

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building  
Gibson Drive  
Kings Hill, West Malling  
Kent ME19 4LZ  
West Malling (01732) 844522

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

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

29 October 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, 6th November, 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 - 10

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 14 August 2019

**Decisions to be taken by the Committee**

4. Development Control 11 - 14

Introduction and Glossary

5. TM/19/01756/FL - Mount Mead, Ford Lane, Trottiscliffe 15 - 24

6. TM/19/01642/FL - The Red House Cottage, 29 Old Road, Wateringbury 25 - 34

7. 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**

9. Urgent Items

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

## **MEMBERSHIP**

Cllr H S Rogers (Chairman)  
Cllr B J Luker (Vice-Chairman)

Cllr Mrs J A Anderson  
Cllr R P Betts  
Cllr C Brown  
Cllr M A Coffin  
Cllr S A Hudson  
Cllr Mrs F A Kemp  
Cllr Mrs C B Langridge  
Cllr P J Montague

Cllr L J O'Toole  
Cllr W E Palmer  
Cllr J L Sergison  
Cllr T B Shaw  
Cllr N G Stapleton  
Cllr K B Tanner  
Cllr M Taylor

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 2 PLANNING COMMITTEE

Wednesday, 14th August, 2019

**Present:** Cllr H S Rogers (Chairman), Cllr B J Luker (Vice-Chairman), Cllr Mrs J A Anderson, Cllr R P Betts, Cllr C Brown, Cllr S A Hudson, Cllr Mrs F A Kemp, Cllr Mrs C B Langridge, Cllr P J Montague, Cllr W E Palmer, Cllr J L Sergison, Cllr T B Shaw, Cllr N G Stapleton, Cllr K B Tanner and Cllr M Taylor

Apologies for absence were received from Councillors M A Coffin and L J O'Toole

### PART 1 - PUBLIC

#### **AP2 19/35 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct. For reasons of transparency and with regard to application TM/17/01793/FL Councillors W Palmer and M Taylor advised that they were members of the TMBC District branch of the Council for the Protection of Rural England which had raised objections to the application.

#### **AP2 19/36 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 2 Planning Committee held on 3 July 2019 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 19/37 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 19/38 TM/17/01793/FL - ROSADOR, LONDON ROAD, WROTHAM**

Demolition of the residential bungalow and the erection of 5x B1/B8 units and a 2 storey office building with new estate road and associated parking at Rosador, London Road, Wrotham.

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

1. The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined by the National Planning Policy Framework 2019. The proposed development would result in a significant increase in floorspace, height and bulk when compared to that of the existing building, amounting to inappropriate development and also having a greater impact on the openness of the Green Belt. The Local Planning Authority does not consider that there are any very special circumstances in this case that would clearly outweigh the harms identified and the proposal is therefore contrary to the requirements of paragraphs 143, 144 and 145 of the National Planning Policy Framework 2019 and policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007.

[Speakers: Wrotham Parish Council (Mr H Rayner), Mr P Gillin (CPRE TMBC District) and Mr P Nicholls – Agent to the applicant]

**AP2 19/39 TM/19/01024/FL - 41 WESTERN ROAD, BOROUGH GREEN**

Demolition of existing single family dwelling and construction of new building with 4 apartments (3 No 1 bed/2 person and 1 No 2 bed/4 person) together with associated amenity areas, parking, refuse and cycle stores at 41 Western Road, Borough Green.

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

(1) the amendment of Condition 4 to read:-

4. Prior to the commencement of the development hereby approved, arrangements for the management of all demolition and construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the demolition and construction works will be limited to and measures to ensure these are adhered to;

- Procedures for managing all traffic movements associated with the demolition and construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

(2) the addition of Condition 7:

7. No development, other than demolition of the existing house, shall take place until details of the finished floor level of the approved building in relation to the existing ground levels have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

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

(3) the addition of Informatives

2. The applicant is advised that the use of bonfires during the demolition and construction phase of development could lead to justifiable complaints from local residents. Furthermore, the disposal of demolition waste by incineration is contrary to Waste Management Legislation. As such, bonfires should not be had at the site during demolition or construction.

3. The applicant is asked that in preparing the demolition and construction management plan pursuant to Condition 4, due regard and sensitivity is given to the use of the adjacent site as a Funeral Directors and that all reasonable steps are taken to ensure that disturbance does not arise.

[Speakers: Borough Green Parish Council (Mr S Perry) and Mr M Betts – Agent]

**AP2 19/40 TM/18/01240/FL - WOODFORD, OLD LANE, IGHTHAM**

Section 73 application for the variation of conditions 1 (time limited and personal condition), 2 (restore site when temporary consent expires) and 4 (number of caravans) pursuant to planning permission TM/11/01444/FL (Variation of conditions 1 and 2 of TM/07/01238/FL: Change of use for stationing of two caravans for residential use, fencing and sheds for occupation by a single gypsy family) at Woodford, Old Lane, Ightham.

Further to Minute AP2 19/32 of the meeting held on 3 July 2018 the Committee considered the above application together with the report of the Director of Central Services set out in Part 2 of the agenda (Minute AP2 19/42 refers). The recommendation set out in the report of the Director of Planning, Housing and Environmental Health to approve the planning application was rejected and it was

**RESOLVED:** That the application stand ADJOURNED for determination by the full Council in accordance with Rule 15.25 of the Council and Committee Procedure Rules.

[Speakers: Ightham Parish Council (P Cracknell); J Miles, S Russell and L Sinclair – members of the public and Mr B Moore on behalf of the applicant]

**AP2 19/41 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**AP2 19/42 TM/18/01240/FL - WOODFORD, OLD LANE, IGHTHAM**

**(Reasons: LGA 1972 Sch 12A Paragraph 5 – information in respect of which a claim to legal professional privilege could be maintained in legal proceedings)**

At the meeting of the Area 2 Planning Committee held on 3 July 2019 consideration of the application was deferred for a report from Legal Services on the risks arising from refusal of the planning application (Minute AP2 19/32 refers). The report of the Director of Central Services and Monitoring Officer provided an assessment of the risks arising from a resolution to refuse planning permission and advised that any such resolution would be a recommendation to the Council and the matter



would stand adjourned. The report further advised that similar consideration would apply in the event of non-determination.

**RESOLVED:** That the report be NOTED.

The meeting ended at 10.32 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

**Trottiscliffe**  
Downs And Mereworth

**25 July 2019**

**TM/19/01756/FL**

Proposal: Demolition of existing domestic outbuildings and construction of two bungalows with ancillary areas and parking provision  
Location: Mount Mead Ford Lane Trottiscliffe West Malling Kent ME19 5DP  
Go to: [Recommendation](#)

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## **1. Description:**

- 1.1 It is proposed to demolish the existing ancillary buildings within the wider curtilage of the main host dwelling, and erect two detached residential dwellings, in the form of one 2-bed bungalow and one 4-bed chalet style house.
- 1.2 Plot 1, the bungalow, is laid out in a roughly L-Plan shape, with low ridge height and roof, two parking spaces and a modest garden to the rear.
- 1.3 Plot 2 is the chalet style bungalow with roof accommodation, pitched roof dormer windows and a front gable set with stone. The buildings are designed to be of comparable proportions to the existing buildings to be demolished, set within a landscaped garden area.
- 1.4 Parking is laid out for two space for each property in accordance with IGN3 standards, but more could likely be accommodated within the curtilages. The dwellings are reached via an existing shared access track from Ford Lane.

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

- 2.1 At the request of Councillor Ann Kemp in order for the Committee to consider impacts on the Green Belt and AONB.

## **3. The Site:**

- 3.1 The site is comprised of a large building, possibly once in agricultural use as a barn or store. The largest part of the building is brick built and has a dual pitched roof; it is joined to two other parts, lower in ridge height, of a corrugated steel frame construction with metal sheeting. The structure is dilapidated and unattractive in appearance; there are extensive areas of hardstanding in front of the building and the site generally has a neglected appearance.
- 3.2 The buildings are located at the end of a track leading from Ford Lane, outside of the settlement confines, within the Green Belt and AONB. To the east is a large reservoir largely screened from the site by intervening trees; to the west of the site is a residential dwelling and a Bowl Barrow, a Neolithic burial mound and scheduled ancient monument. The monument is sufficient distance from the

proposed development site to be unaffected. Although the M20 lies some distance to the south through woodland, the area has a strong rural character.

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

TM/01/02408/FL            Refuse                            22 October 2001

Demolition of existing redundant farm building and construction of dwelling

TM/79/10198/FUL           grant with conditions            22 June 1979

Erection of single storey flat roofed extension to create a lounge.

TM/08/03722/FL            Application Withdrawn            24 February 2009

First floor extension to side, single storey and double storey rear extension, extension over front porch, erection of garage and store, replacement entrance gates and new walls to front.

TM/09/00860/FL            Approved                            14 July 2009

First floor extension to side, single storey and double storey rear extension, extension over front porch

TM/11/01587/FL            Approved                            10 August 2011

Demolition of existing outbuilding and erection of detached garage

TM/11/03431/FL            Refuse                                8 February 2012

Erection of detached garage with hip gable to front

TM/12/01906/NMA           Approved                            21 June 2012

Non-Material Amendment to Planning Permission TM/11/01587/FL (Demolition of existing outbuilding and erection of detached garage) alteration to roof form

TM/12/03802/FL            Approved                            13 March 2013

Alterations to approved garage including variations to openings and external walls, length of roof slope and additional windows in the approved walls and approved roof plains (retrospective)

TM/18/00686/PDRA           Application Withdrawn            22 March 2018



Notification of change of use of a building and peripheral land within its curtilage from a redundant agricultural use to a flexible use falling within Class B1 (offices) under the provisions of Schedule 2, Part 3 Class R (a) of this order  
TM/18/02340/LDE Certifies 4 January 2019

Lawful Development Certificate Existing: Use of buildings and adjacent land for ancillary residential purposes

**5. Consultees:**

- 5.1 PC: Objects. Members see these outbuildings as barns and therefore consider that their demolition and the construction of two dwellings to be inappropriate development within the Green Belt.
- 5.2 Environmental Protection: The outbuildings to be demolished have been on this site since at least 1936, however very little of their history has been provided. Aerial photography of the site shows the ground around the outbuildings has been continuously disturbed and covered in debris for quite some time. I would therefore recommend conditions. Conditions also recommended in relation to noise.
- 5.3 Private Reps: site notice + 1/1X/0R/0S. 1 neutral comment received raising no material planning issues.

**6. Determining Issues:**

Green Belt:

- 6.1 The site lies within the Green Belt where Policy CP3 of the TMBCS advises that National Green Belt policy will apply (Section 13 of the NPPF). The aim of the Green Belt is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and their permanence (paragraph 133 of the NPPF).
- 6.2 Paragraph 143 of the NPPF states that “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”
- 6.3 Paragraph 144 states that “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.
- 6.4 Paragraph 145 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 “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” and “the re-use of buildings provided that the buildings are of permanent and substantial construction, as long as the new use preserves its openness and does not conflict with the purposes of including land within it.”

- 6.5 Previously developed land is defined in Annex 2: Glossary to the NPPF as “*land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure*”. This excludes: land that is or was last occupied by agricultural or forestry buildings.
- 6.6 Under reference TM/18/02340/LDE the Council has already confirmed that the current lawful use of the buildings is for ancillary domestic purposes rather than agricultural as the PC asserts. As such, notwithstanding Parish Council comments, the building is neither in agricultural or forestry use and therefore constitutes previously developed land. As such, the site can be redeveloped for housing under paragraph 145 (g) of the NPPF, providing that it would not have a greater impact on the openness of the Green Belt than the existing development.
- 6.7 The existing building is bulky and substantial in size and, as it currently stands, has a detrimental impact on the openness of the Green Belt. The proposed development would demolish this structure and replace it with two modest buildings of comparable proportions. The bungalow is low in ridge height, reflecting the lower elements of the building, whilst the chalet bungalow has rooms set into the roof and reflects the taller brick built part of the structure. Furthermore detaching the replacement buildings would introduce separation between them and open up the site. It is important to remember that the “greater impact” test does not require the impact of the redevelopment to be exactly the same as the buildings it replaces providing that, as a matter of planning judgement, the decision maker is satisfied that the effect on the Green Belt’s openness would be no greater than what currently exists. It is considered that the proposal would achieve this, therefore does not constitute inappropriate development in the Green Belt with no greater harm to openness, in accordance with policy CP3 of the TMBCS and 145 (g) of the NPPF. As such, there is no requirement to apply the test as to whether or not very special circumstances exist in this instance.

AONB:

- 6.8 The site lies within the Kent Downs AONB. This designation affords protection in relation to landscape and scenic beauty, with the statutory purpose of AONBs being to conserve and enhance the natural beauty of the area. The designation means that the Borough Council has to have regard to the purpose of the designation in ‘exercising or performing any functions in relation to, or so as to affect, land’.
- 6.9 Policy CP7 of the TMBCS advises that development will not be permitted which would be detrimental to the natural beauty and quiet enjoyment of the AONB. This

is consistent with the aims of the NPPF at paragraph 172 which sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in any AONB.

- 6.10 The existing appearance of the structure is dilapidated with unsympathetic modern materials including corrugated metal sheeting roofs and yellow brick facing. Even in consideration of its likely former use as an agricultural building, it is unattractive and not reflective of traditional Kent vernacular.
- 6.11 In contrast the proposed development would achieve a good standard of design, with brick and stone facing. A high quality landscaping scheme can be secured by condition offering further improvement to the local landscape character. It is appreciated that the site is somewhat screened from wider landscaped views but nonetheless the proposal represents an opportunity to positively enhance the immediate character of the site. Buildings can and do improve the character of places when designs are sympathetic and respond appropriately to the context of the site. It is considered that the development achieves this and there is a small measure of localised enhancement to the character and appearance of the AONB. In accordance with paragraph 172 of the NPPF great weight is applied to this enhancement.
- 6.12 For the same reasons, I consider that the proposal would also accord with policies CP7 and CP24 of the TMBCS and SQ1 of the MDE DPD and paragraphs 127 and 130 of the NPPF that require good quality design in all new developments.

Neighbouring amenity:

- 6.13 The site is otherwise separated from the nearest neighbouring property and the proposed dwellings are sufficiently spaced to avoid compromising privacy or resulting in an overbearing or overshadowing effect. The development would provide suitable garden areas for amenity, and outlook and internal space would ensure suitable living conditions for future occupiers.

Ecology:

- 6.14 Policy NE3 of the MDE DPD requires development that would adversely affect biodiversity or the value of wildlife habitats across the Borough to only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. This is broadly consistent with the aims of the NPPF at paragraph 175 that requires harm to biodiversity and protected species to be avoided.
- 6.15 The site lies in close proximity to a large reservoir and in the nearby area there are a number of ponds and waterways. The applicants provided an Ecology survey that identified a high probability of Great Crested Newts being present in and around the site during their terrestrial phases. No other harm is identified in relation to other protected species.

- 6.16 Following on from this the applicants submitted a Mitigation Strategy including measures for the management and retention of the proposed retained habitat to compensate for removal of the building that may contain newts.
- 6.17 The proposed measures are subject to first obtaining a license from Natural England, a legal requirement before any newts in or around the building can be relocated. Thereafter protective newt proof fencing will be deployed to ensure that the site is not accessible during the construction phase.
- 6.18 Subject to conditions ensuring these measures are carried out (with any variation as may be required by Natural England) it is considered that the development would not be harmful to protected species or their habitats. The development would therefore comply with policy NE3 of the MDEDPD and paragraph 175 of the NPPF.

Highway safety and parking provision:

- 6.19 The development proposes at least two parking spaces for each dwelling in line with adopted IGN3 standards, but more could comfortably be provided within the curtilage of each dwelling. The development would not attract any significant level of vehicle movements and there would be no unacceptable highways safety impacts, with the access to the dwellings already in existence. No conflict is identified with policy SQ8 of the MDE DPD.

Conclusions and the overall planning balance:

- 6.20 Tonbridge and Malling Borough Council cannot currently demonstrate a 5 year housing supply. In such circumstances paragraph 11 of the NPPF sets out that the presumption in favour of sustainable development applies and the provision of new housing carries significant weight. This presumption is only disengaged if the application of specified restrictive policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (in this case Green Belt and AONB policies). The application of these policies, as set out in the preceding assessment provide no clear reason to refuse.
- 6.21 In such circumstances, paragraph 11d (ii) of the NPPF applies and sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. Again, the preceding assessment concludes that no such harm arises as a result of this scheme.
- 6.22 In light of the above, it is recommended that planning permission be granted.

**7. Recommendation:**

- 7.1 **Grant planning permission** in accordance with the following submitted details:  
Proposed Plans P002D dated 03.09.2019, Proposed Plans and Elevations

P003D dated 03.09.2019, Proposed Plans and Elevations P004D dated 03.09.2019, Ecological Assessment Amphibian & Reptile dated 18.09.2019, Planning Statement dated 25.07.2019, Ecological Assessment dated 25.07.2019, Supporting Information dated 25.07.2019, Location Plan P001C dated 25.07.2019, Existing Plans and Elevations P010A dated 25.07.2019, 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 above ground work shall take place until details of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

- 3 The dwellings 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.

- 4 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. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: 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.

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

Reason: In the interests of amenity and privacy.

- 6 The development shall be carried out in accordance with the recommendations in the submitted Preliminary Ecological Appraisal dated 3<sup>rd</sup> July 2018 / Ref No 2018/04/18 and the Reptile and Amphibian Mitigation Strategy 17<sup>th</sup> September 2019 / Ref No 2018/04/18

Reason: To ensure the development proceeds with regard to protected species and provides a net gain to biodiversity.

**Informatives:**

- 1 The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](mailto:addresses@tmbc.gov.uk). To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

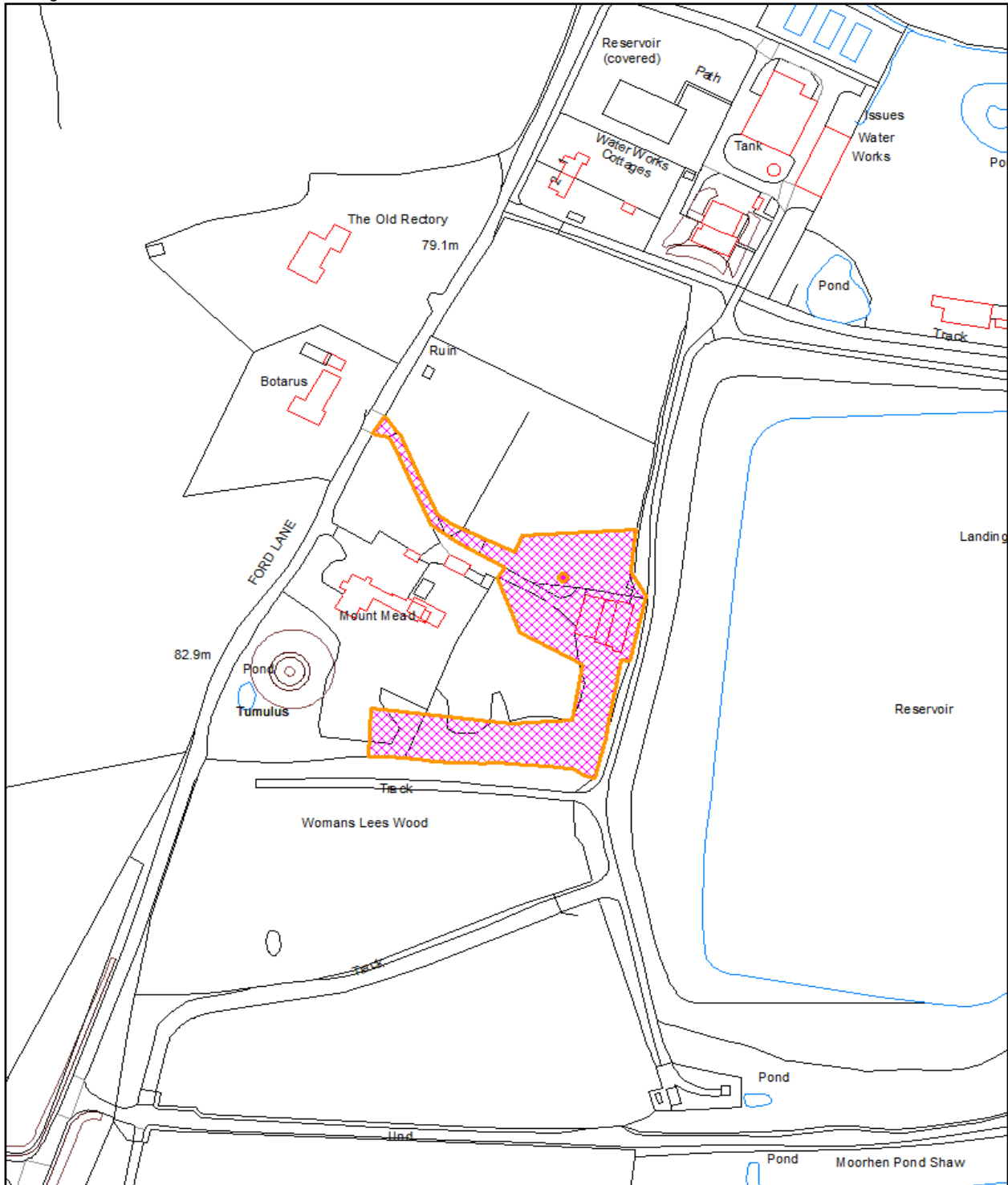
Contact: Adem Mehmet

**TM/19/01756/FL**

Mount Mead Ford Lane Trottiscliffe West Malling Kent ME19 5DP

Demolition of existing domestic outbuildings and construction of two bungalows with ancillary areas and parking provision

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**Wateringbury**  
Wateringbury

**11 July 2019**

**TM/19/01642/FL**

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Proposal: Erection of buttress to support wall between Red House Cottage and 31 Old Road.  
Location: The Red House Cottage 29 Old Road Wateringbury Maidstone Kent ME18 5PL  
Go to: [Recommendation](#)

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## **1. Description:**

- 1.1 The application as submitted sought planning permission for the partial reduction in height of an existing brick wall which forms the boundary between 31 and 29 Old Road Wateringbury from 2.2m down to 1m. The section of wall to be reduced is set back 7.5m from the highway.
- 1.2 The application also proposes to erect a buttress to a height of 2.2m to support the existing wall. The buttress is to measure 450mm by 450mm with a hollow core.
- 1.3 The reduction in the height of the wall does not fall within the definition of development and therefore would not require planning permission in its own right. The only element that requires planning permission are the works to secure the wall through the installation of the buttress which exceeds 2m in height. The reduction in height does not therefore form any basis of the assessment and recommendation that follows (notwithstanding the fact that the PC and Conservation Officer discuss the reduction in their representations as reproduced at Section 5 of this report).

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

- 2.1 At request of Cllr Sarah Hudson in order to consider the impact on the character of the Conservation Area.

## **3. The Site:**

- 3.1 The application site consists of the curtilage of The Red House 29 Old Road. The site lies within the other rural settlement confines of Wateringbury and within the Wateringbury Conservation Area.
- 3.2 The wall demarks the boundary between the properties of 29 and 31. The ground level slopes downhill from the edge of the highway.
- 3.3 The boundary treatments within the wider conservation area are varied with examples of hedges, fences, red brick and ragstone walls.

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

TM/19/00587/FL      Application Withdrawn      31 May 2019

Demolition of a section of boundary wall, up to 2.2metres high, required under Sections 77 and 78 of The Building Act 1984

#### 5. Consultees:

5.1 PC: The wall is around 100 years old and part of the history of this part of the village. The Parish Council ask the Conservation Officer to consider instructing that the wall be rebuilt using existing and matching bricks with the correct mortar.

5.1.1 Further comments received; The Parish Council welcomes the Conservation Officer's support for the retention or restoration of the wall to full height. They do feel however the temporary permission for a fence for a period of 5 years with restoration of the wall to follow that period is too long, and feel the completion of the work could be 'lost' over that period. The Parish Council asks you to consider reducing this to 1 year once any work has started or the wall demolished.

5.2 Private Reps: 4/0X/1R/0S. Representation raising objection on the grounds of;

- Impact on privacy
- Loss of heritage wall in conservation area

5.3 Conservation Officer:

5.3.1 From the map evidence it would appear on the early map 1871-90 that there is no wall located to the east of 31 Old Street at least to the depth of the building. The 1897-1900 map shows two buildings located against this boundary. Logically this would seem to contradict the assertion that the wall was only built to a low level if it was indeed the side wall of a building. The 1907 – 23 map indicates that the front building was lost but that the boundary remained, there can be no certainty that it was kept to full height but equally no certainty that it was not. The southern buildings may have remained until the 1950's.

5.3.2 The physical evidence shown in the photos would indicate that the wall was built in two phases in part only and in the location of the southern lost building, lost in the 1950's. However the use of Flemish bond with queen closers would indicate that the wall in question predates the 1950's where stretcher bond would be more common.

5.3.3 The sequence may not have been as suggested, rather the lower section of wall may well be original with the upper wall being the wall of the outbuilding dating from the 1897-1900.

5.3.4 Walls as boundaries are a common feature within Watlington and add significantly to the character of the conservation area. Character in conservation areas is not determined by what is constantly seen but also that which can be seen through glimpses between and around buildings, through gates and through gardens and this should be a consideration in such circumstances as this. I would therefore support the retention or restoration of the wall to full height and would suggest that structural engineers proposals be gained for that purpose.

5.3.5 During discussions it was noted that the cost of reinstatement is an issue. A pragmatic approach would be to allow restoration of the wall to an agreed height in consultation with a structural engineer with a temporary permission for a fence for a period of 5 years with restoration of the wall to follow that period or to follow the sale of the property, if the Planning Case Officer considers this an appropriate way forward.

## **6. Determining Issues:**

### Background Information:

6.1 As set out in Section 1 of this report, the reduction in the height of the wall does not require planning permission. It is the subsequent physical works to the wall through buttressing that does and that proposal requires formal assessment in this instance. As background information, Members should be aware that the works proposed have arisen as a result of concerns about the future safety of the wall and through discussions with the Building Inspector. Whilst a formal notice has not been served under Section 77 of the Building Act my understanding is that the Building Inspector has been actively engaging with the applicant to seek a resolution, suggesting a structural survey was undertaken.

6.2 Following the above discussions the applicant has commissioned a structural survey undertaken by TSC Designs Ltd into the condition of the wall. The survey identified a 300mm lean on the wall at capping level. It therefore recommended a number of measures are undertaken which they considered would be suitable to make the wall safe. These are;

- First 7.5 metres (as indicated on their attached plan) of the boundary wall may be retained.
- On grid 1 a buttress should be constructed fully bonded to the existing masonry.
- On completion the remainder of the wall should be carefully taken down reducing the height of the wall to no more than 1m.

6.3 The recommendations in the report are therefore to retain the first 7.5m of the wall from the edge of the highway. A buttress will be constructed at that 7.5m point to secure the wall. They therefore suggest the remainder of the wall can be taken down. This report has been taken on board by the applicant and reflected in this

current application which seeks to undertake the works as suggested by the report.

Conservation Impact on conservation area and visual amenity:

- 6.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 6.5 Chapter 16 of the NPPF covers conserving and enhancing the historic environment which would include development within Conservation Areas. Paragraph 185 NPPF sets out that plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:
- a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
  - b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
  - c) the desirability of new development making a positive contribution to local character and distinctiveness; and
  - d) opportunities to draw on the contribution made by the historic environment to the character of a place.
- 6.6 Paragraph 194 of the NPPF sets out that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. It continues at Paragraph 196 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.7 Paragraph 200 of the NPPF is also relevant and sets out that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 6.8 The exact age of the wall is not currently known. The historic maps available do not show the wall on the 1897 – 1900 maps; however it is not certain whether the wall was or was not in place to some degree at that time. It is however clear that the current wall was constructed in two phases with a difference in pointing

between the upper and lower sections. Given the lack of certainty with the supporting information available to us and that the wall has clearly been altered and changed over the years with the later upper section I cannot say that the wall itself would have any great individual historical significance within the Conservation Area. I would therefore suggest that the works to the wall requiring permission (the buttressing) would not result in harm to the Conservation Area subject to the use of matching brickwork and pointing.

- 6.9 I do appreciate the representations made by both the Conservation Officer and the PC concerning the fact they would prefer to see the wall restored or re-instated. As set out above as the wall is not to be totally demolished and this element of the works does not require planning permission in its own right. Notwithstanding this it should be noted that it is the poorer quality section of the wall which is to be removed. A section of the wall would therefore remain to demarcate the boundary line.
- 6.10 In taking into account the elements which would require planning permission I do not consider the proposal would result in harm to the character or appearance of the Conservation Area. In light of this there are no legitimate or justifiable basis upon which to *require* the reinstatement of the wall in the manner suggested.
- 6.11 Moving on to wider considerations regarding visual amenity, policies CP24 of the TMBCS and SQ1 of the MDE DPD are the most relevant design policies and 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.
- 6.12 Paragraph 127 of the NPPF sets out that planning policies and decisions should ensure that developments:
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work.
- 6.13 Paragraph 130 of the NPPF sets out that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary

planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

6.14 Based on the above assessment, it is my view that provided acceptable materials are used in the construction of the buttress, there would be no harm to visual amenity, in accordance with these policies.

Residential amenity:

6.15 I am mindful of the fact that as the rear section of the wall would be reduced to 1m it would allow for some opportunity for inter-visibility between the two properties. However, as I have explained, this alone could happen without the need for planning permission. Notwithstanding this, I would mention that given relative distances and relationships, there would be no impacts to residential amenity arising in any event.

Conclusions:

6.16 In light of the above assessment, I consider that the construction of the buttress as proposed would not cause harm to the Conservation Area or wider visual amenities of the locality and there are no other impacts that would arise as a result of the parts of the scheme that require planning permission, subject to the imposition of conditions.

6.17 As such, the following recommendation is put forward.

**7. Recommendation:**

7.1 **Grant planning permission** in accordance with the following submitted details: Email received 22.08.2019, Design and Access Statement supplementary received 08.08.2019, Sketch View and site plan received 11.07.2019, Design and Access Statement received 11.07.2019, Location Plan wall demolition received 11.07.2019, Location Plan received 11.07.2019, 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 Works shall not commence on the erection of the buttress 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: In the interests of visual amenity.

Contact: Paul Batchelor

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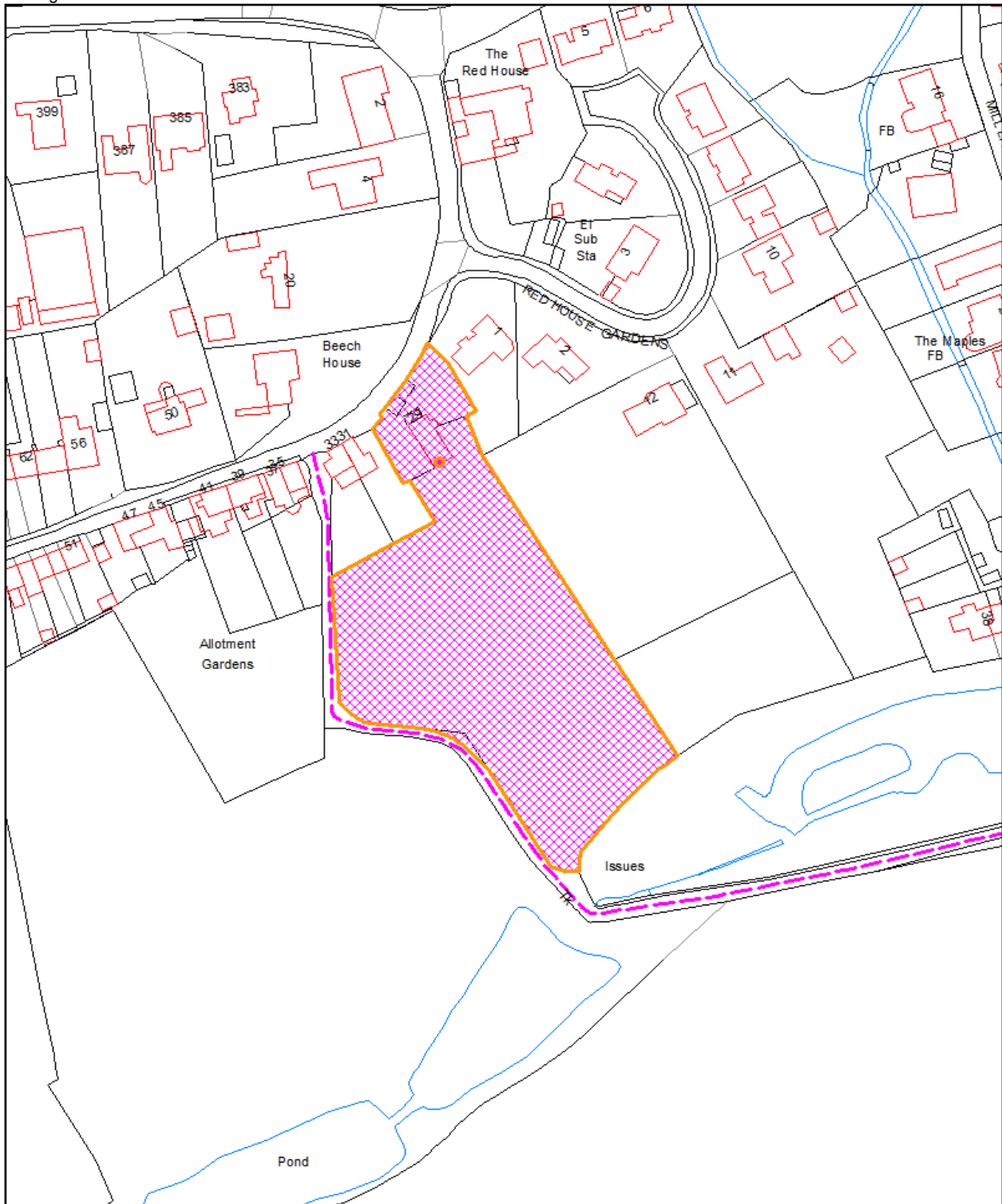


**TM/19/01642/FL**

The Red House Cottage 29 Old Road Wateringbury Maidstone Kent ME18 5PL

Erection of buttress to support wall between Red House Cottage and 31 Old Road

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# Agenda Item 8

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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