

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

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

Contact: Committee Services  
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15 January 2019

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, 23rd January, 2019 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 - 6

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 12 December 2018

**Decisions to be taken by the Committee**

4. Development Control 7 - 10

Introduction and Glossary

5. TM/18/02642/FL - land at West of Station Road North, West Malling 11 - 28

6. TM/18/02444/FL - 246 Butchers Lane, Mereworth 29 - 40

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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**

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

**PART 2 - PRIVATE**

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 B J Luker (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 S R J Jessel

Cllr Mrs S L Luck

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

Cllr M Taylor

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 2 PLANNING COMMITTEE

Wednesday, 12th December, 2018

**Present:** Cllr Mrs F A Kemp (Chairman), Cllr B J Luker (Vice-Chairman), Cllr Mrs J A Anderson, Cllr M A C Balfour, Cllr R P Betts, Cllr M A Coffin, Cllr Mrs S L Luck, 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 and Cllr M Taylor

Councillor O C Baldock was also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors Mrs S M Barker, S R J Jessel and P J Montague

### PART 1 - PUBLIC

#### **AP2 18/51 DECLARATIONS OF INTEREST**

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

#### **AP2 18/52 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 2 Planning Committee held on 7 November 2018 be approved as a correct record and signed by the Chairman.

### DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION (RESPONSIBILITY FOR COUNCIL FUNCTIONS)

#### **AP2 18/53 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 18/54 TM/18/01755/FL - REAR OF 61 OFFHAM ROAD, WEST MALLING**

Erection of a detached 2 storey dwelling to the rear of 61 Offham Road, West Malling.

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

- (1) The proposed development by virtue of the siting, scale, massing and height of the new dwelling, when combined with its close proximity to the west boundary shared with the immediate neighbour (63 Offham Road) and the particular layout of that neighbouring plot, would result in an intrusive and dominant form of development when viewed for that neighbouring property, which would cause harm to the residential amenities of the occupants. The development is therefore contrary to policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and the requirements contained at paragraphs 127 (c and f) and 130 of the National Planning Policy Framework 2018.

[Speakers: Mrs G Fox, member of the public and Ms K Kenny, on behalf of the applicant]

**AP2 18/55 TM/17/02688/RD - PHASE 3, PLATT INDUSTRIAL ESTATE, MAIDSTONE ROAD, PLATT**

Details submitted pursuant to Condition 23 (junction safety measures) of planning permission TM/16/01766/FL (Erection of 3 Industrial buildings for mix of B2 (General Industry) and B8 (Storage/Distribution) use, and associated vehicle access and parking) at Phase 3 Platt Industrial Estate, Maidstone Road, Platt.

Members noted a minor correction at paragraph 1.1 of the report and the A20 should read A25 Maidstone Road.

**RESOLVED:** That reserve details be APPROVED subject to the completion and submission of an amended Unilateral Undertaking reflecting the s278 highway works already carried out.

[Speakers: Mr Brian Biggs – Platt Parish Council]

**AP2 18/56 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 20.35 pm

## 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

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**West Malling**  
West Malling And  
Leybourne

**7 November 2018**

**TM/18/02642/FL**

Proposal: Use of land to provide station car parking and new access  
Location: Land West Of Station Road North West Malling Kent  
Go to: [Recommendation](#)

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## **1. Description:**

- 1.1 The application proposes a change of use of a triangular parcel of land previously used for horse grazing to provide a car park to serve West Malling Railway Station.
- 1.2 A new vehicular access is to be provided from Lucks Hill within the western side of the road frontage. The access is to be 6m wide. A total of 204 car parking spaces are proposed, including 3 spaces allocated for disabled persons.
- 1.3 A pedestrian access link is proposed from the car park to Station Road North which will provide direct access onto Platform 2 and the footbridge over to Platform 1 and the ticket office.
- 1.4 The submitted layout plans shows the provision of lighting to the car park, a cabin for a site office/CCTV/storage in the southeast corner of the site and indicative landscaping.
- 1.5 A Planning Statement, Transport Statement and Arboricultural Report have also been submitted with the application.

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

- 2.1 Due to the high level of local interest generated by the proposal.

## **3. The Site:**

- 3.1 The application site is a triangular shaped parcel of land of an area of approximately 0.67ha that is situated between the national railway line to the south, Lucks Hill to the north and Station Road North to the east. The site is a grassed parcel of land with established trees along the road frontages. The land slopes up moderately from west to east, with a change in ground level of about 1.5m.
- 3.2 The railway line is raised well above the level of the site (about 3m). Station Approach South links Swan Street/Lucks Hill with West Malling Railway Station (Grade II Listed) and to the associated existing privately run car parks. To the north of Lucks Hill lies More Park Roman Catholic Primary School and the Catholic Church of St Thomas More.

- 3.3 The site lies outside the rural settlement of West Malling and within the countryside. The western half of the site is within an Area of Archaeological Potential (AAP) and the site sits upon a principal aquifer. The West Malling Conservation Area lies adjacent to the site to the north of Lucks Hill.
- 3.4 The speed limit of this part of Lucks Hill is 30mph. No footways exist along the southern side of Lucks Hill. There is a pedestrian footway on the northern side of Lucks Hill.

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

TM/15/00531/FL      Application Withdrawn      2 July 2015

Use of land to provide station car parking and new access

**5. Consultees:**

5.1 PC: Objection. The following reasons have been provided:

- Development of this land would harm the rural approach to and setting of West Malling. It would represent further urbanisation of the area following the extensive development of the station car park (including the removal of many trees) and the development of two privately-operated car parks.
- This land is designated as Green Belt in the new Local Plan which has been the subject of extensive consultation. West Malling Parish Council has undertaken a survey of local views which shows overwhelming support for the extension of the Green Belt. To give permission for development on this site when the Local Plan is shortly to be submitted for Examination in Public would undermine the local planning process.
- The applicant proposes access onto a narrow and very busy road, particularly at peak times. The potential for congestion and accidents would be increased. This is of particular concern given the proximity of a school.
- No details of the proposed lighting have been provided but this is likely to add to local light pollution and could well be active all day, every day.

5.2 EA: No objection to this proposal subject to conditions relating to contamination and drainage being included in any permission granted.

5.3 KCC (H&T): The following comments have been provided:

- The transport work undertaken by RGP has been undertaken systematically. Surveys undertaken on the existing car parks have shown the entry, exit and accumulation profiles. Knowledge from on line season ticket applications have given an indication of the distribution of commuter attraction to West Malling Station. This data has been used to make forecasts regarding the use of the proposed car park and this is considered to be a reasonable approach.

- This work has shown that peak More Park School and commuter activity do not coincide. Analysis has also forecast the number of commuter in/out car park movements during peak morning More Park School activity. This has shown that a small number of additional vehicles are expected to pass the school during this time (forecast to be 6 between 8 – 9am, see figure 4.7 in the Transport Statement). It is not considered that this level of activity could constitute a severe impact or represent a detriment to road safety. As well as the crash analysis undertaken on behalf of the applicant it is also noted from [www.crashmap.co.uk](http://www.crashmap.co.uk) that there have been no injury crashes associated with the use of the existing car parks at West Malling Station for at least the last 19 years.
- On behalf of this authority I write to confirm that subject to the following conditions I have no objection to this application: - The new access should comprise corner footways so that any pedestrian activity here has a safe place to stand rather than remaining in the mouth of the access; a dropped kerb will be required on the eastern side of Station Road North, opposite any pedestrian access point here; and provision of measures to prevent the discharge of surface water onto the highway.

5.4 KCC (SUDS): As the applicant has notified us that deep bore soakaways are used at the adjacent site, we would have no objection to the drainage proposal. However, we would emphasize that additional ground investigation will be required to support the use of infiltration. It is recommended that soakage tests be compliant with BRE 365, notably the requirement to fill the test pit several times. Detailed design should utilise a modified infiltrate rate and demonstrate that any soakaway will have an appropriate half drain time. Should your local authority be minded to grant permission for this development, we would recommend conditions be imposed.

5.5 Natural England: No comments to make on the application.

5.6 KCC Heritage: The site of the application lies in a general area of archaeological potential associated with prehistoric or later activity. It is within c.250m of the Scheduled Monument of St Mary's Abbey complex and close to the medieval market core of West Malling itself, and there is particular potential for associated medieval and post medieval activity. In view of this archaeological potential I recommend a condition is placed on any forthcoming consent.

5.7 Historic England: No comments to make.

5.8 Kent Police: No comments received.

5.9 Network Rail: No comments received.

5.10 Private Reps: 53+ site and press notices/0X/35R/18S. Objections raised on the following grounds:

- Highway safety concerns with the new access
- Traffic congestion and child safety concerns during school drop off and pick up times and the location of the new access opposite the school
- Drainage run-off and flooding issues along Lucks Hill and the adjacent school
- Highway safety concerns
- The raised level of the car park and CCTV will overlook the school
- The development will reduce available road parking for the school
- The existing car parks are not often at full capacity
- The rural approach to West Malling and its setting would be harmed
- The development would further urbanise the area
- The proposal would undermine the Green Belt designation in the emerging local plan
- Light pollution
- It has not been demonstrated that the additional spaces are needed
- The access is situated close to a blind corner
- The pedestrian link will not be accessible to people with disabilities
- The proposal does not encourage use of public transport
- Lucks Hill is narrow and unsuitable for further traffic growth

5.10.1 The comments in support of the scheme are summarised as follows:

- The demand for commuter parking is increasing due to the population growth of Kings Hill
- The current availability of parking spaces for commuters at the station is limited
- The car parks are regularly full
- Parking supply is not matching demand
- Hundreds of new homes are being built at Kings Hill
- There will be additional train routes to the City of London in 2019
- The car park is necessary to plan ahead for the changing environment
- The proposal would help alleviate the lack of parking in West Malling as well as benefit commuters
- The car park is located away from the centre of the town but within walking distance which would help retain its small-town charm

**6. Determining Issues:**

- 6.1 The main issues are whether the development would affect the appearance and character of the area, visual amenity of the locality or highway safety.

*Principle of the Development:*

- 6.2 The site is outside of the settlement confines of West Malling and therefore in the designated countryside. Policy CP14 of the TMBCS restricts development in the countryside to specific development listed in the policy. The proposed development is not specifically cited within the policy and as such does not accord with its requirements.
- 6.3 However, this policy is not considered to be fully consistent with the revised NPPF. In particular, paragraphs 83 and 84 that support a prosperous rural economy advise that: planning policies and decisions should enable sustainable rural tourism and development of accessible local services and community facilities; and should also recognise that sites beyond existing settlements may be required to meet local business and community needs in rural areas as long as such a development is sensitive to its surroundings and does not have an unacceptable impact on the local road network. This latter requirement (paragraph 84) provides a clear intent to facilitate development in areas outside of rural settlements that would benefit the local economy and community. This is not at all reflective within the requirements of CP14 and the conflict that exists between the 2007 policy and the 2018 NPPF in this respect means that less weight must be afforded to CP14 as a result.
- 6.4 There are specific material considerations that support the scheme in terms of matters of broad principle when considering the requirements of paragraph 84 of the NPPF. The car park would cater predominantly for commuters or users of national rail services. This would benefit access to employment opportunities for local residents and in turn would provide a benefit in economic terms. It would also provide additional parking for visitors to West Malling.
- 6.5 The West Malling Railway Station is the main train station for both West Malling and Kings Hill residents. The population of Kings Hill will increase notably in the coming years with the implementation of Phase 3 (635 dwellings). The Broadwater Farm allocation in the emerging local plan is also designated to deliver a further 900 dwellings. The Station provides good links to London and it has been noted by the applicant and a number of local residents that additional services are to be provided this year.
- 6.6 At this juncture, I would acknowledge that the application site forms part of the land proposed to be included within the Green Belt extension as set out within the draft local plan. Paragraph 50 of the NPPF states that refusal of a planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination. Where planning permission is refused on

grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

- 6.7 Furthermore, paragraph 49 states that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
  - b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.
- 6.8 The draft local plan is intended for submission to the Secretary of State before 24 January 2019 but will hold very limited weight at the time this application is determined because the proposed extension has not yet been tested through examination. In any event, the type and nature of development proposed by this application would not be prejudicial to the strategic objective behind wishing to include land within the Green Belt here. As such, there would be no rational justification to seek to resist the development on such grounds.
- 6.9 In taking into account the above considerations, the provision of the proposed car park on the application site meets the requirements of paragraph 84 of the NPPF and, when considering the diminished weight to be afforded to CP14 in this case, I can conclude that the development proposed is acceptable in terms of overall principle. The key matters to address in terms of the detail of the scheme therefore centre on ensuring the development is sensitive to its surroundings and do not have an unacceptable impact on the local road network (as required by paragraph 84).

*Character and Visual Amenity:*

- 6.10 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area.
- 6.11 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.



- 6.12 Paragraphs 193 and 194 of the NPPF advise that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.13 The new access would result in some level of intervention within the tree-lined frontage along Lucks Hill but this would not be significant, in my view. The level of the site varies by about 1.5m from west to east which is not considered to be substantial. A condition can be imposed to ensure that the level of the car park surfacing appropriately relates to existing levels.
- 6.14 The layout plan indicatively shows that 10 column mounted street lights will be installed within the car park. These are contained centrally on the site (away from boundaries). No specific lighting details or levels of lighting spill have been provided at this stage. However, the level of lighting can be assessed and controlled by condition, which could include baffles to minimise light spill and potential visual impact. It is noted that the site is located in close proximity to the railway station which already affords an existing level of lighting. Although there would be a level of visual impact from the proposed lighting of the car park, I do not consider this impact would be harmful to the character and amenity of the area given the site's close proximity to the Station, the existing vegetated screening and the ability to mitigate the amount of light spill and time that the lights are switched on.
- 6.15 The development has been designed to take account of the trees around the perimeter of the site. However, it is considered that a further arboricultural assessment is required that provides more specific details of the protection of the root system of the trees and how the works will be undertaken so as to adequately protect the trees. This can be required by condition.
- 6.16 Overall, although the development would change the appearance of the site, particularly from the approach to West Malling, given the proximity of the site to the Railway Station, the specific enclosed character of the site and retained and reinforced tree-line screening, I am satisfied that the proposal would not demonstrably harm the character of the area or visual amenity.
- 6.17 Turning specifically to the potential impact on the setting of designated heritage assets in these respects, I am mindful that the West Malling Conservation Area lies to the north of the site. However, with the reinforced existing tree-lined screening adjacent to Lucks Hill I consider that the proposal would not result in a detrimental impact upon the character and appearance of the setting of the adjacent Conservation Area.

6.18 The site is a significant distance away from the main Station building, which is a Grade II Listed building, and as a result the proposal would not harm the setting of this listed building.

6.19 Accordingly, I consider the proposed development would not demonstrably harm the character or visual amenity of the area or cause harm to the setting of the adjacent Conservation Area or the listed Station building. The proposal would therefore not conflict with Policies CP24 of the TMBCS and SQ1 of the MDE DPD or Part 12 (Achieving well-designed places) or with paragraphs 194 and 196 of the NPPF. Suitable planning conditions can be imposed to ensure the development comes forward in an acceptable manner in all these respects.

Highway Safety:

6.20 Paragraph 108 of the NPPF supports appropriate opportunities to promote sustainable transport modes. The proposal would support a sustainable transport mode (rail travel). Whilst it is important to encourage bus links to the station, particularly through the new developments coming forward, it is not necessarily going to be the case that all residents needing to travel by train will use bus links, even if they are in place. Therefore, it is important to provide additional dedicated parking in addition to accommodate the increase in demand.

6.21 Paragraph 109 of the NPPF advises that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

6.22 Paragraph 110 further advises that within this context developments should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.23 The applicant has submitted a Transport Statement prepared by RGP. The report concludes that the existing station car parks experience very high parking demand which will increase further over the coming years through improvements to rail services and additional demand for rail travel locally and nationally. It goes on to note the following:

- the existing car parks are regularly operating in excess of 95% capacity;
- the local highway network would not be subject to any road safety issues;
- the car park would not generate a significant level of traffic and the majority of the vehicle movements associated with the development would occur outside of peak hours; the operational profiles of the proposal and the adjacent school would complement each other; and
- appropriate access to and from the site from Lucks hill can be provided.

6.24 I note the large number of concerns raised in respect to the impact that vehicles travelling along Lucks Hill at morning school drop off and afternoon pick up times could have upon road and pedestrian safety.

6.25 KCC H&T (local highway authority) has advised that the surveys undertaken on the existing car parks by the applicant's transport consultants have shown the entry, exit and accumulation profiles. Also, knowledge from on line season ticket applications have given an indication of the distribution of commuter attraction to West Malling Station and that this data has been used to make forecasts regarding the use of the proposed car park which is a reasonable approach. Importantly, it shows that peak More Park School and commuter activity do not coincide. In terms of the commuter in/out car park movements during peak morning time for the More Park School, the analysis shows that only a small number of additional vehicles are expected to pass the school during this time.

6.26 In light of the above analysis, the local highway authority has concluded that the forecast level of activity would not constitute a severe impact or represent a detriment to road safety. They have also been noted that there have been no injury crashes associated with the use of the existing car parks at West Malling Station for at least the last 19 years.

6.27 I understand that the applicant has considered the use of part of the car park by parents to drop off/pick up children from the adjacent primary school but has concluded that this would not be possible. Given the preceding analysis of how movements connected to the school transpire relative to those by commuters, this cannot be considered to be a determining factor. In any event, the impact of the proposed development on highway safety in the area needs to be assessed on its own merit. In this regards, the local highway authority has no objection.

6.28 In light of this, I am satisfied that the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. It would therefore not conflict with Policy SQ8 of the MDE DPD or paragraphs 109 and 110 of the NPPF.

Other technical matters:

6.29 In terms of land contamination, the EA has advised that the proposed development site is located near areas which could be sources of contamination i.e. railway line to the south. There is a risk of contamination that could be mobilised during construction to pollute controlled waters. The proposed development is located upon the Hythe beds and Sandgate beds which are designated as a Principal aquifer and Secondary aquifer A respectively, therefore groundwater is sensitive in this location. A condition to protect groundwater has therefore been suggested.

6.30 As surface water is to be disposed of via soakaways and the submitted drawings are not sufficiently detailed to adequately show what pollution prevention methods will be included in the proposed drainage strategy, the EA has suggested a further condition to control infiltration of surface water into the ground.

6.31 Similarly, KCC SUDS (lead local flood authority) have advised that they have no objection to the drainage proposal which is for the use of deep bore soakaways. However, they have advised that additional ground investigation will be required to support the use of infiltration and as a result conditions have been suggested that require a detailed SUDS scheme to be submitted for approval.

6.32 I am therefore satisfied that, with the suggested conditions, the development would accord with paragraphs 170 and 178 of the NPPF.

6.33 Some concern has been raised relating to potential overlooking of the school from the application site due to the site being at a raised level. However, the level of the site is not considered to be substantially above that of the highway; the retained tree-line would provide intervening screening (which will also be reinforced) and the nature of the use would not give rise to such a concern in my view.

6.34 Local concern has been raised in relation to surface water drainage and its potential to impact on localised flooding in the area (including the adjacent school). However, the lead local flood authority is satisfied that with the implementation of a detailed SUDS scheme that this would not be a concern.

Planning Balance and Overall Conclusions:

6.35 Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires that any application for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

6.36 The proposal would not comply with CP14 of the TMBCS but less weight should be given to this policy as it is inconsistent with the requirements of the NPPF at paragraph 84, which seeks to promote development needed to meet local business and community needs in rural areas. The proposed development would wholly accord with the requirements of the NPPF in this respect.

6.37 The site is also considered to have unique physical characteristics that would support the proposal. The site is located directly adjacent to the railway line and very close to the northern pedestrian access to the Station (Platform 2). It is also partially enclosed/contained by the raised railway line which is situated about 3m above the level of the site; and bordered on the other two sides by roads. There is also a good level of tree-lined screening to the road frontages.

6.38 I therefore conclude that, subject to the imposition of suitable conditions, the development is acceptable in all respects and the following recommendation is put forward:

## **7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Planning Statement dated 07.11.2018, Arboricultural Survey dated 07.11.2018, Transport Statement dated 07.11.2018, Proposed Layout 2014/2159/001 D dated 07.11.2018, Location Plan dated 16.11.2018, 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 The development hereby approved shall not take place until a plan showing the proposed finished ground levels of the site in relation to the existing ground 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.

3 Notwithstanding the submitted Arboricultural Report (Duramen), no development shall take place until a further arboricultural assessment has been submitted to and approved by the Local Planning Authority that shows detailed root protection zones of the trees and provides specific recommendations for the works that adequately protect the trees on the site. The development shall be carried out in strict accordance with the approved arboricultural assessment.

Reason: To ensure that the development does not harm the health of the trees on the site or the visual amenity of the locality.

- 4 The development hereby approved shall not take place until there has been submitted to and approved by the Local Planning Authority a scheme of surface materials for the car park. The development shall be carried out in accordance with the approved details and retained at all times thereafter.

Reason: In the interests of visual amenity.

- 5 The use of the car park hereby approved shall not take place until a scheme of lighting and details of CCTV security for the development have been submitted to and approved by the Local Planning Authority, and the works shall be carried out in strict accordance with the approved details and retained and maintained thereafter.

Reason: To reduce potential harm to the visual amenity of the locality.

- 6 The development hereby approved shall not take place until a scheme of landscaping and boundary treatment has been submitted to and approved by the Local Planning Authority. This shall include tree plantings within the parking area and reinforcement of the boundaries with native evergreen plantings. 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.

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

- 7 The access shall not be brought into use until the area of land within the vision splays shown on the approved layout plan has been reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic.

- 8 Prior to the commencement of the use hereby approved, details of the pedestrian link between the car park and Station Road North (including sections) and the provision of corner footways to the new access shall be submitted to and approved by the Local Planning Authority. The development shall not be brought into use until the pedestrian link and corner footways to the new access have been fully implemented and they shall be retained and maintained at all times thereafter.

Reason: In the interests of pedestrian safety and the visual amenity of the site and area.

- 9 Prior to the commencement of the use hereby approved, details of the office/storage cabin and pay and display machines to be provided on the site shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of pedestrian safety and the visual amenity of the site and area.

- 10 The development shall not be brought into use until the areas shown on the submitted layout as turning and vehicle parking space have been provided, surfaced and drained to prevent the discharge of surface water onto the highway. Thereafter those areas shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to this reserved turning and parking space.

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

- 11 Prior to commencement of development, the applicant, or their agents or successors in title, will secure the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

- 12 Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of [within the curtilage of the site] without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 13 No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained.

- 14 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 a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.

- 15 No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants.



**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 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 Bank Holidays.
- 3 The following points should be considered wherever soakaways are proposed at a site:
  - Appropriate pollution control methods (such as trapped gullies/interceptors or swale & infiltration basin systems) should be used for drainage from access roads, made ground, hardstandings and car parking areas to reduce the risk of hydrocarbons from entering groundwater.
  - Only clean uncontaminated water should drain to the proposed soakaway. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures).
  - No soakaway should be sited in or allowed to discharge into made ground, land impacted by contamination or land previously identified as being contaminated.
  - There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of soakaway and the water table.
- 4 A series of shallow soakaways are preferable to deep bored systems, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.
- 5 The applicant is advised to follow EA guidance – The Environment Agency’s approach to groundwater protection. This is a report that highlights the importance of groundwater and encourages industry and other organisations to act responsibly and improve their practices. This can be found at:  
<https://www.gov.uk/government/publications/groundwater-protection-position-statements>
- 6 You are advised that, in undertaking the works hereby approved, due regard should be had to the provisions of the Wildlife and Countryside Act 1981 relating to the protection of species and habitats. The applicant is recommended to seek further advice from Natural England, The Countryside Management Centre, Coldharbour Farm, Wye, Ashford, Kent, TN25 5DB.
- 7 With regard to works within the limits of the highway, the applicant is asked to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181.

Contact: Mark Fewster

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**Mereworth  
(Mereworth)**  
Downs And Mereworth

**15 October 2018**

**TM/18/02444/FL**

Proposal: Erection of detached dwelling  
Location: 246 Butchers Lane Mereworth Maidstone Kent ME18 5QH  
Go to: [Recommendation](#)

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## **1. Description:**

- 1.1 Planning permission is sought for the erection of a detached dwelling along with associated parking and access.
- 1.2 The proposed dwelling has been considerably amended following negotiations with officers. The original plans proposed a two storey dwelling; the building has now been greatly reduced in size to a single storey chalet style dwelling with accommodation in the roof and a low eaves height. One parking space is proposed within the curtilage of the dwelling.
- 1.3 The building will use traditional materials of face brickwork and tile hanging with some walls rendered to add interest and difference in the elevations. The choice of materials and modest size of the dwelling reflects the countryside setting and would be reminiscent of an agricultural workers' dwelling.

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

- 2.1 At the request of Cllr Balfour and Cllr Kemp due to concerns regarding over development of the site and parking problems in that area.

## **3. The Site:**

- 3.1 The site lies within the settlement confines of Mereworth, south of Kings Hill. It is a small plot of land, roughly triangular shaped, between the junction of Butchers Lane and Beech Road. Adjacent land uses are primarily residential dwellings and gardens. The site is backed onto by a row of terrace properties fronting Butchers Lane. It is stated to have been in use as garden land. It is enclosed by close boarded fencing and hedging around the boundary. Beyond the site's immediate surroundings is open countryside and fields. Development patterns are varied, comprised of different dwelling types in a wide range of orientations and plot sizes, reflecting the largely piecemeal development of the settlement. Although not a designated conservation area it retains a pleasant rural character. The site is also an area of archaeological potential but there are no other relevant designations.

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

- 4.1 None

**5. Consultees:**

5.1 PC: strongly objects to this application for a double storey 2/3 bedroom detached dwelling on the following grounds:

- The site is on a junction which has very poor visibility
- The proposed development is very dense for the size of the plot
- There are dangers relating to car parking arrangements as this road is used as a 'rat run'
- It is in an area of historic character and this Council is not satisfied that the proposals respect this (Policy P4/7)
- Access is difficult and extra, potentially dangerous, vehicle movements in a congested area are a cause for concern
- Proximity to the Grade II Listed Holly Cottage: the proposed development would be higher than the latter and would detract from its attractive appearance
- It would partially obstruct the view from houses north of Beech Road
- The hedge that is proposed to be removed is part of the 'Historic Character' area

Members request that a Conservation Officer should be consulted on this application.

5.2 KCC (H+T): Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.

*DPHEH Officer note: following a number of neighbour objections further clarification was sought from the Highways department who provide the following comments:*

Thank you for inviting me to give further comment regarding this application. As advised this application is not of a scale that is considered to generate a number of new traffic movements to warrant involvement from this authority. It is not considered that a highway reason for refusal in terms of traffic generated could be sustained in an appeal situation, especially bearing in mind paragraph 109 of the National Planning Policy Framework July 2018.

With regards to safety I appreciate that this application involves a new access onto the highway. I can confirm that the roads here are unclassified however and accesses onto these roads are deemed permitted development. Developments that are permitted i.e. not requiring planning approval are given within the Statutory Instrument, The Town and Country Planning (General Permitted Development) (England) Order. Schedule 2 Part 2 Class B of this order specifies that means of access to an unclassified highway is permitted. Equally I do not consider therefore that I am able to raise any safety concerns regarding the new access proposed.

5.3 Private Reps: 27/0X/25R/0S + site notice. 25 objections raised on the following (summarised) grounds:

- Proposal will block out neighbouring light
- Designated quiet lane for walking, cycling & horse riding in a safe environment
- Parking arrangements will be close to my driveway and will impact due to noise, pollution and obstruct view
- Outdoor space will create further noise and disturbance
- Parking is insufficient
- Proposal constitutes garden grabbing
- Village should not be subject to overdevelopment
- Assault on rural nature of the area
- Village is within Metropolitan Green Belt (*DPHEH Officer note: site is not within the Green Belt*)
- House will be crammed into a very small site and will be overbearing
- Additional parking space for 246 not within the boundary of the proposed house – should be subject to a separate application
- Access on a blind bend
- Land not vacant
- Plans inaccurate
- Width between adjacent dwellings and proposed house insufficient
- Application would be inappropriate in Green Belt & conflict with purposes (*DPHEH Officer note: site is not within the Green Belt*)

- Revised drawings insufficient, all previous objections still apply
- Loss of light, building would be overbearing, overshadow and oppressive
- Development would be intrusive and dominant
- Area of historic interest
- Roads unsafe, development would risk highways safety
- No parking for contractors
- Application form filled out incorrectly
- Not in keeping with surrounding dwellings including Grade II Listed building
- Drainage insufficient
- Wildlife impacted from loss of hedges
- Proposal will devalue adjacent dwellings
- Right of way not shown on plans
- Area already spoiled by two new dwellings at 193
- Logistics of construction questionable and vehicles likely to cause damage to properties
- Project notifiable to HSE
- Proposal constitutes public viewing gallery
- No room for storage of building materials on site
- Similar to nearby development that was refused
- Lorry was trapped in nearby lane
- Do not want a house in our back garden
- Dwelling would look out of place and spoil skyline
- Revised plans still unacceptable



## **6. Determining Issues:**

### Principle of development:

- 6.1 The application seeks to erect a new dwelling within the confines of the settlement. As Members will be aware TMBC cannot presently demonstrate a five year supply of housing. Whilst this will be addressed through the local plan, it has clear implications for decision making in the present. Members will also be aware that a new version of the NPPF was published in July of this year. Overall, the general thrust of government guidance has not altered and the presumption in favour of sustainable development still falls to be applied in the absence of a five year supply of housing. The precise wording which sets out the “presumption” is now contained at paragraph 11(d) of the NPPF and states that, in effect, because the Council cannot demonstrate an up to date five year supply, much of the development plan is considered to be out of date for the purposes of determining applications which propose new housing development.
- 6.2 The development plan must remain the starting point for determining any planning application, as statutorily required by s38 (6) of the Planning and Compulsory Purchase Act 2006, which is overtly reiterated at paragraph 12 of the NPPF. The consequence of this must be an exercise to establish conformity between the development plan and the policies contained within the NPPF as a whole and ultimately consider the acceptability of the scheme for determination.
- 6.3 In all respects, the NPPF seeks to maximise opportunities for the supply of housing in appropriate locations that can contribute towards supply and maintain and enhance the vitality of existing communities. Policy CP13 of the TMBCS states that minor development including housing will be permitted within the confines of settlements including Mereworth, providing it is appropriate to the scale and character of the settlement. The erection of a single dwelling is considered to accord with this policy and is of a scale and character that can be supported within the rural settlement. Whilst Mereworth does not contain extensive services, the site is a short distance from Kings Hill with a wide range of shops and services. Buses are also within walking distance to the site providing connectivity to West Malling and the train station.
- 6.4 Moreover, it should be recognised that the new version of the NPPF sets out that where there is an existing shortage of land for meeting identified housing needs (i.e. where an LPA cannot demonstrate an up to date five year supply) it is especially important that planning decisions avoid homes being built at low densities and ensure that development makes optimal use of the potential of each site (paragraph 122). It goes on to state that applications should be refused where it is considered that proposals fail to make efficient use of land.
- 6.5 Paragraph 11(d) of the NPPF sets out that planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed

development. Footnote 6 then sets out what those policies are and includes policies for seeking to protect designated heritage assets and protection of Green Belt land. It is therefore necessary to establish whether the scheme accords with restrictive policies in this respect before establishing whether the presumption applies.

- 6.6 Although third party comments regarding impact on Green Belt are noted, the site itself lies outside of the Green Belt, within the inset settlement confines of Mereworth. As such this would not be a reason for disbarring the presumption in favour of sustainable development.
- 6.7 Third party comments in relation to the proximity of Grade II Listed Holly Cottage are noted. As a listed building Holly Cottage would qualify as a designated heritage asset. However the Listed Building is considerably detached from the development site, and the curtilages are separated by a parking area. The Listed Building would still be viewed in its own context and the erection of the proposed dwelling some distance away would not be detrimental to the significance of the Listed Building. As such no harm would arise to the designated heritage asset and the presumption in favour of sustainable development would not be disbarred due to adverse impacts on the Listed Building. This view is shared by the Council's Listed Building advisors.
- 6.8 Consequently there are no specific policy constraints that would disbar the presumption in favour of sustainable development. The presumption therefore applies and carries significant weight in favour of the proposal. With this having been established, it is then necessary to consider whether the specific detail of the scheme is also acceptable.

*Design & impact on neighbouring amenity:*

- 6.9 Policies CP24 of the TMBCS and SQ1 of the MDE DPD require development to be well designed and through its scale, density, layout, siting, character and appearance respect the site and its surroundings. Development 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.
- 6.10 The dwelling has been significantly redesigned following officer negotiations. The design of the property is considered to be in keeping with this rural location and the size and scale is appropriate given the plot size. Although the plot is small it is not considered that the proposal would represent overdevelopment of the plot and adequate spacing and amenity areas would be provided. Hedging would be retained around the boundary. The somewhat close proximity to surrounding dwellings is noted but this is often synonymous with development in historic villages in which buildings would share party walls or closer spatial relationships. The site currently makes no particular contribution to the aesthetic of the area and

the erection of a well-designed dwelling with associated landscaping has the potential to provide some measure of enhancement.

- 6.11 In terms of impact on neighbouring amenity and privacy, third party concerns are noted. However the dwelling is set away from neighbouring properties at the back of their rear gardens. The road separates the site from other dwellings. The low eaves and ridge height of the property would prevent the dwelling from having a significant overbearing effect. The dwelling would not cause undue overshadowing particularly given its position north east of the terraced dwellings most likely to be impacted. Dwellings north of the site along Beech Road are north facing and separated by the road, and so the proposed dwelling would not result in any significant overshadowing to these properties or their gardens.
- 6.12 The dwelling contains some windows within the roof to provide light to upstairs rooms. However none of these directly align with adjacent properties and neither do they offer vantage points into private garden areas. The elevation facing the rear gardens of the terraced dwellings contains no windows at first floor level. Overall it is not considered that the dwelling would have an unacceptable impact on the privacy of neighbouring properties.
- 6.13 It is fully recognised that the views and outlook of surrounding properties will change as a result. However the planning system cannot protect views, particularly over land in private ownership. Ultimately the impacts on neighbouring amenity and privacy must be significant enough to warrant a refusal and, whilst there may be some level of change, it is not considered that this would be so harmful as to justify withholding planning permission.
- 6.14 Overall it is not considered that the proposal would conflict with Policies CP24 of the TMBCS and SQ1 of the MDE DPD.

Highway safety and parking provision:

- 6.15 The application proposes 1 parking space within the curtilage of the property. Against the adopted Kent Parking Standards SPD the requirements for a dwelling of this size in this location would be 1.5 spaces. Whilst third party comments concerning existing parking pressures are noted it is not considered that a shortfall of 0.5 of a space is sufficient reason to justify a refusal. Future occupiers could make an informed decision as to whether the level of parking provision provided is sufficient to meet their needs. If parking was displaced onto the road from future occupiers owning more than one vehicle, cars would still need to be parked in accordance with the highways code and the planning system cannot regulate the lawful parking of vehicles on the public highway. Vehicles parked unsafely or illegally would be a matter for the Police or the Highways Authority. Given that only two bedrooms are proposed it is unlikely that cumulative parking pressures would be so severe as to have a significant detrimental impact on the amenity of neighbouring properties. It should be reiterated that the NPPF states that development should only be prevented or refused on highways grounds if there

would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. This is a very high bar and the erection of a single dwelling will rarely have such an impact.

- 6.16 Whilst the plans appear to show another space set out for the former host dwelling with access onto Beech Road, it should be noted that the road is non-classified and so the formation of a means of access onto the highway could be permitted development, if carried out in conjunction with other works. This aspect of the scheme could not be prevented as planning permission would be unlikely to be required.
- 6.17 Third party comments in regards to highway safety and visibility on the road are noted. Kent County Council's (KCC) Highways department are the Council's expert advisors on matters of road safety. The application falls far below their threshold for consideration: for a non-classified road like Butchers Lane the Highways department will not comment unless more than 5 dwellings are proposed. In practice this means that KCC consider the impact to be so minor as to not merit detailed consideration. Whilst it is recognised that this will be frustrating to neighbours, KCC are the highways experts and there is no evidence before the Council that the addition of one dwelling and the relatively low vehicle trip count it would generate would have a severe impact on the safety and operation of the highway. Because of this a reason for refusal on highways safety grounds could not be substantiated. No conflict with policy SQ8 of the MDEDPD or policy CP2 of the TMBCS is considered to occur.

Archaeology:

- 6.18 The site lies within an area of archaeological potential. It is therefore necessary to attach a planning condition which requires a watching brief to be undertaken should any features of archaeological interest be discovered.

Other Matters

- 6.19 Third Party comments refer to the site falling within a designated area of historic character. However policy P4/7 concerning this has not been saved. The saving direction does provide that the policy will remain a material consideration until such time as a Character Area Appraisal is prepared in accordance with policy SQ1 of the MDE DPD but nonetheless it is not considered that the proposal would be detrimental to the historic character and appearance of the area.
- 6.20 Third Party comments concerning loss of hedges are noted. The plans suggest that the majority of the hedging falls outside of the development area. Nonetheless a scheme of landscaping can be provided prior to occupation setting out how the site is to be landscaped and planted. As the site is otherwise fenced off garden land and given the proximity of the hedge to the road and other development, and in the absence of specific policy designations (such as SSSI) suggesting any

ecological sensitivity, it is not considered that the proposal would impact on protected species.

6.21 Third party comments in relation to property values are noted; however this is not a planning consideration.

### Conclusions

6.22 The proposal would make more efficient use of land and provide one additional dwelling towards local housing supply. The site is within an area in which minor development is considered acceptable in principle. The site would not be physically isolated or inherently unsustainable. There is no case to be made that severe highways impacts would result. Parking provision, whilst technically below adopted standards, is not considered to have any significantly harmful impact. Whilst it is recognised that the outlook from adjacent properties will change, in light of the positioning and scale of the proposed dwelling it is not considered that the impact on neighbouring amenity from an overshadowing or overbearing effect or through loss of privacy would be so great as to justify a refusal. All third party comments have been considered but none are sufficient to change the recommendation.

## **7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Proposed Layout 1031-SK 01 D received 10.12.2018, Proposed Layout 1031-SK 02 D received 10.12.2018, Proposed Elevations 1031-SK 03 D received 10.12.2018, Street Scenes 1031-SK 04 B received 10.12.2018, /subject to the following conditions:

### **Conditions**

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

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

2. All materials used externally shall accord with the approved plans.

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

3. Before the development hereby approved is occupied a scheme of landscaping and boundary treatment shall be submitted to and approved by the Local Planning Authority. 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.

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

4. The dwelling hereby approved shall not be occupied until the area shown on the submitted layout for a 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 and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure that parking is provided and maintained in accordance with the Council's adopted standards.

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

Reason: To ensure that the development is constructed in accordance with the approved plans to safeguard neighbouring amenity.

6. The window on the first floor south western elevation shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the room is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

7. 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 windows or similar openings shall be constructed in the first floor south western elevation of the building other than as hereby approved.

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

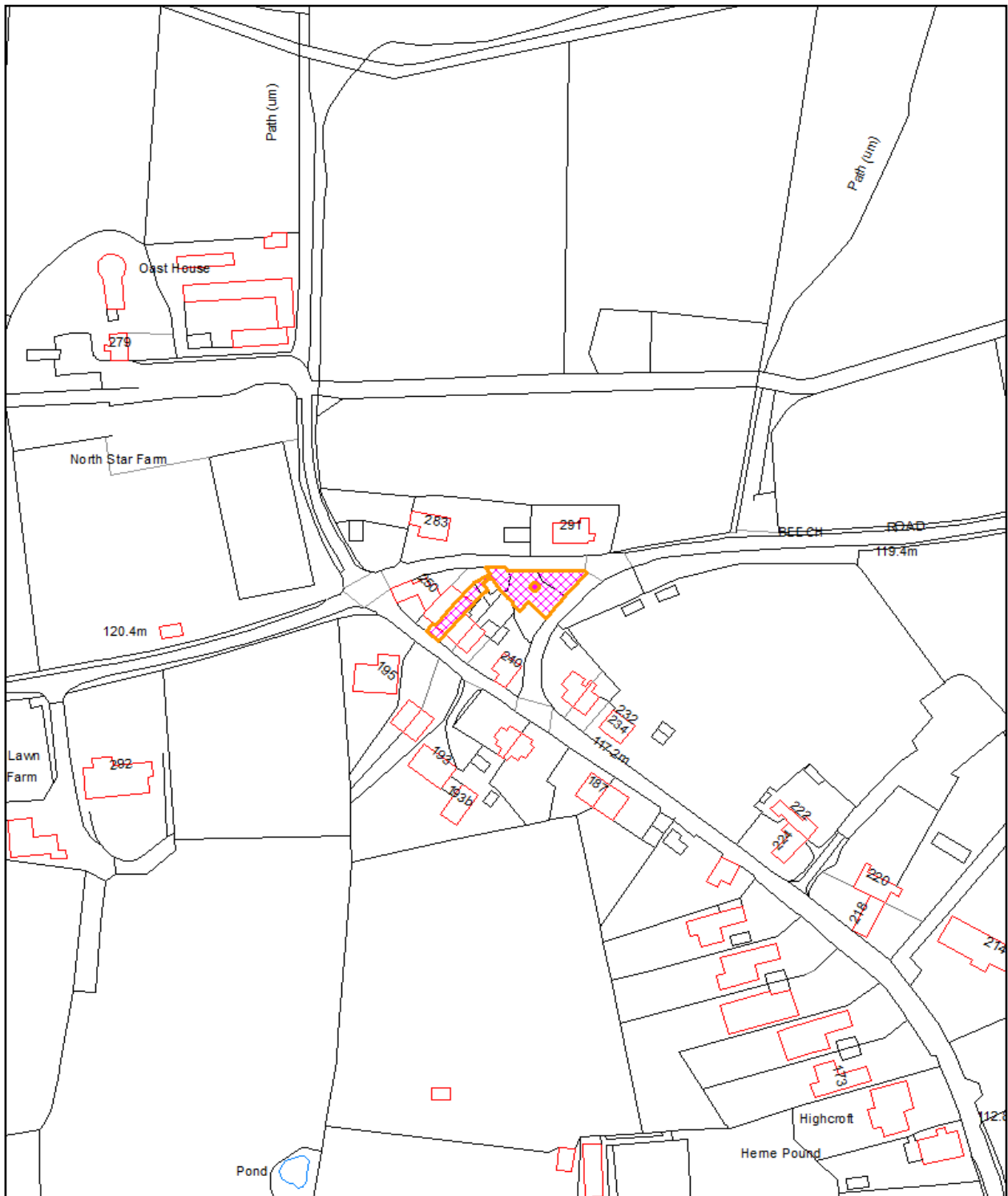
Contact: Adem Mehmet

**TM/18/02444/FL**

246 Butchers Lane Mereworth Maidstone Kent ME18 5QH

Erection of detached dwelling

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**Ightham**

Wrotham, Ightham And  
Stansted

**16 July 2018**

**TM/18/01627/TNCA**

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Proposal: Removal of 18 Beech; 1 Pine; 5 Hornbeam; 6 Acacia; 1 Oak; 2 Holly and 1 Silver Birch trees from garden to be replaced with various different species

Location: Land Adjacent To Oldbury Hatch Oldbury Lane Ightham Sevenoaks Kent TN15 9DG

Go to: [Recommendation](#)

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## 1. Description:

- 1.1 Trees in a conservation area that are not protected by an Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990. These provisions require people to notify the local planning authority, using a 'section 211 notice', 6 weeks before carrying out certain work on such trees, unless an exception applies. The work may go ahead before the end of the 6 week period if the local planning authority gives consent. This notice period gives the authority an opportunity to consider whether to make an Order on the tree(s).
- 1.2 Such a notification was issued to the Council in respect of the removal of a number of trees on land adjacent to Oldbury Hatch as set out in the proposal description above. The justification for removing the trees was that they were considered by the applicant to be potentially at risk of falling over a private road and the owner wanted to create an orchard and market garden.
- 1.3 The authority can deal with a section 211 notice in one of three ways. It may:
  - make a Tree Preservation Order if justified in the interests of amenity, preferably within 6 weeks of the date of the notice;
  - decide not to make an Order and inform the person who gave notice that the work can go ahead; or
  - decide not to make an Order and allow the 6 week notice period to end, after which the proposed work may be done within 2 years of the date of the notice.
- 1.4 A section 211 notice is not, and should not be treated as, an application for consent under an Order. So the authority cannot:
  - refuse consent; or
  - grant consent subject to conditions.
- 1.5 Having made an assessment of the notification received in line with the above provisions, officers considered the trees to have sufficient value to warrant the

making of a Tree Preservation Order (TPO) on the line of Beech trees, a group of two mature Oaks and a Pine tree to ensure their retention. The TPO as made is annexed to this report in full for ease of information.

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

- 2.1 Procedure requires that upon making a TPO consultations are carried out and consideration given to any representations received. The consultation undertaken resulted in a significant level of local interest (summarised in Section 5 of this report). The authority should consider duly submitted objections when deciding whether the proposals are inappropriate and whether an Order should be made

**3. The Site:**

- 3.1 The trees stand on a plot of land to the west of Oldbury House and east of Oldbury Hatch adjoining Oldbury Lane within the Conservation Area.

**4. Consultees:**

*In response to the original s211 notification:*

- 4.1 PC: We are concerned that removal of these trees, especially the Beech will affect the visual amenity of the area. We would like to see a TPO on them, although as a compromise would suggest some judicious pruning, especially the branches over the road.

*In response to the original s211 notification and consultation on the making of the TPO:*

- 4.2 Private Representations: 9 representations in support of the removal of the trees summarised as follows:

- Concern that the trees are exposed to high winds and could fall on the road, blocking it, and bringing down overhead lines;
- Trees lean heavily over the road and pose a threat to Oldbury House;
- They are a danger owing to their size and proximity to neighbouring property;
- The area supports many trees generally and beech woodland particularly so the risk of habitat loss is minimal;
- The line of Beech is the result of a hedge being unmanaged for many years. Best to remove them and replace with Beech that can be managed as a hedge.

- 4.2.2 In addition, the owner of the site submitted a detailed objection to the TPO, summarised as follows:

- No objection to the TPO on the two Oaks G2, but is concerned about the amount of large deadwood in them and the threat of any potential damage to the adjoining property, of safety of local people and their pets.
- Objects to T1 Scots Pine being protected as the tree has been naturally seeded and not planted to improve the local landscape character. The tree is competing with the Oaks. The tree is restricting access onto the land. Dead branches fall and could damage overhead power lines.
- Opposes TPO on G1 in strongest terms.
- The trees/neglected hedgerow pose a considerable danger to the road and the TPO places unreasonable liability on the owner.
- The trees block sunlight to the land and low branches extending over the site posing a hazard. In case of tree fall the private access will have no emergency access.
- Removal would prevent damage to overhead services.
- The owner of Oldbury House has serious worries about the trees in relation to his 500 year old property.
- Replacement planting with an orchard would benefit the whole community and attract wildlife into the area.

4.2.3A total of 5 representations objecting to the removal of the trees and supporting the making of the TPO summarised as follows:

- The area is a gateway to Oldbury Woods regularly enjoyed by walkers and nature enthusiasts. Removal of the trees would have significant impact and completely change the character;
- Removal would irrevocably destroy the visual beauty of the conservation area;
- Trees could be pruned if they affect overhead lines or the neighbouring property rather than removed;
- Concern that owner wishes to build a new house on the land.

## **5. Determining Issues:**

5.1 An Order comes into effect on the day the authority makes it. This provisional effect lasts for 6 months, unless the authority first either confirms the Order to provide long-term protection or decides not to confirm it.

5.2 Authorities can confirm Orders, either without modification or with modification, to provide long-term tree protection. They may also decide not to confirm the Order,

which will stop its effect. Authorities cannot confirm an Order unless they have first considered any duly made objections or other representations.

- 5.3 Authorities should bear in mind that, since they are responsible for making and confirming Orders, they are in effect both proposer and judge. They should therefore consider how best to demonstrate that they have made their decisions at this stage in an even-handed and open manner.
- 5.4 The main issue in determining this application is whether or not the trees in question have sufficient amenity value to warrant retention and thus confirm the TPO made on the line of Beech, two Oaks and a Pine.
- 5.5 Planning Practice Guidance (PPG) makes clear that 'amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. It goes on to make clear that Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.
- 5.6 It is considered that the trees do have high amenity value in the conservation area within the AONB. They stand next to a public footpath which runs up Oldbury Lane into Oldbury Woods to the west.
- 5.7 In particular, due to the size and maturity of the line of Beech, they provide amenity value to the area as a whole and can be seen across open land from outside Oldbury Close in Spring Lane. They frame the view down the private road to the south side of the site, and are particularly attractive in spring with fresh green growth, and autumn when they provide attractive autumn colour.
- 5.8 The two mature Oaks are fine, old specimens with huge benefit to wildlife, and the Pine provides evergreen presence when the other trees have lost their leaves.
- 5.9 Meetings have been held between Officers and relevant parties, in particular the site owner, his instructed tree surgeon and the owner of Oldbury House to discuss various issues and concerns. They have been respectively advised of what works might be possible to trees that are damaged, dying or dangerous without needing consent from the authority regardless of the presence of a TPO. In addition, it is understood that a report is undergoing preparation to manage trees that require certain works including appropriate crown lifting. In addition, the poorest specimens could likely be removed without objection.
- 5.10 There are clearly concerns about the safety of the line of Beech trees. However with appropriate management the majority of them could be kept.

5.11 The owner has raised no objection to the TPO on the two mature Oaks but clearly they need some attention in terms of removal of deadwood and some reduction of branches extending towards Glebe Cottage.

5.12 I remain of the view that it is necessary and appropriate in the circumstances to seek to protect the trees in question through confirmation of the TPO. Following this, officers will be able to seek to ensure works that are undertaken are acceptable in reaching a balance between retaining their amenity value and the contribution they make locally to the area and any effective management works to improve their longevity and retain safety without necessitating wholesale removal.

**6. Recommendation:**

6.1 The Tree Preservation Order as set out in Annex 1 **BE CONFIRMED**

Contact: Liz Guthrie

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**Town and Country Planning Act 1990  
Tree Preservation Order No: 18/00004/TPO**

The Tonbridge & Malling Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 hereby make the following Order.

**Citation**

1. This Order may be cited as the Tonbridge and Malling Borough Council Tree Preservation Order No. 18/00004/TPO.

**Interpretation**

2. In this Order "the authority" means the Tonbridge & Malling Borough Council and any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

**Effect**

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of Section 198 (power to make tree preservation orders) or subsection (1) of Section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall –

(a) cut down, top lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**CONFIRMATION OF ORDER**

This Order was confirmed by Tonbridge & Malling Borough Council without modification on

OR

This Order was confirmed by Tonbridge & Malling Borough Council, subject to the modifications indicated by  
on

.....  
Authorised Signatory

**DECISION NOT TO CONFIRM ORDER**

A decision not to confirm this Order was taken by Tonbridge & Malling Borough Council on

.  
.....  
Authorised Signatory

**VARIATION OF ORDER**

This Order was varied by Tonbridge & Malling Borough Council on  
under the reference number,  
a copy of which is attached.

.....  
Authorised Signatory

**REVOCACTION OF ORDER**

This Order was revoked by Tonbridge & Malling Borough Council on  
under the reference number

.....  
Authorised Signatory



**SCHEDULE 1****SPECIFICATION OF TREES****Trees specified individually**  
(encircled in black on the map)

Reference on map	Description	Situation
None		

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**Trees specified by reference to an area**  
(within a dotted black line on the map)

Reference on map	Description	Situation
None		

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**Groups of trees**  
(within a broken black line on the map)

Reference on map	Description	Situation
G1	Group consisting of 18 Beech trees	Land West of Oldbury House
G2	Group consisting of 2 Oaks and 1 Scots Pine	Land North of Glebe Cottage

Reference on map	Description	Situation
G1	Group consisting of 18 Beech trees	Land West of Oldbury House
G2	Group consisting of 2 Oaks and 1 Scots Pine	Land North of Glebe Cottage

**Woodlands**  
(within a continuous black line on the map)

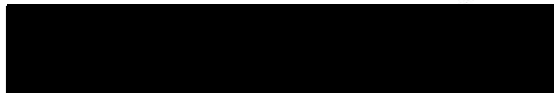
Reference on map	Description	Situation
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None		
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Given under the COMMON SEAL  
of the **TONBRIDGE AND MALLING**  
**BOROUGH COUNCIL**

Dated this 16th day of August 2018



Authorised Signatory



Seal Book No

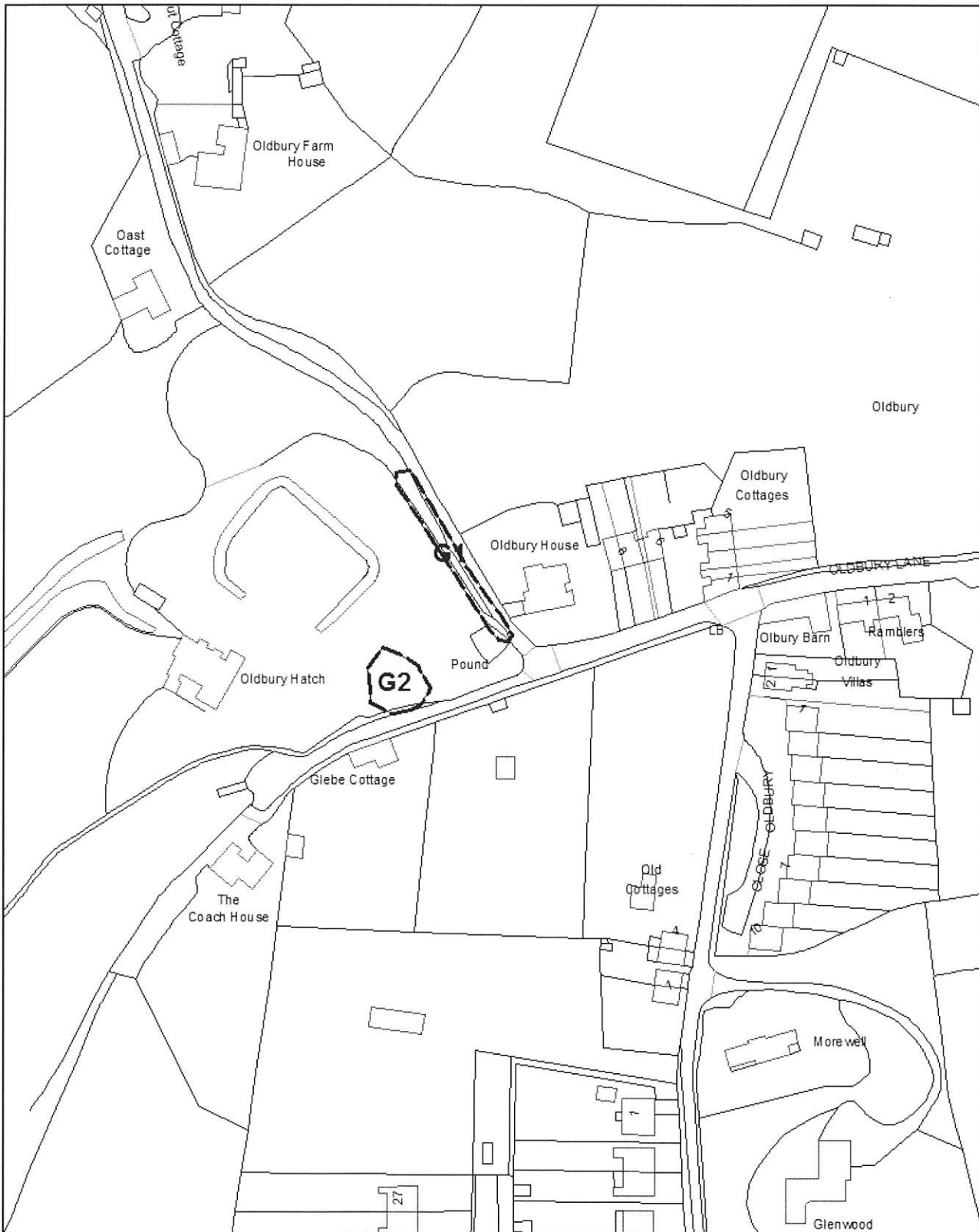
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18/00004/TPO

Land At Oldbury Hatch Oldbury Lane Ightham Sevenoaks Kent TN15 9DG

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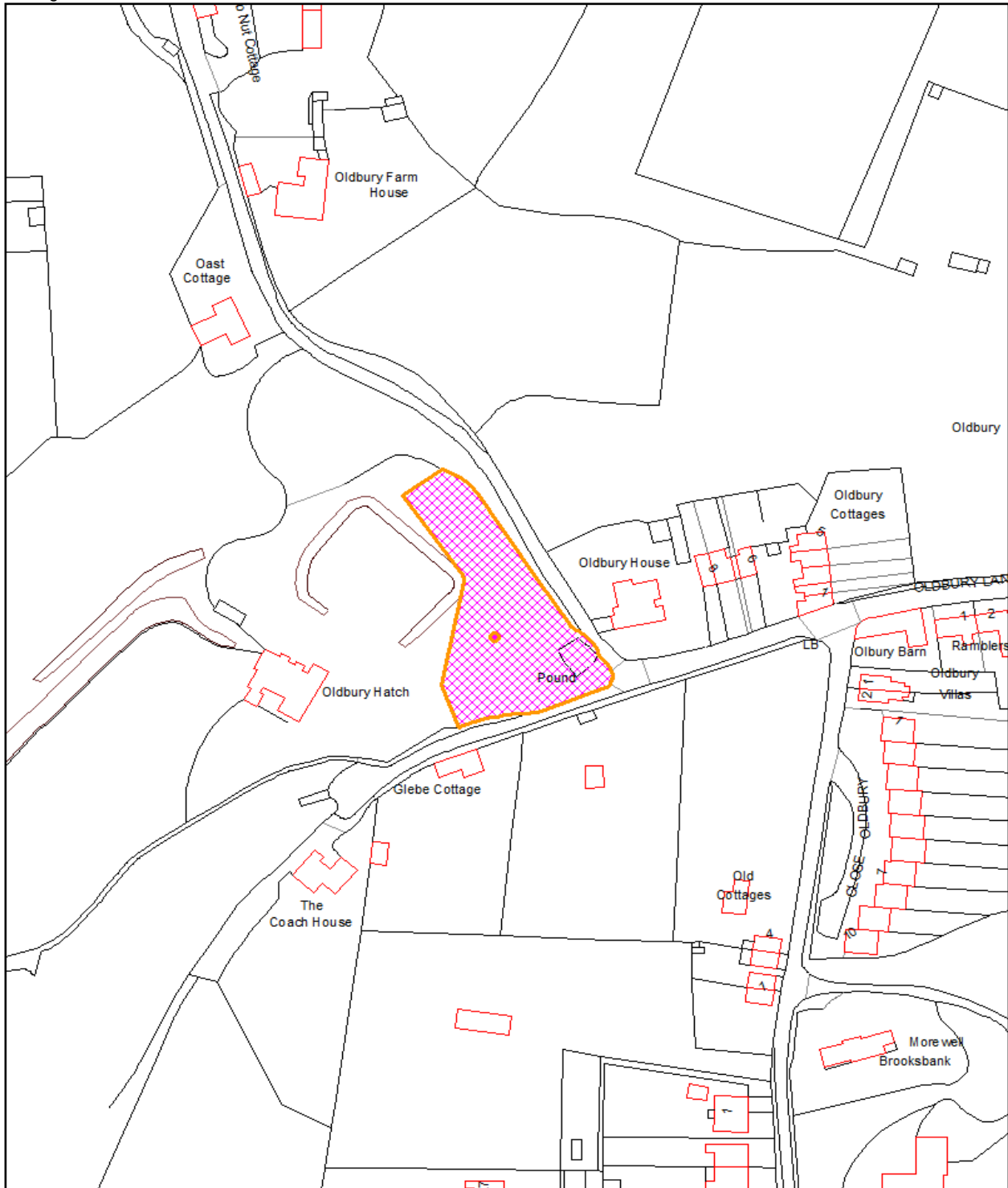
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**TM/18/01627/TNCA**

Land Adjacent To Oldbury Hatch Oldbury Lane Ightham Sevenoaks Kent TN15 9DG

Removal of 18 Beech; 1 Pine; 5 Hornbeam; 6 Acacia; 1 Oak; 2 Holly and 1 Silver Birch trees from garden to be replaced with various different species

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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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