum of six weeks' notice is required to process any application(s) for temporary closure(s) of a Public Right of Way.

Contact: Leslie Sayers

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**Report from 14 December 2016**

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**Trottiscliffe****23 September 2016****TM/16/00990/FL**

Downs And Mereworth

Proposal: Erect a new detached dwelling house  
Location: Land Adjacent To Downsview 8 Green Lane Trottiscliffe West  
Malling Kent ME19 5DX  
Applicant: Mr Daniel Dryden  
Go to: [Recommendation](#)

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**1. Description**

- 1.1 The application seeks planning permission for a four-bedroom detached house. The main element is a 2.5 storey rectangular module, 7.9m deep by 10.1m wide, with a gabled roof, incorporating a bedroom within the roofspace. A single-storey wing on the north side, 5.2m deep by 7.1m deep, projects 1.2m forward with a similar gabled roof. The height would be 4.7m to the eaves and 9m to the ridge for the main block and 2.2m to the eaves and 5.2m to the ridge for the side wing.
- 1.2 The new house would provide three bedrooms and a bathroom on the first-floor and the fourth bedroom in a second-floor above, with an en-suite bathroom and dressing room.
- 1.3 Principal windows would face east and west, although several windows are shown in the south-facing elevation including, within the gable, a pair of french doors with a juliet balcony. The two-storey element would incorporate rooflights, four in the rear slope and three in the front.
- 1.4 The drawings show materials as brick for ground-floor walls, with upper wall areas clad in tile-hanging and tile for the roofslopes.
- 1.5 The block plan shows the main two-storey element set in by 1m to 2m from the southern site boundary, 1m inside the northern side boundary and the frontage set back from the kerb edge by some 11m, behind a protected Willow tree (whose canopy would be reduced). To the rear of the new dwelling would be a private amenity area, some 8m deep for the greater part, but deeper behind the single-storey wing. A key feature within the rear garden would be a protected Scots Pine growing just inside the eastern site boundary. An existing detached single-storey residential outbuilding in the northeast corner of the plot is shown to be retained within the garden of the new dwelling.
- 1.6 Vehicular access is proposed from the existing hammerhead serving 8 Green Lane, leading to two open car parking spaces in front of the single-storey wing. Whilst these spaces are shown within the root protection zone of the protected Willow tree, the proposal is that they would be formed using 'no dig' techniques and be surfaced with sympathetic materials.

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- 1.7 The application includes a Specification for Archaeological Evaluation of the site which recommends the digging of two investigative trenches.
- 1.8 The original proposal submitted also showed a detached four-bedroom house with integral garaging, but arranged more conventionally over two-storeys, and with no rooms at second-floor. Before a decision was made, in light of concerns raised in representations, particularly by the Parish Council (see below for details), the applicant requested the opportunity to review the scheme and a revised proposal, received 23 September 2016, is the subject of the current report and recommendation
- 1.9 Members may recall that following a resolution of the 19 August 2015 Area 2 Committee, outline planning permission was granted for a four-bed detached dwelling on the site under reference TM/15/01758/OA. All detailed matters were reserved for future submission but an informative was added to the decision notice as follows:

*The applicant is advised that the details submitted at Reserved Matters stage are expected to show a scheme with total habitable floorspace no greater than 250sqm as shown on the indicative layout received on 31 July 2015 and an overall height no greater than that of 8 Downsvie, Green Lane.*

- 1.10 However, Members are advised that the current proposal is a full application in its own right. It is **not** an application pursuant to that outline permission.

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

- 2.1 Councillor Ann Kemp has called the application to Committee because of the bulk of the proposal and its impact on the MGB and the AONB, taking into account the outline permission previously granted.

## **3. The Site**

- 3.1 The site is a plot of level open land at the eastern end of Green Lane, a private access road, within the settlement confines of Trottiscliffe. The main part of the site was formed from the relatively large side garden of 8 Green Lane. This area measures approximately 27m deep by 18m wide. There is no footway in front of this area: a kerb marks the boundary between the roadway and the site.
- 3.2 The red line for the application also encloses the approximately 250m length of Green Lane leading eastwards from Taylors Lane, as well as part of the northward cul-de-sac spur which serves numbers 1 to 8 (consecutive) Green Lane. These eight medium-sized 1980s dwellings are arranged around a turning head, in the form of two terraces of three each and one semi-detached pair. All the houses are two-storeys high apart from one of the semi-detached units, which is single-storey.
- 3.3 To the east and south lies open countryside which is designated as MGB and forms part of the Kent Downs AONB. The group 1-8 Green Lane, and the

application site, also lie within the boundaries of the AONB but are not part of the Green Belt designation.

- 3.4 The application site has been cleared of most vegetation although two specimen trees, the Scots Pine and Willow have been retained. Both are protected by TPO.

#### 4. Relevant Planning History

TM/84/10956/OLD grant with conditions 23 May 1984

Eight replacement dwellings with access and parking.

TM/99/01282/FL Grant With Conditions 20 August 1999

conservatory

TM/05/00058/FL Grant With Conditions 28 February 2005

Two storey side extension

TM/15/01758/OA Approved 23 September 2015

Outline Application: Construction of a 4 bedroom single dwelling

#### 5. Consultees

- 5.1 Trottiscliffe Parish Council (6 October 2016): Object: Members have found it difficult to assess the application because of irregularities in the elevation drawings. In addition the description for the proposal suggests there will be an integral garage but the plans show that this area will be an office space and utility/boot room. We do not agree that the revised design has been sited outside all of the Root Protection Areas (RPA's). The plans do not give information on the impact the house will have on trees T2, T6 and T8 and we believe that some of the trees have already been removed so this should be seen as retrospective. We also object on the basis that we believe this is an overdevelopment of the site. We object to the bulk and believe that the visual impact will be detrimental to the local residential amenities in this Area of Natural Outstanding Beauty.

- 5.1.1 Original comments by Parish Council (12 May 2016): The information is a bit muddled and there are irregularities in the drawings. For instance, the footprint of the house is different on the Block Plan, Sections drawing and Tree Removal Plan. Unable to see what impact the house will have on trees T2, T6 and T8 but we believe that some of the trees have been removed so this should be seen as retrospective.

- 5.2 KCC (Public Rights of Way & Access Service): Public Right of Way MR185 footpath runs along the southern boundary of the application site. No objection

providing vehicles are never obstructing the Bridleway and any construction traffic gives way to Bridleway users.

5.2.1 MR189 runs along the eastern boundary of the application site and should not be affected by the application.

5.3 Private Reps: 22/0X/0S/0R + Art 15 Site Notice (expiry 24 May 2016) and Press Notice (expiry 27 May 206). Record shows that individual letters were sent to 22 neighbouring addresses in April 2016, when the application was originally received, and also in September 2016, when the amended proposal was received. There is no record of any responses from the original notification. The amended scheme attracted two responses, both objecting.

5.4 The objections are summarised as follows:

- excessive height of the house in relation to the other houses in the group: it would be about 1m taller. To squash a property in the land is ludicrous, plus the driveway adjacent to the footpath;
- the visual impact of the increased height would be devastating and overwhelming, either walking or driving down Green Lane, or walking up the bridleway from the church. By contrast, the only building on the left viewed by a walker up Green Lane is a bungalow;
- the original plan for a lower, more attractive house was much better suited to the AONB;
- the siting, immediately adjacent to the bridle path entrance, would completely ruin the current wonderful views;
- as a village we are slowly losing the natural feel of the countryside. This process should not be condoned by allowing an eyesore brick building;
- the original plans for this group of houses, to replace the previous prefabs, were agreed on the basis that no more than five houses and three bungalows would be built because of the location;
- Green Lane is not suitable, just not wide enough or strong enough for large lorries accessing the site especially as it is a bridle path used every day all day by riders, walkers, ramblers and for everyday families out for an enjoyable walk in the countryside;
- the revised plans seem not to have been made more public.

## **6. Determining Issues**

6.1 Policies CP24 of the TMBCS and SQ1 of the MDEDPD require development to be well designed and through its scale, density, layout, siting, character and



appearance respect the site and its surroundings. It should also protect, conserve and where possible enhance the character and local distinctiveness of the area, including its setting in relation to the pattern of the settlement, roads and surrounding landscape.

- 6.2 The site lies within the built confines of the rural settlement of Trottiscliffe where TMBCS Policy CP13 indicates that development 'will be restricted to minor development appropriate to the scale and character of the settlement.'
- 6.3 Under TMBCS Policy CP6 (Separate Identity of Settlements) development will not be permitted within the countryside or on the edge of a settlement where it might unduly erode the separate identity of settlements or harm the setting or character of a settlement when viewed from the countryside or adjoining settlements.
- 6.4 TMBCS Policy CP7 indicates that development will not be permitted which would be detrimental to the natural beauty and quiet enjoyment of the AONB. NPPF Paragraph 115 requires local planning authorities to give great weight to conserving landscape and scenic beauty within the AONB which have the highest status of protection in relation to landscape and scenic beauty.
- 6.5 Although this application is a full application and not an application for approval of reserved details following an outline approval, the outline planning permission granted under reference 15/01758/OA is a key material consideration as it established the principle that a detached house could be built on the site.
- 6.6 It was accepted in the consideration of the outline application that a single detached dwelling in this location would, in principle, be capable of satisfying Policy CP13 as it would fall within the meaning of 'minor development appropriate to the scale and character of the settlement'. The plot is large enough to accommodate an infill dwelling which would make efficient use of land within the confines of the village. Furthermore, the development of the southern half of the garden serving number 8 Green Lane would still leave a large garden adequate to serve that extended dwelling.
- 6.7 The 2015 outline application reserved all details for future submission so no approval was sought or granted at that time for any particular footprint, height, design or other details. However, illustrative drawings were provided giving about 245sqm of habitable floorspace in total (gross external), although not all of this was full-height, and it included some 20sqm of garaging space. This was reflected in the informative described above.
- 6.8 The current proposal shows a footprint of some 110sqm, with a further 80sqm at first-floor and 55sqm at second-floor, making a total of just under 250sqm (all calculated as gross external space). Some of this will be limited in height and it would include no garage space. However, the proposed floorspace would fall just within the total of 250sqm advised to the applicant in the context of the 2015 application as the expected maximum permissible habitable floorspace.

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- 6.9 The informative also indicated that the overall height should be no greater than that of the adjacent house 8 Green Lane. The agent has commented specifically on this issue following a recent site survey. He advises that the plot for the current proposal is 1.4m below the level of the plot for number 8. He confirms that the slab to ridge dimension for the new dwelling would be some 750mm more than the equivalent dimension for number 8, but because of the difference in the plot levels the new house would appear lower. On this basis, it is concluded that the proposal is capable of satisfying both elements of the informative. It is recommended that a condition be imposed to reserve on this matter by requiring a plan to be submitted for approval to indicate key heights (finished floor, eaves and ridge) for the new dwelling in relation to the equivalent dimensions for the neighbouring property.
- 6.10 The existing dwellings in this small group at the eastern end of Green Lane are broadly similar in size and form, each on a footprint of around 6m to 8m wide by 6m to 8m deep, with rear gardens in the range of 10m or so and front gardens of 6m or 7m deep, although some have been extended and altered. The proposed dwelling would be similar in depth and height, and its unusual mixed format with single-storey and two-storey elements would respond to the pair opposite (numbers 1 and 2), albeit in a handed arrangement. With appropriately matching face materials, the new dwelling would adequately comply with Policy SQ1, whose principal aim is to ensure that development reflects local distinctiveness.
- 6.11 The main front wall of the new house would be set somewhat further back from the highway edge than others in the group, to avoid encroaching into the root protection zone of the protected Willow, and the rear garden would be a correspondingly shorter depth. However, this variation in the general building line and layout would not appear unduly incongruous, particularly as the Willow itself would continue as a strong distinctive feature in the street scene. The positioning of the house would also avoid the root protection zones of both the protected Scots Pine at the rear of the site and the Sycamore growing outside the site.
- 6.12 The visually open location of the application site relative to long views over the adjoining countryside as well as to more immediate views from the adjacent public paths, makes it important to ensure that any new dwelling sits comfortably on its site and does not appear cramped. In this case, I am of the opinion that the general form and style of the dwelling would be acceptable in the local context, and the overall appearance would respect the key features of the original dwellings in the group.
- 6.13 Although the development would introduce a built form to a plot which has for many years been undeveloped, the 2015 outline planning permission confirmed that a dwelling could be built on the site and I consider that the particular form and design now proposed would still respect the site and special surroundings.

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- 6.14 Overall, given the existing fairly intensive development of eight dwellings, the ‘in principle’ approval granted in 2015, and the detailed design of the new house seeking to reflect key features of the existing group, it is concluded that the proposed development would not harm the natural beauty and quiet enjoyment of the AONB at this point, and would not be contrary to Policy CP7 or to the guidance in para 115 of the NPPF.
- 6.15 It is further concluded that the proposal would meet the essential requirement of Policy CP1 for new development to ‘result in a high quality sustainable development’. It would also satisfy the requirement in Policy CP13 for new development within the confines of a rural settlement to be ‘minor development appropriate to the scale and character of the settlement.’ The development would meet the high standards sought by Policy CP24 (Achieving a High Quality Environment) and Policy SQ1.
- 6.16 Policy CP6 aims to prevent development within the countryside or at the edge of a settlement from eroding the separate identity of settlements or harming the setting or character of a settlement when viewed from the countryside or adjoining settlements. The new dwelling would tend to read as a part of the existing established group of dwellings and would not harm the character or setting of the settlement of Trottiscliffe.
- 6.17 The proposal includes two independently-accessible on-site car parking spaces. This level of provision is acceptable and adequate to serve a single-family dwelling of this size in this location. The description has been amended to remove the reference to an integral garage, which was proposed in the original submission but was deleted from the amended scheme.
- 6.18 Regarding the potential impact on trees to be retained, it is reasonable and appropriate to impose the standard conditions to secure their protection during the construction process. The formal protection now in place for the Willow and Scots Pine will continue to provide long-term control over these important specimens. Other trees on the plot were assessed for potential protection but no others were considered worthy.
- 6.19 Construction traffic: whilst the access to the site is constrained, it is unlikely that large numbers of construction vehicles would be involved as only one dwelling is to be constructed. The developer may be advised by way of an informative to observe reasonable hours of working and deliveries and, in any event, Environmental Protection legislation should not be duplicated.
- 6.20 Given the close proximity of the site to public rights of way, the developer will need to observe considerate methods of working to avoid obstruction, and the KCC PROW team’s guidance will be included as an informative.

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## 7. Recommendation

- 7.1 **Grant planning permission** in accordance with the following submitted details: Archaeological Assessment dated 18.05.2016, Tree Protection Plan DV/TPP/003 dated 18.05.2016, Tree Plan DV/TSP/001 dated 11.04.2016, Certificate B dated 12.04.2016, Proposed Plans and Elevations 16.1240.01 dated 23.09.2016, Letter RESPONSE dated 13.10.2016, subject to the following

### Conditions

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

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

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

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

- 3 The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

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

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- 4 The construction of the car parking spaces shall not be carried out except in accordance with the 'no dig' methods set out in BS 5837:2012 - Trees in relation to design, demolition and construction.

Reason: To avoid damage to the health and long-term growth of the protected Willow tree, in the interests of the visual amenities of the area.

- 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 Classes A, B, C or E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To allow the local planning authority to retain control over the future development of the site, in order to avoid overdevelopment and an adverse impact on the Kent Downs Area of Outstanding Natural Beauty.

- 6 The development shall not be carried out except in accordance with a plan which shall, before construction of the new dwelling commences, be submitted to and approved in writing by the Local Planning Authority, to show the proposed finished floor, eaves and ridge levels of the new dwelling in relation to the existing levels of the site and the equivalent levels on the adjoining site to the north and the dwelling number 8 Green Lane.

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

- 7 The dwelling hereby approved shall be set out in accordance with the Tree Protection Plan DV/TPP/003

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

### **Informatives**

1. To protect the aural environment of nearby dwellings, no noisy work or deliveries shall be carried out before 8am or after 6pm on Mondays to Fridays; before 8am or after 1pm on Saturdays, and no noisy work shall be carried out at any time on Sundays or Public and Bank Holidays.
2. To protect the amenities of residents of nearby dwellings, no materials shall be burnt on the site.
3. No works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt, the developer should contact the Highway Authority before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:

- The applicant pays for the administration costs
  - The duration of the closure is kept to a minimum
  - Alternative routes will be provided for the duration of the closure.
4. A minimum of six weeks' notice is required to process any applications for temporary closures. This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

Contact: Leslie Sayers

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**SUPPLEMENTARY REPORTS**

AREA 2 PLANNING COMMITTEE

DATED 14 DECEMBER 2016

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**Trottscliffe                      TM/16/00990/FL****Downs And Mereworth****Erect a new detached dwelling house at      Land Adjacent To Downsview 8  
Green Lane Trottscliffe West Malling for Mr Daniel Dryden**

Private Rep: Email received from owner of 5 Green Lane – objecting to the height of the proposed building. The height will make Downsview darker than it already is as the sun rises directly behind the proposed property. Therefore the lower the elevations, the better. They have no objection to a property being built on the land but it should be in keeping with the small group of 8 houses in Downsview and no higher than these.

DPHEH: The additional private representation does not raise material planning issues that have not already been discussed in the main report. Condition 7 needs to be deleted as it refers to a plan that shows the wrong layout of the proposed dwelling.

To clarify the history of the outline planning permission, TM/15/01758/OA, this was originally submitted as a 5 bedroomed house/chalet with illustrative elevations showing a main ridge of 7.5m high. However, that was superseded by just illustrative floor plans and no elevations and no indication of the intended ridge height although it is clear from the floor plan that it was to be a similarly part chalet style.

**AMENDED RECOMMENDATION****Delete Condition 07.**

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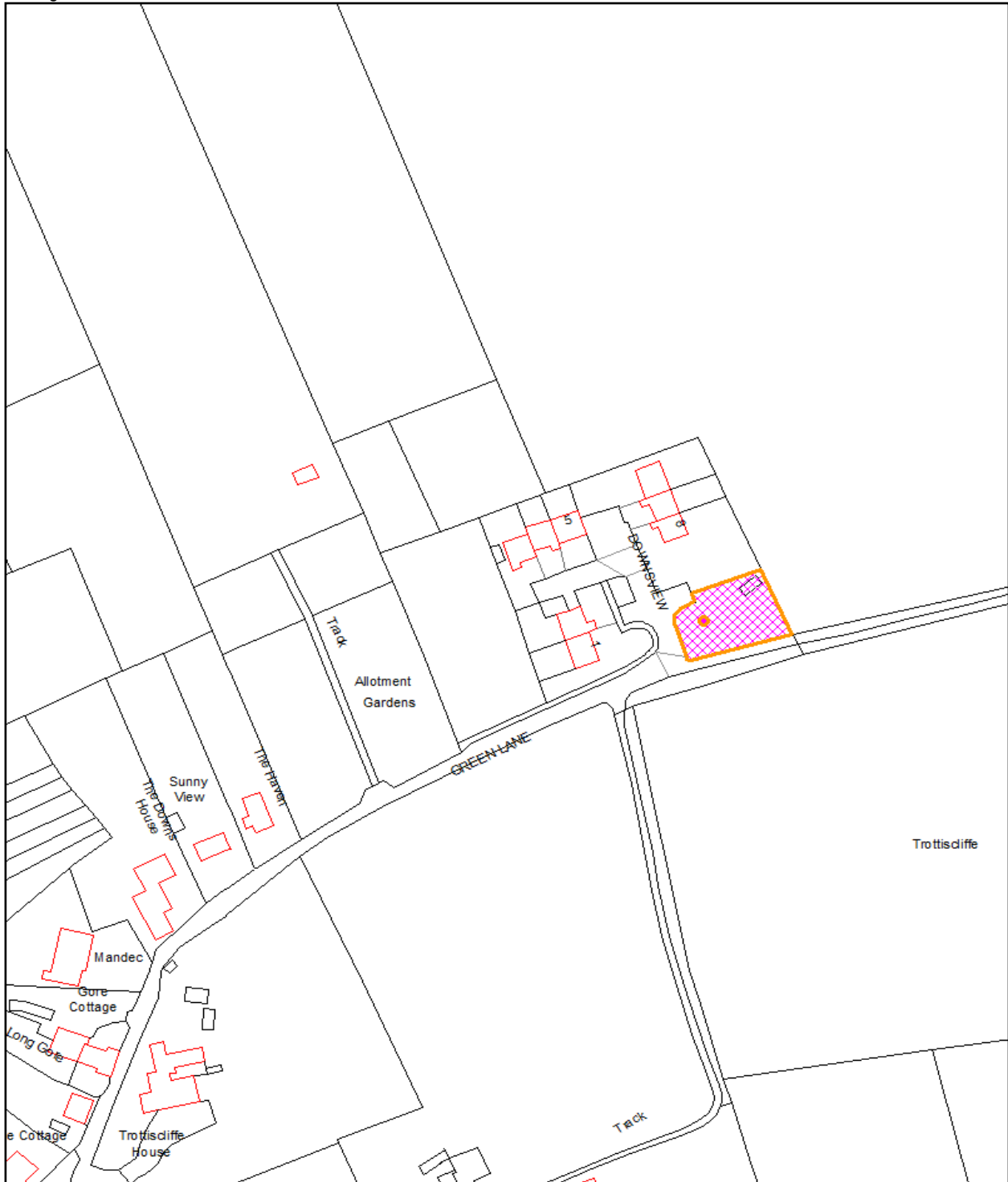


**TM/16/00990/FL**

Land Adjacent To Downview 8 Green Lane Trottiscliffe West Malling Kent ME19 5DX

Erect a new dwelling house

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**Trottscliffe**  
Downs And Mereworth

**3 June 2016**

**TM/16/01753/FL**

Proposal: Permanent retention of a static mobile home as accommodation for an agricultural worker ancillary to the nursery business and retention of 2no. dog kennels and pens

Location: The Nursery Taylors Lane Trottscliffe West Malling Kent

Applicant: Mrs P Valler

Go to: [Recommendation](#)

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## **1. Description:**

- 1.1 Planning permission was granted at appeal by the Planning Inspectorate in April 2013 for the use of the site for the siting of a static mobile home for a horticultural/agricultural worker for a temporary period of 3 years, as well as for the erection of dog pens and kennels, under reference TM/12/00379/FL. The reason for the imposition of a temporary permission at that time was to give time to ascertain whether the business enterprise would be successful.
- 1.2 This current application is for permanent retention of the static caravan type mobile home for accommodation for an agricultural worker and the ancillary development previously approved.
- 1.3 A Design, Access and Planning Statement, Supporting Statement, Business Accounts for 2012-2015 and correspondence from customers, along with the previously submitted Essential Needs Appraisal and Business Plan have been submitted with the application.

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

- 2.1 At the request Councillor Kemp due to the history of the site and inappropriateness in the Green Belt.

## **3. The Site:**

- 3.1 The application site comprises a rectangular parcel of land located on the west side of Taylors Lane, adjacent to the settlement confines of Trottscliffe. It is fully enclosed by a brown stained close-boarded fence set just inside established hedgerows which align the boundaries of the site. The vehicular access to the site is on Taylors Lane within the northern section of the frontage. Gates are provided well back from the frontage.
- 3.2 The northern part of the site comprises two polytunnels, with black sheeting covering the open land around them with arrangements of potted plants. A timber clad agricultural building comprising a workshop/potting shed with office facilities is situated within the centre of the site. The driveway and area around the potting shed is surfaced in bonded gravel. A static mobile home is positioned to the west

of the agricultural building with an associated domestic garden area. Two dog kennels and pens lie just to the south of the potting shed and static mobile home.

- 3.3 The site is situated within the countryside, Metropolitan Green Belt, Kent Downs AONB and a Water Catchment Area. The Trottiscliffe Conservation Area lies to the southeast. Taylors Lane is a Classified Road.
- 3.4 Agricultural land lies to the north and west. A vacant parcel of land lies to the south between the application site and Millers Farm. The residential properties of Little Berries, The Cottage and 1-6 Taylors Lane are situated to the east.

#### **4. Planning History (relevant):**

TM/10/00473/FL          Approved                                  15 June 2010

Replacement Agricultural Building comprising a workshop and office facilities; replacement of glasshouse with two polytunnels; parking and revised access

TM/10/02411/RD          Approved                                  27 October 2010

Details submitted pursuant to condition 8 (lighting); 10 (a) & (b) (site investigation) and 11 (sewerage) of planning permission TM/10/00473/FL: Replacement agricultural building comprising a workshop and office facilities; replacement of glasshouse with two polytunnels; parking and revised access

TM/11/00658/FL          Refuse    7 June 2011

Retrospective application for the retention of a residential caravan ancillary to the Nursery Business and retention of 2 No. dog kennels and pens

TM/12/00379/FL          Refuse    9 July 2012  
Granted at Appeal                                  9 April 2013

Retrospective application for the retention of a static mobile home as temporary accommodation for an agricultural worker ancillary to a nursery business and retention of 2no. dog kennels and pens

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

- 5.1 PC: Objection. The concerns raised are summarised as follows:

- The Inspector commented that 'it should not be assumed that a permanent dwelling will be permitted after 3 years and that much will depend on any progress towards viability and the need for an on-site presence'.
- The applicant has not submitted any evidence that a viable business is in operation at the site.

- Local knowledge informs us that vehicle movements in and out of the site are minimal which also suggests that a viable business is not in operation.

5.2 Private Reps: 1+ site notice + press notice /0X/1R/0S. The concerns raised have been summarised below:

- There is little traffic to and from the site
- Virtually no business is being conducted on the site
- It is questioned whether there is a viable business being operated

## 6. Determining Issues:

### Principle considerations:

6.1 In granting the temporary planning permission in 2013, the Inspector made clear that the development in question amounted to inappropriate development within the Green Belt, which is harmful by definition, requiring very special circumstances to be demonstrated that outweigh the harm to the Green Belt. However, it was accepted that if an essential need for a rural worker were to be established such very special circumstances would exist.

6.2 The Inspector also noted that policy CP14 of the TMBCS restricts development in the countryside to certain types, one being development that is necessary for the purposes of agriculture and forestry including housing for agricultural workers and that horticulture forms part of the definition of agriculture and also noted that the NPPF seeks to avoid isolated new homes in the countryside unless a need could be demonstrated for a rural worker.

6.3 In all these respects, the Inspector concluded that

*“Circular 11/95 indicates that a second temporary permission should not normally be granted and neither should it be assumed that a permanent dwelling will be permitted after 3 years. Much will depend on any progress towards viability and the need for an on-site presence should also be reviewed having regard to the way the business develops and other factors.”*

6.4 Whilst the guidance contained within the Circular has been replaced by the NPPG, the guidance remains clear:

*“It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so.”*

6.5 With the above in mind, the main issues in consideration of this case are therefore whether it has been sufficiently demonstrated that the horticultural business is viable and whether there remains an essential need for an on-site presence that

would require the permanent retention of the static mobile home. The Council's retained specialist consultant has advised on this matter and his advice is set out below.

- 6.6 Since the granting of the 3 year temporary permission in April 2013, the submissions on behalf of the applicant and her husband Mr Luke (the main worker on the nursery) indicate that the nursery business has expanded, through production of its various hedging plants, grasses, herbaceous perennials, bulbs, and bedding plants. Production takes place using two polytunnels with heated beds, with an associated potting/packing shed and ancillary office. There are also standing-out areas by the polytunnels.
- 6.7 Plants are delivered (or collected) and sales are made to a number of local businesses in Ightham, West Kingsdown, and Meopham. The plant deliveries are said to be carried out by pick-up truck with a trailer. The applicant has provided correspondence from 4 businesses, including garden centres located in these areas, confirming supply of plants from Mr Luke. Sales have been shown to have increased each year from 2013/14. The applicant's accountant has examined the relevant tax returns and believes the business to be successful and financially stable. I therefore consider that it has been reasonably demonstrated that the business is financially viable, being able to provide a full-time wage equivalent for Mr Luke, as well as a part-time wage for Mrs Valler. Linked to this, there remains an essential need for the mobile home for a rural worker at the site, as concluded by the previous inspector.
- 6.8 Conditions can be imposed on any permission granted relating to the cessation of the residential use and removal of the mobile home if the horticultural business at The Nursery ceases to operate, and by restricting the occupation of the mobile home to a person solely, or mainly working, in the locality in agriculture, horticulture or forestry. These would be consistent with those applied to the previous temporary permission by the Inspector.

Other material considerations:

- 6.9 The Inspector in the Appeal Decision concluded that there would be no adverse impact on the setting of the Trottiscliffe Conservation Area and its character and appearance due to the modest size of the mobile home and its location. The on-site conditions of the development have not changed to any noticeable degree. The current application proposes no changes to the existing static home on site or to any of the other development in situ. The retention of this development on a permanent basis would not cause any harm to the appearance of the area and therefore it accords with policies CP24 of the TMBCS and SQ1 of the MDE DPD.
- 6.10 In respect to land contamination, a desk study and intrusive investigation was submitted with the reserved details application (TM/10/02411/RD) relating to the 2010 permission for the replacement agricultural building (TM/10/00473/FL). Although this was based on a continued agricultural use, made ground was found

across the site that included plastic, metal, wood and brick, which presented elevated levels of lead and hydrocarbons. The report also mentions that the site has historically been used for vehicle maintenance and re-spraying. As it is proposed to retain the mobile home permanently, it is considered necessary to ensure the residential garden land is decontaminated and suitable for permanent residential use. Conditions can be imposed requiring site investigation and remediation of the land where required. With the imposition of these conditions, the development would accord with paragraphs 120-121 of the NPPF.

- 6.11 The applicant has confirmed that foul water for the mobile home and workshop/potting shed are connected to the mains sewer which runs along Taylors Lane. A condition can be added to confirm this requirement.

Representations:

- 6.12 I note the comments from the Parish Council and a neighbouring resident that suggests that there is an absence of evidence relating to the viability of the business and that there has been little business activity at the nursery. However, in taking into account the submitted accounts for the period, supporting statement from the applicant and the correspondence from local garden centres confirming business with the applicant, as well as my visual inspection of the site, I have no reason to dispute that the business is viable and continuing.

Conclusions:

- 6.13 In light of the above assessment, I consider that the applicant has suitably demonstrated that the business has been successful sufficient to justify the retention of the development in situ as set out by the previous Inspector and is acceptable in all other respects. As such, I therefore recommend that permanent planning permission, subject to conditions, be granted.

**7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Email dated 31.01.2017, Supporting Statement dated 13.10.2016, Email dated 14.12.2016, Supporting Information CORRESPONDENCE dated 14.12.2016, Other ACCOUNTS dated 03.06.2016, Planning, Design And Access Statement dated 03.06.2016, Site Plan 1786/18A Rev 04/11 dated 03.06.2016, Location Plan 1786/1 dated 03.06.2016, Appraisal ESSENTIAL NEEDS dated 03.06.2016, Other BUSINESS PLAN dated 03.06.2016, Letter dated 03.06.2016, subject to the following conditions:

**Conditions:**

- 1 The occupation of the static mobile home shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, horticulture or forestry, or a widow or widower of such a person, and to any resident dependants.

Reason: The occupation of the dwelling by persons not associated with the agricultural, horticulture or forestry would result in a separation of functions, expansion of movements and paraphernalia that could harm the openness of the Green Belt and character and visual amenity of the rural area.

- 2 The residential use hereby permitted shall cease within 1 month of the date that the horticultural enterprise at The Nursery ceases to trade and any caravan and all structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the residential use (including the dog pens and kennels) shall be removed and the land restored to its condition before the development took place in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

Reason: To preserve the openness of the Green Belt and ensure that the character and visual amenity of the rural locality is not significantly harmed.

- 3 Within 1 month of the date of this decision, details of the size and appearance of the existing mobile home shall be submitted to the Local Planning Authority for approval. The static mobile home shall accord with the approved details.

Reason: To preserve the openness of the Green Belt and ensure that the character and visual amenity of the rural locality is not significantly harmed.

- 4 No replacement static mobile home shall be stationed on the site before details of its size and appearance have been submitted and approved by the Local Planning Authority. The static mobile home shall accord with the approved details.

Reason: To preserve the openness of the Green Belt and ensure that the character and visual amenity of the rural locality is not significantly harmed.

- 5 The static mobile home shall only be stationed in the position shown on Drawing No.1786/18A Rev 04/11 hereby approved and no more than one caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

Reason: To preserve the openness of the Green Belt and ensure that the character and visual amenity of the rural locality is not significantly harmed.

- 6 Details of any external lighting within the areas indicated as tarmac finish, mobile home, shed and playhouse on Drawing No. 1786/18A Rev 04/11 shall be submitted to and approved in writing by the local planning authority prior to installation. The works shall be carried out in accordance with the approved details.

Reason: To protect the visual amenity of the locality.



- 7 Foul water shall be disposed of directly to the mains sewer, unless agreed in writing by the Local Planning Authority for any variation.

Reason: To prevent pollution of groundwater.

- 8 Within 2 months of the date of this decision, the following shall be submitted to the Local Planning Authority for approval:

(a) based on the findings of the desktop study from 2010 submitted under planning reference TM/10/02411/RD, proposals for a site investigation scheme of the residential part of the scheme that will provide information for an assessment of the risk to all receptors that may be affected including those off site. The site investigation scheme should also include details of any site clearance, ground investigations or site survey work that may be required to allow for intrusive investigations to be undertaken.

If, in seeking to comply with the terms of this condition, reliance is made on studies or assessments prepared as part of the substantive application for planning permission, these documents should be clearly identified and cross-referenced in the submission of the details pursuant to this condition.

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

- 9 Within 2 months of the approval of the site investigation under condition 8 above, the following shall be submitted to the Local Planning Authority for approval:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment for the private garden area associated with the static mobile home, 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 site 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 site 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) the relevant approved remediation scheme shall be carried out in accordance with the approved timetable of works. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

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

- 10 Within 2 weeks following completion of the approved remediation, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level 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 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).

- 11 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).

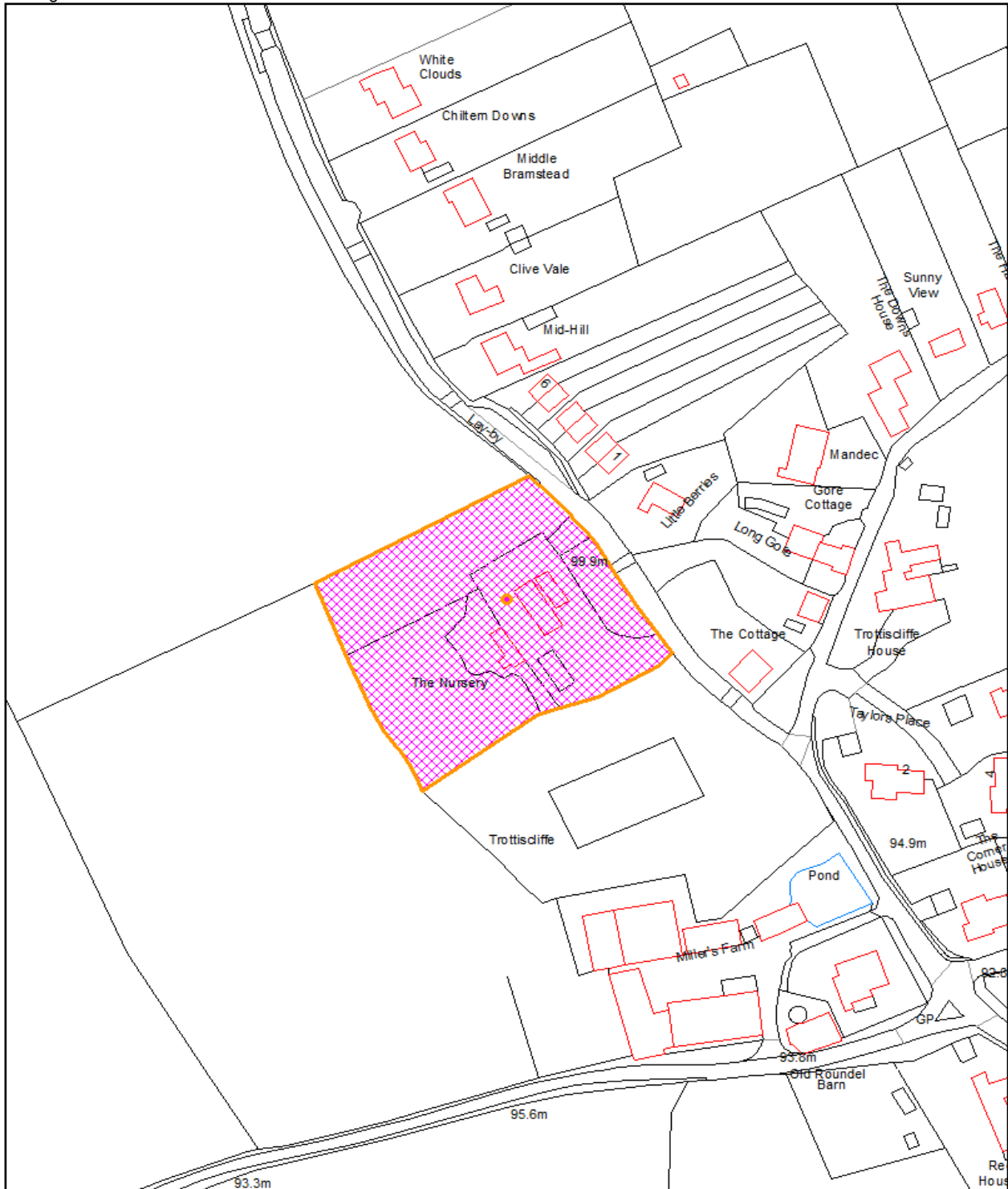
Contact: Mark Fewster

**TM/16/01753/FL**

**The Nursery Taylors Lane Trottiscliffe West Malling Kent**

Permanent retention of a static mobile home as accommodation for an agricultural worker ancillary to the nursery business and retention of 2no. dog kennels and pens

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**Shipbourne**  
Borough Green And  
Long Mill

**7 December 2016**

**TM/16/03581/FL**

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Proposal: Demolition of existing dwelling and construction of new two storey dwelling and detached double garage (Resubmission of TM/16/02494/FL)

Location: Church House Stumble Hill Shipbourne Tonbridge Kent TN11 9PE

Applicant: Mr & Mrs Heraty

Go to: [Recommendation](#)

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## 1. Description:

1.1 The application is a resubmission of a recent application (TM/16/02494/FL) for a replacement dwelling with an attached triple garage, which was refused planning permission in October 2016. The reasons for refusal in that case are summarised as follows:

- *Inappropriate development in the Metropolitan Green Belt and where no very special circumstances exist*
- *Harm to the character and appearance of the Conservation Area and to the setting of the adjacent listed buildings as a result of the size, scale, mass, bulk and design of the dwelling*
- *Unacceptable level of perceived overlooking and impact on outlook from the gardens of the residential properties to the east as a result of the size and scale of the dwelling*

1.2 The revised scheme is for a replacement dwelling in a similar location of a reduced overall size and scale. The dwelling has also been redesigned and a detached double garage proposed instead of an attached triple garage.

1.3 The new replacement dwelling will be situated centrally on the site, in a similar position to the existing dwelling, and will face southeast. The main body of the dwelling is of a 2-storey scale providing a general footprint 12.35m wide x 12.3m deep, with an eaves height of 5.4m and ridge height of 8.7m. A single storey element 4.5m wide x 8.15m deep is proposed to the southwest side of the dwelling. The dwelling is to be set back 24m from the east boundary, 23m from the rear (west) boundary, 13m from the north boundary and 23m from the south boundary.

1.4 The dwelling provides a dual pitch roof with gable ends and two front dormers, with staggered twin hip roof elements at the rear with valley between. The windows are to be of a glazing bar design on all elevations. A balcony accessed by full height doors is provided within the rear elevation at first floor level. The

floor plan layout for the dwelling consists of a kitchen, dining room, sitting room, family room, hall, study and utility room at ground floor, 3 bedrooms with ensembles at first floor and 2 further bedrooms and a bathroom at second floor level within the roof space.

- 1.5 The proposed garage is to be sited adjacent to the southeast front corner of the dwelling and will face north and be set perpendicular to the dwelling's front wall. It is to measure 7.1m wide x 7.4m deep, with an eaves height of 2.5m and ridge height of 5.6m. A catslide roof is proposed at the rear of the building with an eaves height of 1.9m. The garage is to be inset 17m from the south boundary and 18m from the east boundary. The garage building provides 2 car parking bays.
- 1.6 The external materials are to consist of red stock brick, Kentish Ragstone and feather-edged oak boarding to walls, dark plain clay tiles to roofs, lead to dormer roofs, white stained timber soffits and eaves and white timber sash windows.
- 1.7 A bonded gravel driveway is proposed leading to a parking area in front of the dwelling and garage providing space for about 3 cars independent of the garage spaces.
- 1.8 A Planning Statement, Design and Access Statement and Ecological Scoping Survey have been submitted with the application.
- 1.9 Amended plans were received on 10.02.2017 that provided design revisions to the dwelling and garage. The 2 storey element has been recessed at the rear of the dwelling and the roof form adjusted. The side single storey elements have been reduced in their dimensions. The garage has been reduced in height from 6m to 5.6m.
- 1.10 The Parish Council and neighbours were re-notified of the amendments for a further 2 week period.

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

- 2.1 At the request of Councillor Taylor due the bulk, mass and design of the dwelling being out of keeping with the rural area and impact on the Green Belt, Conservation Area and AONB.

## **3. The Site:**

- 3.1 The application site is located at the western end of a private access road that extends west from Stumble Hill in Shipbourne, just south of The Chaser Inn. It is occupied by a two-storey detached house (4.6m high eaves/6.3m high ridge) with a flat roofed garage and masonry screen attached to its front. A timber single garage is located within the southern front corner of the site, to the west of the driveway. A close boarded fence has been erected along the north boundary.

The boundaries of the site are well landscaped with established mature trees and scrubby hedgerow.

- 3.2 The site is located within the Countryside, MGB, Kent Downs AONB and the Shipbourne CA. An AAP covers a small section of the northern part of the site. Stumble Hill is a Classified Road. A PROW footpath runs adjacent to the western boundary.
- 3.3 St Giles Church lies to the north and The Chaser Inn, Shipbourne House and Butchers Cottage all lie to the east. These buildings are all Grade II Listed buildings. The residential properties of The Old Coach House and Nos.1 and 2 Bateys Cottages lie to the south and southeast. Agricultural fields lie to the west.

**4. Planning History (relevant):**

TM/58/10443/OLD grant with conditions 19 November 1958

Vicarage and garage.

TM/58/10905/OLD grant with conditions 30 April 1958

Outline Application for new vicarage.

TM/69/10884/OLD grant with conditions 23 April 1969

Extension to form dining room, for The Ven. E. E. Maples Earle, M.A.

TM/87/11822/FUL grant with conditions 30 July 1987

Revised details in respect of conversion and extension of existing Coach House to form dwelling and construction of detached garage.

TM/15/02122/TNCA No Objection 4 August 2015

Remove large conifer

TM/16/02494/FL Refuse 21 October 2016

Demolition of existing dwelling and construction of new two-storey dwelling with attached triple garage with games room over

**5. Consultees:**

- 5.1 PC (including re-notification): Objection to the application for the following reasons:

- The Parish acknowledges that there is a decrease in terms of mass regarding the design and siting of the garage but the amended proposal continues to be

materially larger than the existing building in terms of footprint and height contrary to the National Planning Policy Framework paragraph 89;

- The proposal is a three storey dwelling in a conservation area overlooking other properties and dominating the landscape contrary to Green Belt policy;
- Particular concern with the increase in height caused by the inclusion of accommodation in the roof space and windows in the pitched roof as they are out of place in Shipbourne;
- The impact on the landscape and the conservation area would be much reduced if the design no longer had rooms on the third floor and the height of the roof could be reduced;
- There is also concern about the balcony on the first floor overlooking the churchyard where burials take place and people seek to visit graves in relative peace and privacy. If this large balcony was redesigned as a 'Juliet' balcony these issues would not apply. It would also afford more floor space on the first floor for accommodation.

5.2 KCC (Highways): No objection

5.3 KCC PROW: Public Right of Way MR392 footpath runs along the outside of the west boundary of the application site and should not affect the application.

5.4 KCC (Heritage) (29.12.2016): No comments to make.

5.5 Private Reps (including re-notification): 11+ site notice + press notice/0X/11R/0S. The objections raised have been summarised below:

- The proposed dwelling is still an increase in terms of floor area, footprint and height than the original Church House.
- The proposed replacement building is a 3-storey dwelling that is much larger than the existing/original building and is not in keeping with the character of the village.
- The height and size of the dwelling would make it highly visible and overbearing as viewed from neighbouring properties.
- The proposed dwelling is materially larger than the original building and would be inappropriate development in the Green Belt, and no very special circumstances apply.
- The mass and height of the development is inappropriate to its setting and would harm the Shipbourne Conservation Area and adjacent listed buildings
- The dwelling would overlook neighbouring properties.



- The new building would dominate the surrounding houses and area and would detrimentally affect views from the public footpaths, churchyard and Shipbourne Common.
- The balcony would be fully visible from the countryside footpaths which would impact on views in the AONB.
- The revised scheme is suburban and out of place within the village.
- The style of the new building would be unsuitable for the location.
- An inappropriate close boarded fence has been erected along the north boundary with St Giles Church.

## 6. Determining Issues:

- 6.1 The main issues in respect to this revised scheme are whether it would be inappropriate development in the Green Belt, and whether it would preserve the appearance and character of the CA, the setting of the adjacent listed buildings, the visual amenity of the rural landscape and locality or neighbouring residential amenity.

### Green Belt/Countryside:

- 6.2 The site lies within Green Belt where Policy CP3 of the TMBCS advises that National Green Belt policy will apply (Section 9 NPPF).
- 6.3 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.”*
- 6.4 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”.*
- 6.5 Paragraph 89 of the NPPF advises that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, a number of exceptions are specified, including the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 6.6 I have estimated that the new dwelling provides a volume of about 1080m<sup>3</sup> compared to a volume of about 700m<sup>3</sup> for the existing dwelling. This is a 54%

increase in volume compared with the existing dwelling. This volume estimate is consistent with the applicant's calculations shown on Drawing Nos.2744-38 and 2744-39. The new building would also be 8.7m high compared to a height of 6.3-6.8m (depending on ground level) for the existing building. This new replacement dwelling would therefore clearly be materially larger than the building it replaces.

- 6.7 The proposed garage is now detached and provides a volume of about 207m<sup>3</sup> and a ridge height of 5.6m. This is substantially larger than the combined size of the existing single garage and garden shed, which are of a very modest height (2m maximum) and total volume of 50m<sup>3</sup>. The garage building would be materially larger than the buildings it replaces.
- 6.8 In respect to the redevelopment of a 'brownfield' site, the increase in the height, scale and overall size of the built development proposed on the site would clearly have a greater impact on openness.
- 6.9 For these reasons, the proposal would amount to inappropriate development within the Green Belt, which is harmful by definition and for which very special circumstances are required to outweigh that harm. It is therefore necessary to consider whether any such very special circumstances do exist in this case.
- 6.10 The existing dwelling, built in the late 1950s/early 1960s, is considered to be totally at odds with the historic character of the CA. It also presents an unattractive and dominant flat roofed attached garage and substantial masonry wall enclosing a domestic oil storage tank forward of the house. Its demolition and replacement is therefore highly desirable in visual terms, in my view.
- 6.11 The new dwelling, although materially larger in size and scale, provides a more compact built form than the existing dwelling and has been designed to a high standard incorporating traditional form and design elements that would better relate to the surrounding buildings and would provide a significant overall improvement to the appearance of the site. It is acknowledged that the new building would be of a scale larger than the historic buildings surrounding the site. However, these surrounding historic buildings provide a much tighter cluster of built form whereas the new dwelling would be set within a much more spacious setting.
- 6.12 The new garage, although relatively large, is of a high quality design and its relationship with the dwelling is considered to be traditional to rural areas and provides a compact built form that would also add to the overall visual enhancement of the CA.
- 6.13 As a result, I consider that overall the proposed development provides a high quality design that would substantially enhance the character and appearance of the CA.

- 6.14 It should also be noted that the existing dwelling has permitted development rights that are intact which could allow for the dwelling to be extended in a number of ways that would impact upon the Green Belt but also further degrade the character and appearance of the CA and over which there would be no control from the LPA.
- 6.15 In addressing this point, the applicant has submitted a plan showing single storey extensions that could be added under permitted development rights accompanied by a statement that suggests that in order to make better use of the existing dwelling that there is every reasonable prospect and genuine intent in this case that these extensions could be constructed should planning permission for a replacement dwelling not be forthcoming.
- 6.16 However, on reviewing these submissions, I consider the larger extension shown (rear west elevation) (85m<sup>3</sup>) could reasonably be expected to be exercised but the other smaller extensions appear ad hoc and would not, in my view, be likely realistic options. Similarly, the very large area shown as an outbuilding to the rear of the dwelling would clearly not be of a size that would be incidental to the existing dwelling and therefore not permitted development. As such, I have disregarded this in my assessment of the fallback position.
- 6.17 Notwithstanding these specific comments, a genuine, realistic fallback position does exist for some substantial and fairly piecemeal development to occur utilising permitted development rights which should be weighed in the balance when considering whether very special circumstances exist, particularly when having in mind the preceding commentary concerning the positive enhancement of the CA the replacement building would bring.
- 6.18 I have therefore concluded that the proposed development would provide a significant enhancement to the character and appearance of the CA and that this benefit would constitute very special circumstances that would outweigh the harm arising from the fact that this constitutes inappropriate development. This is further supported by the fact that a genuine fallback exists for the applicant to construct some fairly large extensions to the existing house utilising permitted development rights which *could* in their own right have quite the opposite impact on the CA and over which there would be no control.
- 6.19 Policy CP14 of the TMBCS restricts development in the countryside to specific development listed in the policy. The one-for-one replacement of an existing dwelling is development that is included and therefore the proposal accords with this policy.

*Character, visual amenity and setting of listed building:*

- 6.20 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 including its setting in relation to the pattern of the settlement, roads and surrounding landscape.

- 6.21 Paragraphs 129 and 131 (Heritage Assets) of the NPPF advises that local planning authorities should identify and assess the significance of a heritage asset that may be affected by a proposal and should take account of the desirability of sustaining and enhancing its significance; the positive contribution that conservation of the heritage asset can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.22 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.
- 6.23 The application site adjoins the grounds of St Giles Church to the north and the rear boundaries of Shipbourne House and Butchers Cottage to the east. The Church and its boundary walls and the 2 adjacent dwellings mentioned are Grade II listed buildings. The site and the surrounding area forms part of the larger Shipbourne CA.
- 6.24 The existing dwelling is a relatively non-descript two storey dwelling built in the late 1950s /early 1960s that is at odds with the historic buildings that surround the site, and therefore detracts from the character and appearance of the CA.
- 6.25 The dwelling proposed under the previous refused scheme (TM/16/02494/FL) displayed a height of almost 10m, substantial bulk and mass and unsympathetic roof forms and overall design. The revised dwelling provides a lower roof height of 8.7m. The Parish Council and a number of local residents have suggested that the new building is 3-storey, but in my view it represents a standard two-storey scale and eaves height that utilises the roof space for additional accommodation that is common place. The revised dwelling has been more sympathetically designed with traditional dual pitched roofs with gable ends and hips to the rear, which has reduced the massing and bulk of the building. The window fenestration has been better arranged and the two dormers to the front are small, well designed and proportionate to the roof space. The materials proposed are of a high quality and characteristic of development within the local area and other rural areas of the Borough. Overall, I consider that the dwelling now proposed is respectful to the form and character of surrounding buildings within the CA and would in fact be a significant enhancement, as discussed earlier in the report.
- 6.26 It is acknowledged that the dwelling is larger than the dwellings that surround the site. However, it is well separated from these adjacent dwellings (setback 40m or more) and is now of a size and scale, given these separations, that would sit comfortably within the setting of the adjacent buildings. I am also now satisfied

that the dwelling would have a positive relationship with the setting of the Grade II Listed St Giles Church, given its relationship with the Church building which is some 50m to its north and the mature intervening trees along the common boundary.

- 6.27 The visual impact previously identified from the PROW footpaths to the west of the site is also now considered to be addressed. Although the dwelling would be visible above and through the trees and vegetation that align the western boundary, I consider the more traditional form and design of the dwelling and the sympathetic use of materials would minimise its visual impact from these public vantage points when viewed together with the Church. It has been mentioned by objectors that the balcony would be highly visible from the footpaths, but the balcony is relatively modest in size and would not, in my view, be a feature that would be dominant within the rear elevation of the dwelling. The roof of the dwelling would also be visible from Shipbourne Common. However, I do not consider that it would appear unduly prominent or out of character, given its size, scale and its traditional roof form and external materials, when viewed in the context of The Chaser Inn, Shipbourne House and Butchers Cottage. In order to increase the level of landscaped screening of the development, a condition can be added requiring additional trees to be provided along this western boundary. I therefore consider that the level of impact on landscape views to be acceptable.
- 6.28 Established trees and hedgerows align all four boundaries of the site. Large trees also lie within the grounds of the Church close to the northern boundary of the site that assist in screening the development. I have no concerns with the proposed removal of several trees within the site as they are not considered to be specimens worthy of retention. A scheme of additional tree planting along the north and east boundaries (in addition to those to the west boundary advised above) to reinforce the landscape screening of the site can be imposed on any permission granted.
- 6.29 Accordingly, I am of the view that the demolition of the unsympathetic existing dwelling and the construction of the proposed new replacement dwelling and garage would enhance the character and appearance of the CA and would preserve the setting of the listed buildings to the north and east. I am also of the view that the development would not harm the visual amenity of area, including long range views within the landscape from the PROWs to the west. The proposal would therefore satisfy 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. The development would also not conflict with Section 66 or 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Parking / highway safety:

- 6.30 The scheme provides sufficient parking on-site and would therefore meet the Council's adopted car parking standards (Kent Design Guide: Interim Guidance Note 3: Residential Parking).
- 6.31 I do not consider that the development would result in a level of additional vehicular movements to and from the site along the private access way that would be noticeably different to that existing. KCC (H & T) has not raised any objection to the development 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.

Residential amenity:

- 6.32 The dwelling is sited about 24m from the rear garden boundaries of Butchers Cottage and Shipbourne House with a further 15m to the rear of these dwellings. The 10m height of the previously proposed dwelling and the number of large windows within its front elevation were considered to result in perceived overlooking from the front of the dwelling and visual impact from the neighbouring gardens that would harm outlook amenity. I am satisfied that the reduction in the height and overall size of the dwelling has satisfactorily addressed this concern and that the distance of the dwelling from the rear of the dwellings to the east of about 40m would not demonstrably harm neighbouring privacy or outlook amenity.
- 6.33 The Parish Council has expressed concern that the rear balcony has the potential to overlook the Church graveyard, affecting the privacy of people visiting the graveyard. However, the balcony is only 1.2m deep, faces west (rear), is well separated from the boundary with the graveyard (14m) and existing trees within the church grounds along the boundary intervene that provides a sufficient level of visual screening.
- 6.34 Accordingly, I am satisfied that amenities would not be harmed as a result of the proposed development.

Other material considerations:

- 6.35 The development replaces an existing dwelling and, although materially larger than the existing dwelling, its size, scale and overall appearance would not adversely affect the natural beauty and quiet enjoyment of the AONB, in my view. The development would therefore not conflict with Policy CP7 of the TMBCS or paragraph 115 of the NPPF.
- 6.36 The site is partially within an AAP but KCC (Heritage) has advised that they have no comment to make in respect to the development.

- 6.37 The dwelling is sited a substantial distance from Tonbridge Road, which is a classified road, and therefore I do not consider that noise from the highway would adversely affect the living conditions of the occupants of the dwelling. The development would therefore satisfy paragraph 123 of the NPPF.
- 6.38 An Ecological Scoping Survey has been submitted. The report advises that no notable birds were recorded at the site and there was no other evidence of species which are specifically protected under wildlife legislation on the site. It concludes that there is no potential for protected species at the site. The proposal therefore accords with Policy NE3 of the MDE DPD.

Representations:

- 6.39 I note the concerns raised by the Parish Council and a number of local residents which have been addressed within the relevant sections of this report above.

Conclusion:

- 6.40 I consider that the previous reasons for refusal have been satisfactorily overcome and therefore, subject to conditions, the proposed development accords with the relevant provisions of the Development Plan and NPPF. Approval is therefore recommended. The only harm I have identified is the definitional harm from inappropriateness but I consider an overriding case of very special circumstances exists.

**7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Topographical Survey 16728SE-01 B received 09.12.2016, Existing Plans and Elevations ET 02 received 27.01.2017, Photographs BOUNDARIES received 27.01.2017, Location Plan 2744-01 C received 10.02.2017, Site Plan 2744-30 received 10.02.2017, Proposed Floor Plans 2744-31 received 10.02.2017, Proposed Floor Plans 2744-32 received 10.02.2017, Proposed Floor Plans 2744-33 received 10.02.2017, Proposed Elevations 2744-34 received 10.02.2017, Proposed Elevations 2744-35 received 10.02.2017, Proposed Elevations 2744-36 received 10.02.2017, Proposed Elevations 2744-37 received 10.02.2017, Drawing 2744-38 Existing Volumes received 13.02.2017, Drawing 2744-39 Proposed Volumes received 13.02.2017, Drawing 2744 - 28 received 05.12.2016, Other CERTIFICATE D ADVERT received 05.12.2016, Notice received 05.12.2016, Planning Statement received 05.12.2016, Ecological Assessment received 05.12.2016, Appraisal LANDSCAPE received 05.12.2016, Photograph received 05.12.2016, Materials Schedule received 06.12.2016, Existing Plans and Elevations ET-01A received 07.12.2016, Design and Access Statement received 07.12.2016, Email SUPPORTING INFORMATION received 08.03.2017, Email SUPPORTING INFORMATION received 17.03.2017, Landscaping ET-15 received 14.02.2017, 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 No development shall take place, other than demolition of any building on the site, until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

- 3 No development shall take place, other than demolition of any building on the site, until details of joinery, soffits and eaves for the dwelling have been submitted to and approved in writing 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 visual amenity of the locality.

- 4 No development shall take place, other than demolition of any building on the site, until a plan showing the proposed finished floor, eaves and ridge levels of the dwelling and garage in relation to the existing levels of the site and adjoining land 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 A, B or E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To preserve the openness of the Green Belt and the character and visual amenity of the area.

- 6 Notwithstanding the submitted landscaping plan (Drawing No.ET-15), the dwelling shall not be occupied until there has been submitted to and approved by the Local Planning Authority a scheme of soft and hard landscaping and boundary treatment that includes additional tree planting along the north, west and east boundaries. 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. The boundary treatments shall be provided prior to occupation of the new dwelling.

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.

- 7 The dwelling shall not be occupied until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 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 development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, other than those specified for removal on the Site Plan (Drawing No.2744-30) hereby approved, by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

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

### **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 If the development hereby permitted involves the carrying out of building work or excavations along or close to a boundary with land owned by someone else, you are advised that, under the Party Wall, etc Act 1996, you may have a duty to give notice of your intentions to the adjoining owner before commencing this work.
- 3 During the demolition and construction phase, the hours of working (including deliveries) shall be restricted to Monday to Friday 07:30 hours - 18:30 hours; on Saturday 08:00 to 13:00 hours; with no work on Sundays or Public or Bank Holidays.
- 4 Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the nearest point to the public highway on the relevant collection day.
- 5 The Kent Fire & Rescue Service wishes to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
- 6 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.

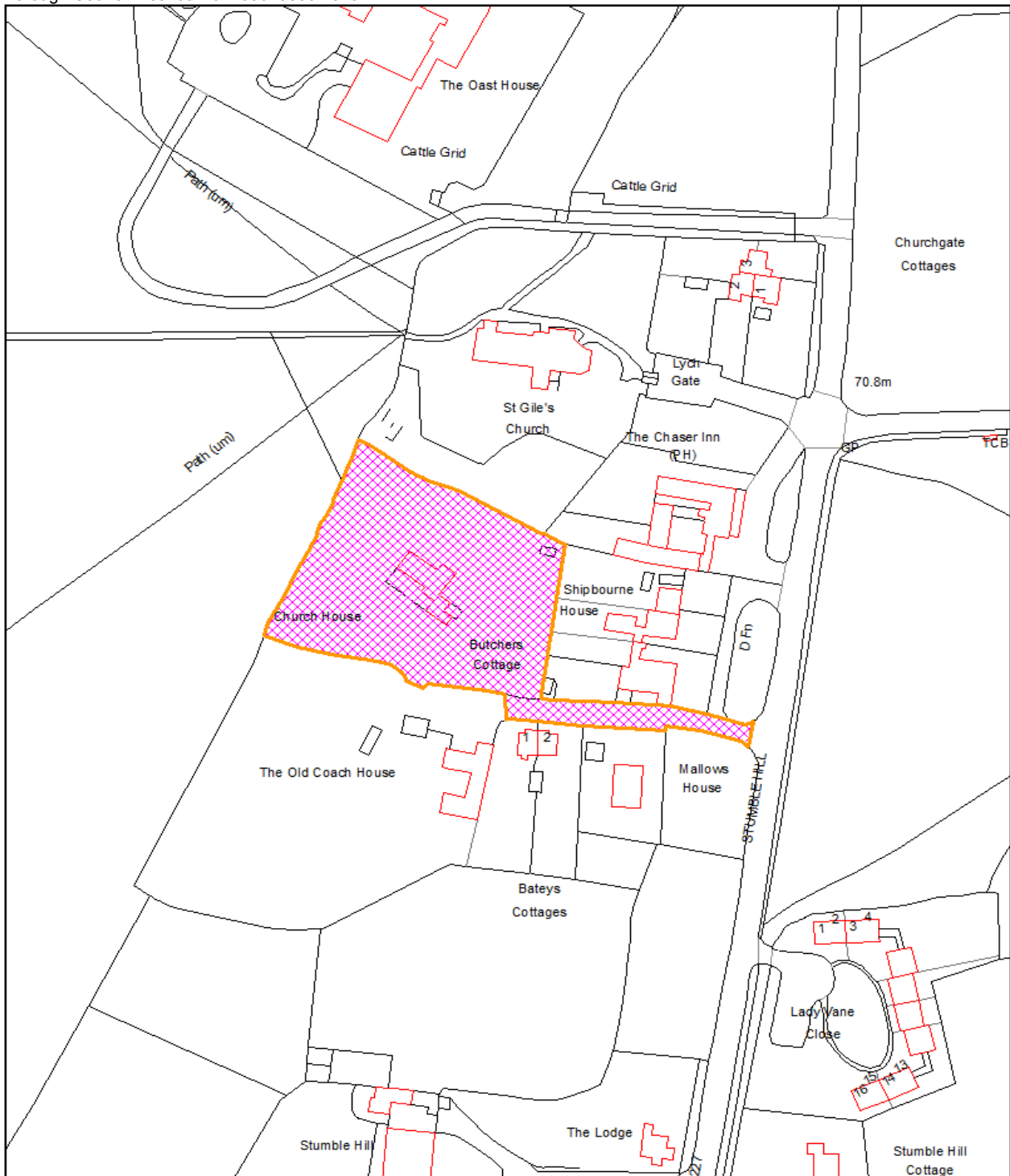
Contact: Mark Fewster

**TM/16/03581/FL**

Church House Stumble Hill Shipbourne Tonbridge Kent TN11 9PE

Demolition of existing dwelling and construction of new two storey dwelling and detached double garage (Resubmission of TM/16/02494/FL)

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# Agenda Item 9

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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