

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

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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: Democratic Services
committee.services@tmbc.gov.uk

30 July 2024

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 Council Chamber, Gibson Drive, Kings Hill on Wednesday, 7th August, 2024 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website. Deposited plans can be viewed online by using [Public Access](#).

Yours faithfully

DAMIAN ROBERTS

Chief Executive

AGENDA

1. Guidance for the Conduct of Meetings

5 - 8

PART 1 - PUBLIC

2. Apologies for Absence
3. Declarations of Interest

Members are reminded of their obligation under the Council's Code of Conduct to disclose any Disclosable Pecuniary Interests and Other Significant Interests in any matter(s) to be considered or being considered at the meeting. These are explained in the Code of Conduct on the Council's website at [Code of conduct for members – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk).

Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting.

4. Minutes 9 - 10

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 29 May 2024.

5. Glossary and Supplementary Matters 11 - 18

Glossary of abbreviations used in reports to the Area Planning Committee (attached for information)

Any supplementary matters will be circulated via report in advance of the meeting and published to the website.

Decisions to be taken by the Committee

6. TM/24/00144/PA - 32 Pound Road, East Peckham, Tonbridge 19 - 36

Proposal of New Cafe and associated parking

7. TM/24/00307/PA - Hildenborough, Ashes Lane, Hadlow 37 - 60

Demolition of existing detached bungalow and garage and replacement 4 x bedroom detached dwelling including basement accommodation and integral garage

Matters for Information

8. Planning Appeals, Public Inquiries and Hearings 61 - 62

To receive and note any update in respect of planning appeals, public inquiries and hearings held since the last meeting of the Planning Committee.

9. Urgent Items

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

Matters for consideration in Private

10. Exclusion of Press and Public

63 - 64

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

11. Urgent Items

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

MEMBERSHIP

Cllr W E Palmer (Chair)
Cllr C Brown (Vice-Chair)

Cllr B Banks
Cllr R P Betts
Cllr M D Boughton
Cllr P Boxall
Cllr M A Coffin
Cllr S Crisp
Cllr Mrs T Dean

Cllr D Harman
Cllr S A Hudson
Cllr J R S Lark
Cllr R V Roud
Cllr K B Tanner
Cllr Mrs M Tatton
Cllr M Taylor

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>

- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chair, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.

- Members of the public addressing an Area Planning Committee should attend in person. However, arrangements to participate online can be considered in certain circumstances. Please contact committee.services@tmbc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

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TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

MINUTES

Wednesday, 29th May, 2024

Present: Cllr W E Palmer (Chair), Cllr B Banks, Cllr R P Betts, Cllr M A Coffin, Cllr D Harman, Cllr S A Hudson, Cllr J R S Lark, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton and Cllr M Taylor.

Apologies for absence were received from Councillors C Brown, M D Boughton, P Boxall, S Crisp and Mrs T Dean.

PART 1 - PUBLIC

AP2 24/12 DECLARATIONS OF INTEREST

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

AP2 24/13 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 2 Planning Committee held on 21 February 2024 be approved as a correct record and signed by the Chairman.

AP2 24/14 GLOSSARY AND SUPPLEMENTARY MATTERS

Decisions were taken on the following applications subject to the prerequisites, 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.

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

AP2 24/15 TM/23/02034/FL - LAND BETWEEN BIRCHFIELD AND MID KENT NURSERIES, ASHES LANE, HADLOW, TONBRIDGE

Proposed three detached dwellings with double garages (resubmission following withdrawn of 23/01395/FL).

During discussion, particular reference was made to conditions to include passive house, landscaping and biodiversity management.

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

It was considered that the proposal comprised limited infilling in villages and therefore complied with the exception under section e) of paragraph 154 of the National Planning Policy Framework 2023 which amounted to appropriate development in the green belt; subject to

- (1) a Section 106 agreement being negotiated to contribute towards education, community learning, children's services, libraries, adult social care and waste as sought by Kent County Council and referenced in 5.8 and 6.31 of the report; and
- (2) final wording of conditions and informatives being delegated to the Director of Planning, Housing and Environmental Health, in consultation with the Chair and Vice-Chair, and as set out on the Decision Notice published by Planning Services.

[Speaker: Mr M Rogers (applicant)]

AP2 24/16 PLANNING APPEALS, PUBLIC INQUIRIES AND HEARINGS

The report setting out updates in respect of planning appeals, public inquiries and hearings held since the last meeting of the Planning Committee was received and noted.

AP2 24/17 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 8.04 pm

GLOSSARY of Abbreviations used in reports to Area Planning Committees

A

AAP	Area of Archaeological Potential
AGA	Prior Approval: Agriculture (application suffix)
AGN	Prior Notification: Agriculture (application suffix)
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
AT	Advertisement consent (application suffix)

B

BALI	British Association of Landscape Industries
BPN	Building Preservation Notice
BRE	Building Research Establishment

C

CA	Conservation Area (designated area)
CCEASC	KCC Screening Opinion (application suffix)
CCEASP	KCC Scoping Opinion (application suffix)
CCG	NHS Kent and Medway Group
CNA	Consultation by Neighbouring Authority (application suffix)
CPRE	Council for the Protection of Rural England
CR3	County Regulation 3 (application suffix – determined by KCC)
CR4	County Regulation 4 (application suffix – determined by KCC)
CTRL	Channel Tunnel Rail Link (application suffix)

D

DCLG	Department for Communities and Local Government
DCMS	Department for Culture, Media and Sport
DEEM	Deemed application (application suffix)
DEFRA	Department for the Environment, Food and Rural Affairs
DEPN	Prior Notification: Demolition (application suffix)
DfT	Department for Transport
DLADPD	Development Land Allocations Development Plan Document
DMPO	Development Management Procedure Order
DPD	Development Plan Document
DPHEH	Director of Planning, Housing & Environmental Health
DR3	District Regulation 3
DR4	District Regulation 4
DSSLT	Director of Street Scene, Leisure & Technical Services

E

EA	Environment Agency
EIA	Environmental Impact Assessment
EASC	Environmental Impact Assessment Screening request (application suffix)
EASP	Environmental Impact Assessment Scoping request (application suffix)
EH	English Heritage
EL	Electricity (application suffix)
ELB	Ecclesiastical Exemption Consultation (Listed Building)
EEO	Ecclesiastical Exemption Order
ELEX	Overhead Lines (Exemptions)
EMCG	East Malling Conservation Group
ES	Environmental Statement
EP	Environmental Protection

F

FRA	Flood Risk Assessment
FC	Felling Licence
FL	Full Application (planning application suffix)
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Impact Assessment

G

GDPO	Town & Country Planning (General Development Procedure) Order 2015
GOV	Consultation on Government Development
GPDO	Town & Country Planning (General Permitted Development) Order 2015 (as amended)

H

HE	Highways England
HSE	Health and Safety Executive
HN	Hedgerow Removal Notice (application suffix)
HWRC	Household Waste Recycling Centre

I

IDD	Internal Drainage District
IDB	Upper Medway Internal Drainage Board
IGN3	Kent Design Guide Review: Interim Guidance Note 3 Residential Parking

K

KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards: Supplementary Planning Guidance SPG 4
KDD	KCC Kent Design document

KFRS Kent Fire and Rescue Service
KGT Kent Garden Trust
KWT Kent Wildlife Trust

L

LB Listed Building Consent (application suffix)
LBX Listed Building Consent: Extension of Time
LDF Local Development Framework
LDLBP Lawful Development Proposed Listed Building (application suffix)
LEMP Landscape and Ecology Management Plan
LLFA Lead Local Flood Authority
LMIDB Lower Medway Internal Drainage Board
LPA Local Planning Authority
LWS Local Wildlife Site
LDE Lawful Development Certificate: Existing Use or Development (application suffix)
LDP Lawful Development Certificate: Proposed Use or Development (application suffix)
LP Local Plan
LRD Listed Building Consent Reserved Details (application suffix)

M

MBC Maidstone Borough Council
MC Medway Council (Medway Towns Unitary Authority)
MCA Mineral Consultation Area
MDE DPD Managing Development and the Environment Development Plan Document
MGB Metropolitan Green Belt
MHCL Ministry of Housing, Communities and Local Government
MIN Mineral Planning Application (application suffix, KCC determined)
MSI Member Site Inspection

MWLP Minerals & Waste Local Plan

N

NE Natural England

NMA Non Material Amendment (application suffix)

NPPF National Planning Policy Framework

O

OA Outline Application (application suffix)

OAEA Outline Application with Environment Impact Assessment (application suffix)

OAX Outline Application: Extension of Time

OB106D Details pursuant to S106 obligation (application suffix)

OB106M Modify S106 obligation by agreement (application suffix)

OB106V Vary S106 obligation (application suffix)

OB106X Discharge S106 obligation (application suffix)

P

PC Parish Council

PD Permitted Development

PD4D Permitted development - change of use flexible 2 year

PDL Previously Developed Land

PDRA Permitted development – change of use agricultural building to flexible use (application suffix)

PDV14J Permitted development - solar equipment on non-domestic premises (application suffix)

PDV18 Permitted development - miscellaneous development (application suffix)

PDVAF Permitted development – agricultural building to flexible use (application suffix)

PDVAR Permitted development - agricultural building to residential (application suffix)

PLVLR	Permitted development - larger residential extension (application suffix)
PDVOR	Permitted development - office to residential (application suffix)
PDVPRO	Permitted development - pub to retail and/or office (application suffix)
PDVSDR	Permitted development storage/distribution to residential (application suffix)
PDVSFR	Permitted development PD – shops and financial to restaurant (application suffix)
PDVSR	Permitted development PD – shop and sui generis to residential (application suffix)
POS	Public Open Space
PPG	Planning Practice Guidance
PWC	Prior Written Consent
PROW	Public Right Of Way

R

RD	Reserved Details (application suffix)
RM	Reserved Matters (application suffix)

S

SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (background for the emerging Local Plan)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
SW	Southern Water

T

TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan

TCS Tonbridge Civic Society
TEPN56/TEN Prior Notification: Telecoms (application suffix)
TMBC Tonbridge & Malling Borough Council
TMBCS Tonbridge & Malling Borough Core Strategy 2007
TMBLP Tonbridge & Malling Borough Local Plan 1998
TNCA Notification: Trees in Conservation Areas (application suffix)
TPOC Trees subject to TPO (application suffix)
TRD Tree Consent Reserved Details (application suffix)
TRICS Trip Rate Information Computer System
TWBC Tonbridge Wells Borough Council

U

UCO Town and Country Planning Use Classes Order 1987 (as amended)
UMIDB Upper Medway Internal Drainage Board

W

WAS Waste Disposal Planning Application (KCC determined)
WTS Waste Transfer Station

(Version 2/2021)

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East Peckham
East & West Peckham
Mereworth And Wbury

TM/24/00144/PA

Location: 32 Pound Road, East Peckham, Tonbridge TN12 5BE

Proposal: Proposal of New Cafe and associated parking

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 This application seeks full planning permission for the erection of a replacement single storey café building.
- 1.2 The proposed building would be located primarily on a similar footprint as the former café building, albeit the proposed building would be curved in design.
- 1.3 The proposal also provides a disabled parking space to the rear of the café and additional soft landscaping.
- 1.4 Entrance to the café will be to the front of the building, similar to the existing. Internally the layout will provide an open plan dining area with a variety of seating options. The counter is to be positioned to the rear together along with the kitchen and storage area.

2. Reason for reporting to Committee:

- 2.1 This application is referred to committee by Councillor Matt Boughton in regard to concerns over parking provision, party wall and concern in relation to noise and smell pollution.

2. The Site:

- 2.1 The application site is situated to the north side of Pound Road within the urban confines of East Peckham. The site currently comprises a single storey flat roofed building, with garaging to the rear. The existing café building is attached to an end of terraced residential property fronting Pound Road. Access to the site is via Pound Road.
- 2.2 The area comprises residential dwellings, parade of shops along with other community facilities.

3. Planning History (most relevant):

- 3.1 Set out below is the original site history for the site itself, together with other relevant history as the site formed part of the recently approved 10-unit scheme to the rear.

Original history for the site itself

10/00762/FL - Approved - 26 May 2010 subject to conditions
Change of use from A1(retail) to A5 (takeaway)

10/02710/RD - Approved - 24 November 2010
Reserved details submitted pursuant to condition 5 (handling and storage of waste) and condition 6 (extraction details) of planning permission TM/10/00762/FL: Change of use from A1(retail) to A5 (takeaway)

Site to the rear

23/01385/FL - Approved – 2 April 2024
Section 73 application to vary planning condition No. 2 (plans) of TM/21/00286/FL along with details of river channel (Condition 11) (Demolition of existing buildings, including a dwelling house (34 Pound Road), and erection of a residential development comprising of 10 dwellings and associated works, parking and alterations to the access points to Pound Road (Renewal of planning permission TM/16/03380/FL)) (Amended to include details of Condition 11)

23/00510/RD - Approved - 21 November 2023
Details of condition 3 (Sample of materials), 5 (Archaeological Works), 12 (Flood Storage), 13 (Maintenance Schedule, Buffer Zone and Landscaping), 14 (Surface Water Strategy), 17 (Contoured Site Plan) and 18 (Construction Management Plan) submitted pursuant to planning permission TM/21/00286/FL (Demolition of existing buildings, including a dwelling house (34 Pound Road), and erection of a residential development comprising of 10 dwellings and associated works, parking and alterations to the access points to Pound Road (Renewal of planning permission TM/16/03380/FL))

23/00536/RD - Approved - 05 May 2023
Details of condition 6 (Site Investigation and Remediation Method Statement) submitted pursuant to planning permission TM/21/00286/FL (Demolition of existing buildings, including a dwelling house (34 Pound Road), and erection of a residential development comprising of 10 dwellings and associated works, parking and alterations to the access points to Pound Road (Renewal of planning permission TM/16/03380/FL))

21/00286/FL - Approved - 28 July 2022
Demolition of existing buildings, including a dwelling house (34 Pound Road), and erection of a residential development comprising of 10 dwellings and associated works, parking and alterations to the access points to Pound Road (Renewal of planning permission TM/16/03380/FL)

4. Consultees

East Peckham Parish Council

- 4.1 Concerned regarding the lack of parking facilities, 3rd party wall, the neighboring resident is concerned about noise and smell pollution. It has been reported this application has been “called in” by TMBC leader M. Boughton.

TMBC Environmental Health Food and Safety

- 4.2 The disabled WC opens directly into the customer dining area. Ideally a ventilated lobby should be installed to prevent the toilet opening directly into the dining area but as a minimum a self-closer should be fitted.
- 4.3 There are no details of the kitchen layout, and the applicant is advised to make contact with the Food and Safety Team prior to fit out - foodandsafety@tmbc.gov.uk

TMBC Environmental Health Protection

Contaminated Land

- 4.4 No comments to make on the application.

Environmental Protection

4.5 Odour/Noise

- 4.6 The applicant shall submit details to the Local Planning Authority of a ventilation system for the removal and treatment of cooking odours, drawing reference to the requirements and recommendations of the EMAQ+ document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The submission shall include a risk assessment for odour as detailed in Annex C of the EMAQ+ guidance.

- 4.7 The acoustic details shall include full spectrum octave analysis for the proposed ventilation equipment, demonstrating that the noise from the equipment shall not exceed NR35 at the nearest noise sensitive premises/site boundary; this would include any flat above the proposed premises.

- 4.8 There are no hours of operation listed on the application. It is noted the current approval for existing use states the premises shall only be open for the preparation and sale of food and drinks between the hours of 08.00 to 18.00 Monday to Saturdays and not at any time on Sundays or Public and Bank Holidays. This needs to be conditioned.

- 4.9 In addition, the following informative in relation to hours/bonfires is suggested.

4.10 To avoid undue disturbance to neighbours, 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 Holidays. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. The applicant is therefore advised to prohibit fires on site during the development stage of this project.

Environmental Agency

4.11 Based on the information provided no objection is raised.

Private Representations

4.12 Four letters of representations have been received; these are summarised as follow:

- Errors on the application form
- Inaccurate site Location Plan
- Lack of Consultation
- Access arrangements for extant permission
- Adverse impact on residential amenities – noise and disturbance
- Lack of noise assessment
- Insufficient parking provision
- The original permission required modifications to the kerb on Pound Lane and widening of the footway.
- Layby area to the front of 30 Pound Road forms part of the ownership of no. 30.
- Lack of construction management plan.
- New houses have already been built which is impacting on traffic/parking and the existing access
- Concerns over another food establishment being built in this small village another food establishment in the village would only apply pressure to all the other food business to survive.
- There is no public pathway leading to the shop entrance which could be hazardous.
- Not enough parking which could prejudice highway safety.
- Neighbouring property is attached to the entire length of the proposal.
- Loss of the historical connection between the cafe and the neighbouring property. Has any provision of insulation been considered for the neighbouring property.
- The proposal suggests that the current wall at the back of the garages will be replaced with a fence. However, this wall currently serves as the side of our outbuilding The wall also gives us privacy and security in our garden
- Removing the roof could cause water damage to the neighbouring property.

- We are concerned that during the reconstruction this will cause damage to our home, and cause noise and disruption.
- We don't have a party wall agreement in place. We have not been approached in any official capacity.
- The proposal is to build a café with seating, does this mean that the usage will change from A5 (takeaway) to A3 (restaurant)?
- Will the trading hours change from 7.30 am-2.00 pm Monday to Friday as they were with the previous owners?

5. Determining Issues:

Policy Guidance

- 5.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise.
- 5.2 The Development Plan currently in force for this area comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP), Development Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010. The National Planning Policy Framework ("NPPF") and the associated National Planning Practice Guidance ("NPPG") and National Design Guide are important material considerations.

Matters for clarification

- 5.3 In view of the comments raised in relation to the demolition of the existing building, and the party wall, it is first important to set out the Council's position in relation to the demolition of the existing building in context to the assessment of this application.
- 5.4 Planning permission was granted in July 2022 under reference 21/00286/FL for the demolition of existing buildings, including a dwelling house (34 Pound Road), and erection of a residential development comprising of 10 dwellings and associated works, parking and alterations to the access points to Pound Road (Renewal of planning permission TM/16/03380/FL) (my emphasis added). This application has been largely implemented and the café building can be demolished under this consent. The demolition therefore does not form part of the consideration of this application.
- 5.5 Figure1 below show the extent of buildings to be demolished as part of that application, this included the demolition of the café, and the adjacent garages.

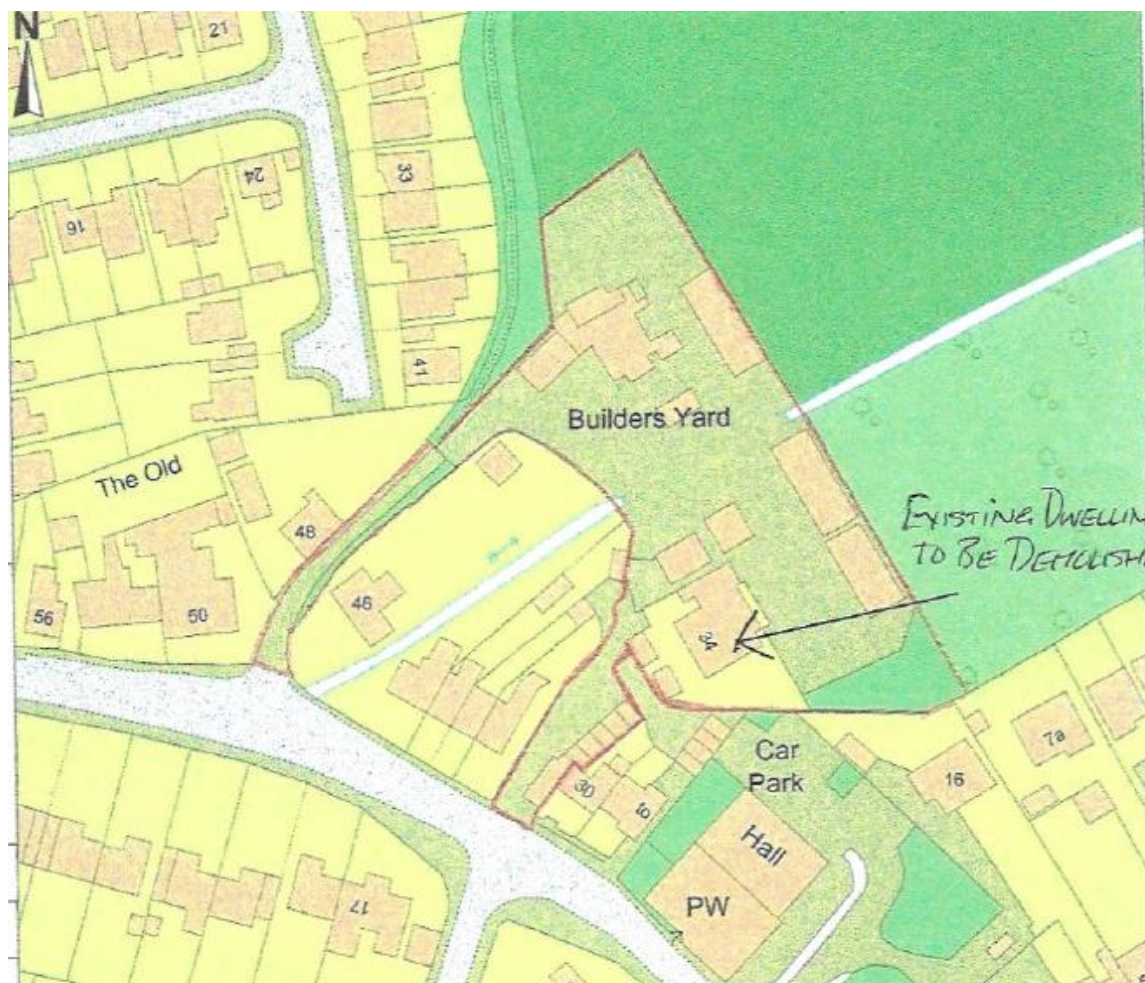


Figure 1 – Demolition site plan - 21/00286/FL

5.6 Whilst comments in relation to the demolition of the café and its relationship to the adjoining property have been noted, certain elements of the demolition of the building would be subject to a Party Wall Agreement, and this is not a planning matter. Party Wall Agreements are civil matters which are separate from planning permission approval falling outside the consideration of this committee. Serving a Party Wall Notice to adjoining building owners prior to commencing building works (those that fall within the Party Wall Act 1996) is a legal obligation.

Principle of Development

5.7 The site lies within the designated Rural Service Centre of East Peckham, wherein Policy CP12 states that housing and employment development or redevelopment, conversions and changes of use will be permitted within the confines of the rural service centre subject to other local plan policies.

5.8 Policy CP12 is considered up-to-date, and as such the proposed development accords with these aims and the requirements of this policy. Thus, there is no objection in principle to the development.

Character and Appearance

- 5.9 Paragraph 131 (NPPF) highlights the importance of creating high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 5.10 Paragraph 135 (NPPF) seeks to ensure that decisions result in developments which are visually attractive as a result of good architecture, layout and landscaping, and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 5.11 Policy SQ1 Managing Development and the Environment Development Plan, requires development to protect, conserve and where possible to enhance the character and local distinctiveness of the area.
- 5.12 Policy CP24 of the Tonbridge and Malling Borough Core Strategy requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, layout, siting, character and appearance be designed to respect the site and its surroundings.
- 5.13 The proposed building would be single storey with a flat roof similar in height to the existing building. However, the building would be set further back within the site and has been designed with a curved frontage. The curved frontage not only ensures the previously approved access is maintained but it also provides the opportunity for additional soft landscaping.
- 5.14 The height of the building would be in keeping with the height of the adjoining property, which is similar to the existing.
- 5.15 It is considered that the building sits well within the street scene, with large windows providing a contemporary façade. The building would be predominately white render which will complement the surrounding area, a condition would be imposed for materials to be in accordance with the submitted plans.
- 5.16 Concluding on character and appearance, it is considered that the proposal would result in a well-designed scheme, which respects local character, subject to a condition regarding materials. As such would comply with paragraph 135 (NPPF), Policy CP24 of the Tonbridge and Malling Borough Core Strategy.

Neighbour Amenity

- 5.17 Policy CP24 of the Tonbridge and Malling Borough Core Strategy requires that all development must be well designed and respect the site and its surroundings. It

outlines that development by virtue of its design which would be detrimental to amenity will not be permitted.

5.18 Paragraph 135 (f) of the NPPF advises that:

“Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”.

5.19 Third party comments have raised concerns in regard to the building being attached to the adjoining dwelling, and the removal of the garages along the boundary. As clarified above these matters relate to the demolition of the building/garages and would be subject to a Party Wall Agreement.

5.20 The building would be set back from the front boundary of the adjoining property and would extend to the rear of the dwelling.

5.21 It is considered that the building by reason of its size, appearance and location would not harm neighbour amenity by reason of overlooking, loss of light or privacy. However, a condition would be imposed in regard to external lighting. Consideration in relation to noise and disturbance from the use are discussed separately within this report.

Access and Parking

5.22 Paragraph 114 of the NPPF states that, in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, inter alia, safe and suitable access to the site can be achieved for all users. Paragraph 115 adds 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.

5.23 Policy SQ8 of the Managing Development and the Environment DPD states that development proposals should comply with the adopted parking standards and development proposals will only be permitted where they would not significantly harm highway safety.

5.24 This application proposes no changes to the access, and only seeks permission for the erection of the café building. Notwithstanding this, as stated previously the building has been designed, having specific regard to the approved assess under application no. 21/00286/FL and those conditions imposed in relation to that permission.

5.25 The applicant/agent has also provided a tracking plan, which demonstrates how the proposed building would sit within the context of the access road and clearly shows that the proposal building would not affect the approved access road (see figure 2).

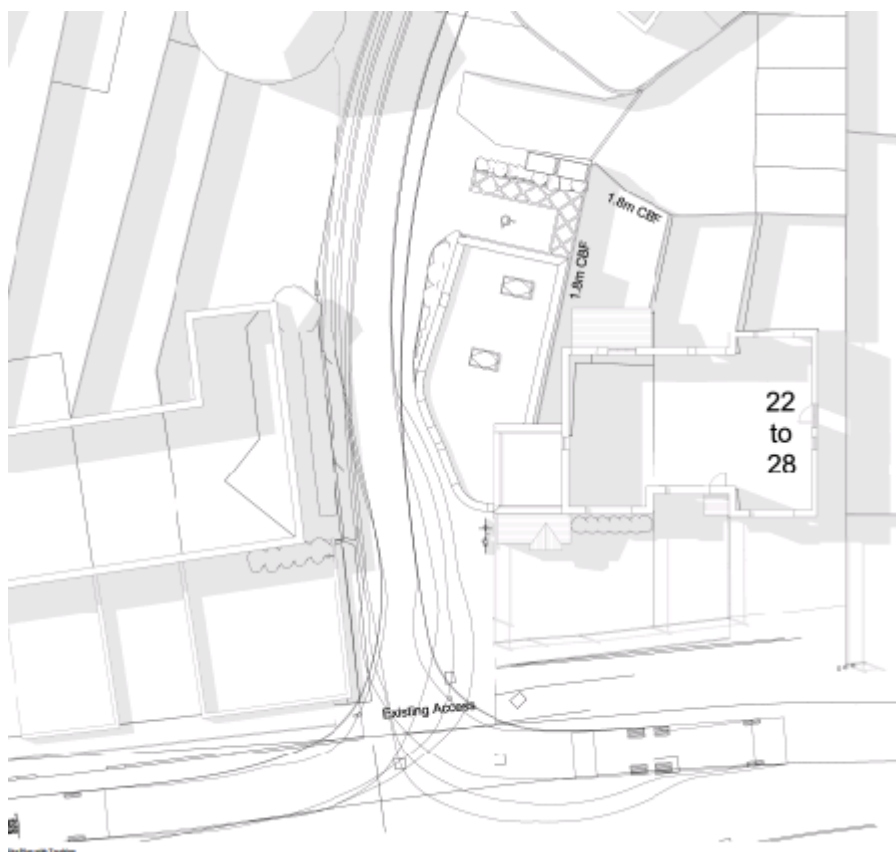


Figure 2: Tracking Plan.

5.26 Turning to parking, it is noted that under KCC Parking Standards SPG 4 (Table 2), that the proposed café would require, 1 space per 2 staff and a further 1 space per 6 sqm, therefore resulting in a parking requirement of approximately 10 spaces (as a maximum).

5.27 The application proposes one disabled parking space, located to the rear, on that basis, the application would see a deficit in regard to the parking provision. However, it is noteworthy that based on the same parking requirements, the previous cafe required a maximum parking provision of 4 spaces, however none were provided.

5.28 KCC Parking Standards SPG4 also notes for parking for non residential uses, *“It is widely acknowledged that limiting the amount of parking provided at the end destination of a trip can discourage journeys by car This is particularly evident where there are a range of alternative modes available in sustainable locations Therefore, the parking standards for non residential uses are maximum standards and lower provisions should be considered to encourage travel by other modes where appropriate The optimum method of determining the parking provision for non residential uses is often a ‘first principles’ approach, taking into account the development’s predicted parking requirements and local circumstances”*

5.29 In this case, given the previous parking provision for the site, its sustainable location coupled with no restriction in regard to on street parking and additional layby parking within the immediate area, it is not considered that the deficit in parking provision,

would prejudice highway safety. It is also noted that the mobile hot food takeaway unit within the immediate vicinity, whilst a mobile unit is located within the same position when operating and also provides no off-street parking provision.

- 5.30 Bin storage and refuse collection is proposed to the rear of the site adjacent to the disabled parking bay. The existing access already provides for a refuse vehicle to serve the dwellings to the rear.
- 5.31 Therefore, to conclude on access and parking, given the sites sustainable location coupled with the existing parking provision for the site and the parking provisions within the area it is not considered that the proposal would conflict with aims of KCC Parking Standards SPG4 or Policy SQ8 of the Managing Development and the Environment Development Plan Document. A condition would be imposed for the disabled parking space to be constructed prior to the commencement of the use and thereafter retained.

Landscaping and Biodiversity

- 5.32 Paragraph 180 of the NPPF advises planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity. Paragraph 186 of the NPPF states if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 5.33 Policy NE2 Managing Development and the Environment Development Plan, outlines that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced. Policy NE3 Managing Development and the Environment Development Plan also states development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in an overall enhancement. Proposals for development must make provision for the retention of the habitat and protection of its wildlife links. The Council will impose conditions, where necessary and appropriate, to minimise disturbance, protect and enhance a site's ecological conservation value, to ensure appropriate management and monitoring and creating new or replacement habitats of enhanced ecological value
- 5.34 In regard to biodiversity, as Members are aware, since the 2 April 2024, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain. However, this application was submitted prior to the 2 April 2024 and therefore BNG is not applicable.
- 5.35 Notwithstanding this the application proposes an area of landscaping to the side of the building, which would visually improve the appearance of the area. A condition

would be imposed for the planting to be implemented prior to the occupation and maintained.

Noise and Disturbance

5.36 Paragraph 191 of the NPPF states that:

“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid giving rise to significant adverse impacts on health and the quality of life”.

5.37 Policy SQ6 MDE DPD requires proposals for noise sensitive development, including housing, to demonstrate that noise levels are appropriate for the proposed use.

5.38 The Council’s Environmental Health Protection Officer has reviewed the application and raises no objection subject to conditions. In regard to odour/noise the applicant is required to submit details to the Local Planning Authority of a ventilation system for the removal and treatment of cooking odours, drawing reference to the requirements and recommendations of the EMAQ+ document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The submission shall include a risk assessment for odour as detailed in Annex C of the EMAQ+ guidance.

5.39 In addition, the acoustic details shall include full spectrum octave analysis for the proposed ventilation equipment, demonstrating that the noise from the equipment shall not exceed NR35 at the nearest noise sensitive premises/site boundary.

5.40 It is also noted that the application proposes no hours of operation. The approval for existing use stated the premises shall only be open for the preparation and sale of food and drinks between the hours of 08.00 to 18.00 Monday to Saturdays and not at any time on Sundays or Public and Bank Holidays and condition in this regard would be imposed.

5.41 Therefore, subject to conditions the proposal would comply with Policy SQ6 Managing Development and the Environment DPD.

Internal Layout

5.42 TMBC Environmental Health Food and Safety officer has viewed the application and notes the disabled WC opens directly into the customer dining area. Ideally a ventilated lobby should be installed to prevent the toilet opening directly into the dining area but as a minimum a self-closer should be fitted.

5.43 It is also noted that there are no details of the kitchen layout, and the applicant is advised to make contact with the Food and Safety Team prior to fit out - foodandsafety@tmhc.gov.uk. An informative would be added to bring this to the attention of the applicant.

Flood Risk

5.44 The proposed development sits within Flood Zone 2 & 3. Applications within Flood Zone 2 and 3 can require a Flood Risk Assessment and consultation with the Environmental Agency.

5.45 Policy CP10 Core Strategy states “within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development”.

5.46 Paragraph 169 NPPF, notes if it is not possible for development to be located in areas with a lower risk of flooding the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed in line with the Flood Risk Vulnerability Classification set out in Annex 3.

5.47 Paragraph 171 (NPPF) confirms that both elements of the exception test should be satisfied for development to be allocated or permitted.

5.48 In this case, the application proposes the replacement of a building in the same use. The Environmental Agency has raised no objection to the proposal. As such no objection is raised in terms of Policy CP10 Core Strategy and paragraphs 169, & 171 NPPF.

Conclusion

5.49 In light of the above considerations, I put forward the following recommendation:

6. Recommendation:

6.1 APPROVE subject to the following:

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 permitted shall be carried out in accordance with the following approved plans and documents:

Existing Site and Site Location Plan Drawing No. 22-1226-600 Rev P01

Existing Elevation Drawing No. 22-1226-603 Rev P01

Existing Floor & Roof Plan Drawing No. 22-1226-602 Rev P01

Proposed Site & Site Location Plan Drawing No. 22-1226-604 Rev P01
Proposed Elevations Drawing No. 22-1226-605 Rev P01
Proposed Floor & Roof Plan Drawing No. 22-1226-602 Rev P01
Proposed Site Plan with Tracking Drawing No. 22-1226-SK01
Floor Risk Assessment by OSC architecture
Design and Access Statement by OSC architecture dated 25 January 2024
Ref:22_1226

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

3. All materials used externally shall accord with the approved plans - Proposed Elevations Drawing No. 22-1226-605 Rev P01 & Proposed Floor & Roof Plan Drawing No. 22-1226-602 Rev P01

Reason: In the interests of visual amenity.

4. The use shall not commence until full details of the ventilation system to remove cooking smells, including details of how it will be built and how it will look, to the requirements and recommendations of the EMAQ+ document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The submission shall include a risk assessment for odour as detailed in Annex C of the EMAQ+ guidance has been submitted to and approved by the Local Planning Authority.

The approved scheme shall be fully installed before use of the kitchen commences and shall thereafter be maintained in strict accordance with the approved details. No cooking of food shall take place unless the approved extraction system is being operated.

Reason: In the interests of the amenities of nearby properties.

5. The applicant shall submit acoustic details to the Local Planning Authority to include whole octave analysis for the proposed ventilation equipment, demonstrating that the noise from the equipment shall not exceed NR35 at the nearest noise sensitive premises/site boundary.

Reason: In the interests of the amenities of nearby properties.

6. The use shall not commence until the disabled parking area shown on the approved layout plan referenced Proposed Site & Site Location Plan Drawing No. 22-1226-604 Rev P01 to serve that building 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 or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure that adequate parking is provided, and maintained and retained.

7. The use hereby permitted shall only be open for the preparation, sale and consumption of food and drinks between the hours of 08.00 to 18.00 Monday to Saturdays and not at any time on Sundays or Public and Bank Holidays.

Reason: To safeguard the amenities and interests of the occupants of other property in this residential area.

8. The proposal for landscaping shown on the approved plans referenced Proposed Site & Site Location Plan Drawing No. 22-1226-604 Rev P01 & Proposed Elevations Drawing No. 22-1226-605 Rev P01; shall be implemented prior to the commencement of the use;. Any plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity

9. No external lighting shall be installed in connection with the development hereby approved until such details have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details and maintained and retained at all times thereafter.

Reason: In the interests of visual and rural amenity.

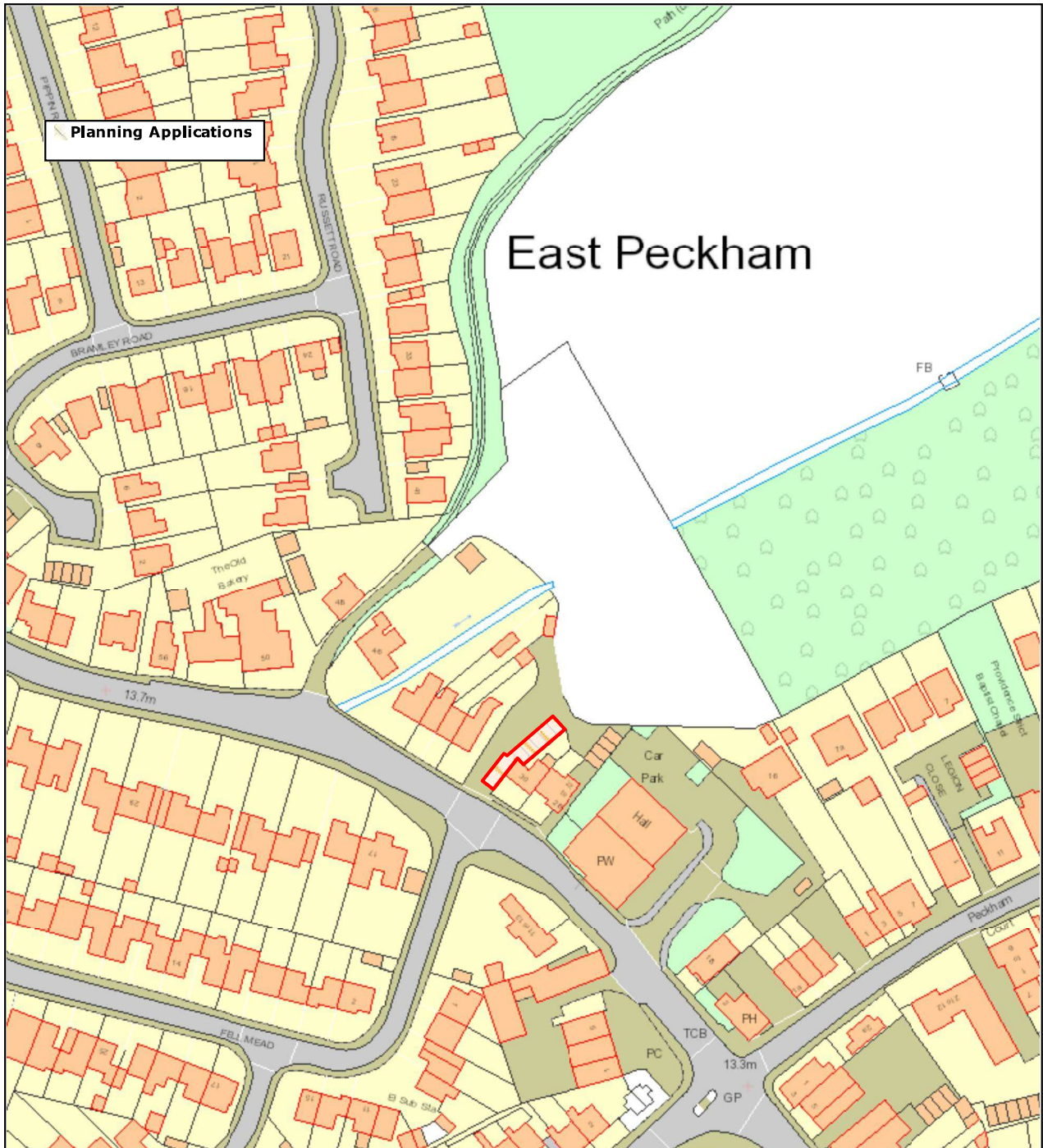
Informative

Your attention is drawn the comments from TMBC Environmental Health Food and Safety in relation to the internal layout and in this regard the applicant/owner is advised to make contact with the Food and safety team prior to fit out - foodandsafety@tmbc.gov.uk.

To avoid undue disturbance to neighbours, 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 Holidays. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. The applicant is therefore advised to prohibit fires on site during the development stage of this project.

Contact: Susan Field

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Planning Applications 24/00144/PA

Scale: 1:1250



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 Kings Hill, West Malling
 ME19 4LZ
 Tel.: +44 1732 844522



Date: 26/7/2024 9:34

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Hadlow (Hadlow)
Bourne

TM/24/00307/PA

Location: Hildenborough, Ashes Lane, Hadlow, TN11 9QU

Proposal: Demolition of existing detached bungalow and garage and replacement 4 x bedroom detached dwelling including basement accommodation and integral garage

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 This application seeks full planning permission for the demolition of existing detached bungalow/garage and the erection of a four bedroom detached dwelling including basement accommodation and integral garage.
- 1.2 The replacement dwelling would be sited on a similar footprint to the existing dwelling and there would be no change to the existing access which is currently located to the north-eastern corner of the site.
- 1.3 The proposed dwelling is designed as a chalet style dwelling with accommodation at first floor level being served by dormer windows within the roof slope. The attached garage would be subservient in appearance to the main dwelling.
- 1.4 This application also draws on the refusal in 2008 for a replacement dwelling (08/02442/FL) and comments received in relation to recent pre application advice.
- 1.5 This application omits the detached one-bedroom annex and the detached triple garage, which were highlighted as concerns in relation to the 2008 application. The omission of these elements was welcomed in the pre application response. However, this application incorporates a basement, which did not form part of the pre application scheme.

2. Reason for reporting to Committee:

- 2.1 This application is referred to committee by Councillor Steve Crisp on Green Belt grounds and in regard to the overall size of the dwelling for the site.

3. The Site:

- 3.1 The site lies outside of the confines of a settlement and is within the Metropolitan Green Belt and Countryside.

- 3.2 Hildenborough is a 1950s detached bungalow with central pitched roof. The dwelling has been substantially extended by way of large flat roofed extensions to the rear and sides. A detached flat roof garage is set forward of the main house.
- 3.3 The dwelling is set back from the boundary of the site and benefits from a good sized front garden. A vehicle access from Ashes Lane is located to the northeast corner of site with parking for around 4 vehicles
- 3.4 Along the frontage of the site and to the rear of the bungalow are various mature trees. The existing trees to the front of the site are covered by a tree preservation order.

4. Planning History (relevant only):

08/02442/FL - Refuse - 18 December 2008

Demolition of existing bungalow, garage and office building and construction of detached chalet house, a detached one bedroom annexe and a detached triple garage

5. Consultees:

Hadlow PC

- 5.1 Objects due to inappropriate development within the Green Belt due to its 'bulk'.

TMBC Environmental Health Protection

5.2 Environmental Protection

- 5.3 Due to the location of the development within a residential area EHP are suggesting an informative in relation to Hours/Bonfires:

To avoid undue disturbance to neighbours, 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 Holidays. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. The applicant is therefore advised to prohibit fires on site during the development stage of this project.

5.4 Contaminated Land

- 5.5 Based on the review of the Desk Study Report (Geo-Environmental Services Ltd, 1st February 2024). The report presents the findings of a desk study and site walkover. It adequately reviews the history and environmental setting of the site. Significant contamination is not expected; however the report recommends an intrusive

investigation due to the possibility of aerial deposition from nearby historical activities. I therefore recommend the following conditions:

Standard Contamination 2 (no phasing) (Submission of Remediation Scheme & Implementation):

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

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

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

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

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2023 (paragraphs 189 - 191).

Standard Contamination 3 (no phasing) (Verification):

Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

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

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

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2023 (paragraphs 189 - 191).

5.6 TMBC Tree Officer

- The majority of the trees to the front are protected by TPO.
- T10 and T1 to the front and to the side are not protected.
- Application seeks to remove T3, which is adjacent to the existing driveway. No objection is raised to the removal of this tree as it is not in good condition. However, this will be subject to the planting of an appropriate replacement tree (deciduous/native) to the front of the dwelling. Secured via a condition.
- Tree work specified at section 5.2 of the AIA & Method Statement dated June 2024 likely to be acceptable (provided an appropriate replacement is planted following the removal of T3 as referred to above).
- Main concerns related to the tightness of the site as demonstrated by the tree protection plan drawing ref J21344 Arb TPP dated 26 Feb 2024 which is included in the AIA and Method Statement document dated February 2024. This shows once the tree protection measures are in place very limited space for storage of materials, contractor parking, spoil/muck away etc. The amended report (dated June 2024) and J21344_Arb_TPP_B shows altered tree protection details which will afford a little more construction working space whilst still providing adequate protection of the trees. However, it is still going to be tight and tree protection measures will need to be respected throughout the development to avoid/minimise damage to trees. It is also understood that the scheduling of the construction work has not yet been finalised (as is typical of construction proposals at this stage).
- Sufficient information has been provided to demonstrate that it should be feasible to construct the proposals with appropriate tree protection measures – but the submitted arboricultural method statement will need to be updated to reflect the finalised details regarding (e.g. phasing of works and services) before works begin. Phasing of the development needs to be considered as does the parking for contractors/storage of materials spoil and machinery, etc during each stage of the development from demolition, construction of the basement, etc.
- No details of services have been provided – latest report states “it is understood that the existing underground services are to be reused where possible...”, but the application proposes a basement so this might not be possible and regardless no details of existing have been provided.
- Needs to adhere to BS5837:2012 5.5 and 6.1.

- Any conditions relating to tree protection measures will need to be pre commencement given the sites constraints and that protection should be in place before works begin.
- Any construction management plan needs to take account of arboricultural concerns and should be prepared in conjunction with the finalised arboricultural method statement.
- Discussed landscaping condition but agreed that as an existing dwelling just the tree replacement condition would be sufficient in this case.

No objection is raised in regard to trees, subject to the following conditions:

5.7 **Tree protection and method statement:**

a) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a site specific arboricultural method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) based on an expanding upon the details in the Arboricultural Impact Assessment and Method Statement Revision B report by Greenspace Ecological Solutions dated June 2024 but updated to include full finalised details relating to all the proposed works, including by not limited to complete details regarding the installation of services for the new dwelling and what protection measures, precautions, methods and techniques will be used to prevent/minimise damage to trees during the installation of such services, finalised complete details of the no-dig construction of hard surfaces/temporary surfaces, site set-up and an auditable system arboricultural site monitoring including complete clear schedule of events/phasing, have been submitted to and approved in writing by the Local Planning Authority.

b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

Levels:

a) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation.

Services in relation to trees:

a) No development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with details approved under this condition.

Reason: To safeguard the health of existing tree(s) which represent an important amenity feature.

Replacement tree:

Within 6 months of the commencement of the development hereby approved details of the species, cultivar, size and siting of one replacement tree shall be submitted to the Local Planning Authority for written agreement. The agreed replacement tree shall be then planted before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use. If within a period of five years from the date of any planting, the tree(s) is removed, uprooted or destroyed or dies (or becomes, in the opinion of the local planning authority, seriously damaged or defective), further planting of appropriate size and species shall be planted at the same place in the next planting season.

Reason: To maintain the visual amenities of the area.

Construction Management Plan (details to take account of tree protection measures and accord with details in the arboricultural method statement)

No development shall take place (including ground works or vegetation clearance) until a construction management plan (CMP) has been submitted to and approved in writing by Tonbridge and Malling Borough Council. The CMP shall accord with details in the Arboricultural Method Statement and shall include the following:

- Risk assessment of potentially damaging construction activities;
- Details of any construction exclusion 'buffer' zones to be implemented on site;

- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- Responsible persons and lines of communication;
- Details of any protective fences, exclusion barriers or warning signs to be utilised.

The approved CMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse environmental impacts of development activities are mitigated.

Private Representations

5.8 Two representations were received, both representations supported the scheme in principle but raised concerns as set out below:

- Trees, noting that the design and construction should be carried out in such a way as to avoid harm to the existing mature trees, primarily in the front garden.
- Groundwater movements - specialist investigations need to be carried out to ensure that the proposed design, principally the basement area, does not adversely impact groundwater flows and levels in the area. Impacts could involve obstruction to groundwater flows and raised groundwater levels and even groundwater flooding.
- Water supply and waste water drainage - Specialist investigations should be carried out to ensure any filling or emptying of the proposed swimming pool will not have adverse impacts on neighbouring properties. Hence, it seems likely that filling of the swimming pool could lead to excessively low water pressure in the nearby water mains to the detriment of neighbouring dwellings. Similarly, emptying of the swimming pool could potentially overwhelm the existing waste water system with adverse impact on nearby dwellings and even perhaps localised surface water flooding
- The ridge height - This height should be no higher than the neighbouring property, The Embers, otherwise, we feel it would impact the openness of the Green Belt and dominate the landscape.
- Overlooking/loss of privacy - there should be no windows on the West elevation, overlooking The Embers. Any Juliette balconies should not have any area that can be stepped upon and therefore overlook neighbouring gardens.

- Concern re the construction of the basement and whether this would damage the integrity of our garden side wall and foundations. If the existing house is demolished, we would not want our garden wall and hedging to be part of that.

6. Determining Issues:

6.1 Policy Guidance

6.2 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise.

6.3 The Development Plan currently in force for this area comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP), Development Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010. The National Planning Policy Framework (“NPPF”) and the associated National Planning Practice Guidance (“NPPG”) and National Design Guide are important material considerations

6.4 Principle of Development

6.5 The site lies within the Metropolitan Green Belt, wherein Policy CP3 of the Core Strategy states that the Council will apply National Green Belt Policy.

6.6 Paragraph 152 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. Paragraph 153 adds that when considering any planning application, Local Planning Authorities (LPA) should ensure that substantial weight is given to any harm to the Green Belt. ‘Very Special Circumstances’ (VSC) will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

6.7 Paragraph 154 (NPPF) states, LPA’s should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this includes:

d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and

g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have greater impact on the openness of the Green Belt than the existing development.

6.8 In regard to criterion d), the proposal would replace a building which is in the same use. However, the NPPF does not provide guidance on what is considered ‘materially

larger' nor does the Council have a specific policy or adopted Supplementary Planning Guidance on this matter. Whether or not a replacement building is 'materially larger' is a matter of planning judgement, having regard to the particulars of a proposed development and the relevant site-specific circumstances.

- 6.9 Therefore, the test for 'materially larger' under paragraph 154 d) is to be taken on a case-by-case basis, taking into consideration footprint, volume, floor space, scale and bulk and any harm identified on the openness of the Green Belt.
- 6.10 Turning next to paragraph 154g) (NPPF) which allows 'Limited infilling of previously developed land (PDL). Residential gardens not within urban areas are included in the definition of PDL following *Dartford BC v Secretary of State for Communities and Local Government* [2016] as such the land where the development is proposed is therefore considered to be PDL.
- 6.11 The NPPF does not provide a definition of 'limited infilling' the test for paragraph 154g) is whether the proposal would have a greater impact on the openness of the Green Belt than the existing development.
- 6.12 Therefore, the principle of development is acceptable providing the proposal would either not result in a replacement dwelling that is materially larger or a proposal which would not have a greater impact on openness than the existing development.

Assessment on Openness.

- 6.13 Turning first to the test for 'materially larger' under paragraph 154 d) NPPF. In purely mathematical terms, (based-on floor area) the proposal would result in a 175% increase in floor space over and above the existing dwelling, which is unarguably 'materially larger' than the dwelling it replaces, therefore the proposal would not meet the exception test under paragraph 154 d) NPPF.
- 6.14 Turning next to paragraph 154g) (NPPF) which allows 'Limited infilling' of PDL providing the proposal would not have a greater impact on the openness of the Green Belt than the existing development.
- 6.15 With regard to openness, the leading court cases of *Turner* [2016] and *Samuel Smith* [2020] and numerous subsequent appeal decisions have confirmed that Green Belt openness has a spatial dimension and a visual dimension. The *Turner* judgment asserted that the consideration of openness cannot depend on a volumetric approach alone; rather, it is also necessary to consider the spatial implications of the proposal.
- 6.16 Moreover, it must not be forgotten that these dimensions work in tandem and not in isolation, and in context, a synergy that is not always transparent in assessments of effects on openness, which can appear heavily weighted towards the spatial aspect.

- 6.17 Therefore, when assessing whether the development 'as a whole', would have a greater impact on openness of the Green Belt, it is necessary to look at the wider implications of the proposal and to consider it within its context. The impact on openness will vary according to factors such as size and scale, and the prominence from public and private viewpoints.
- 6.18 Looking just at 'spatial' and at the development as a whole, (which includes the basement), the scale of the proposal, and the changes as a result of it, would impact upon openness due to the introduction of more built form where no built form is currently in place.
- 6.19 It is not disputed that basements in many cases are not visible *per se*, however, they can still harm openness. The overall quantum of development is a relevant consideration in constraining the spread of development in the Green Belt and preventing urban sprawl, even if a proposal is not readily seen. The NPPF indicates that openness is "an essential characteristic of the Green Belt and a fundamental aim of Green Belt policy is to keep land permanently open.
- 6.20 However, turning to the 'visual' perception as a factor which may reduce the spatial harm from the effect of a development on the openness of the Green Belt. The perceived effect upon openness could be less than might be expected because, for example, the development would have a limited effect upon people's perception of openness from beyond the boundary of the site.
- 6.21 In making a visual assessment on the proposed development, in this case, it is necessary to consider, the visual assessment in two parts: what is proposed below ground level; and what is proposed above ground level and the impact each part has (if any) on openness.
- 6.22 As noted above basements can still harm openness, in many cases there are still visible signs of a basement below the ground at ground level, such as lightwells or sunken courtyards etc. In this regard, to ensure that the basement will not have any above ground level impact on the openness of the Green Belt, in this case the basement will be entirely subterranean, not served by light wells etc and only accessible internally. In addition, the basement does not spread beyond that of the proposed footprint of the dwelling. Therefore, the visual perception in regard to openness from the basement would be neutral.
- 6.23 Turning to the dwelling above ground: It is noted that the existing dwelling whilst fairly modest in size, when viewed from the front, spans almost the entire width of its plot. The central main body of the house has a pitched gabled roof with a maximum height of 5 metres, spanning at this height for approximately 10 metres.
- 6.24 The overall spread of development would remain the same, as such the proposed dwelling would not be significantly closer to the side boundaries than the existing, and no further forward within the street scene. Therefore, visually in terms of the

spread of development when viewed from public advantage points this would not be dissimilar to the existing.

- 6.25 The proposed dwelling would however see an increase in overall height, with a maximum height proposed of 7.2m. This additional height is created by the introduction of a hipped, pitched roof spanning approximately 10 metres in length at its maximum height. It is noteworthy that this is the same distance at the existing dwelling albeit 2.2 metres higher. In addition, the application proposes an attached subservient garage with a half-hipped pitch roof approximately 1.4 metres lower than the main roof.
- 6.26 It is acknowledged that this additional height and added built form would result in a loss of visual openness to the Green Belt. However, the proposed dwelling would be viewed in the context of its surroundings and specifically the neighbouring properties. Visually the dwelling has the appearance of a chalet style dwelling with accommodation being provided within the roof slope with an attached subservient garage. Roof formation on the proposed dwelling and garage incorporates hips which reduce the visual bulk.
- 6.27 Therefore, it is considered that the harm created by the proposal would be modest in scale when viewed in the context of the site's location and from public view points, in visual terms.
- 6.28 To conclude, the proposal would result in a 'materially larger' dwelling, it is noted that a significant percentage of the volume is due to the proposed basement and whilst this does not affect openness *per se*, in volume terms the proposal result in a materially larger dwelling than the one it replaces.
- 6.29 However, in terms of limited infilling and openness, on balance, due to the design, scale and location, the proposal as a whole would not have a greater impact on the openness of the Green Belt than the existing development as required by paragraph 154g) NPPF
- 6.30 Given the sites location in the Green Belt, in this case, permitted development rights for extensions to the dwelling and outbuildings will be removed.

Character and Appearance

- 6.31 Paragraph 131 (NPPF) highlights the importance of creating high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.32 Paragraph 135 (NPPF) seeks to ensure that decisions result in developments which are visually attractive as a result of good architecture, layout and landscaping, and are sympathetic to local character and history, including the surrounding built

environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

- 6.33 Policy SQ1 Managing Development and the Environment Development Plan, requires development to protect, conserve and where possible to enhance the character and local distinctiveness of the area.
- 6.34 Policy CP24 of the Tonbridge and Malling Borough Core Strategy requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, layout, siting, character and appearance be designed to respect the site and its surroundings.
- 6.35 The proposed dwelling comprises a chalet style dwelling, with basement and an attached garage. Below ground level the basement will comprise swimming pool, hot tub, with a games room, gym and home cinema.
- 6.36 At ground level the accommodation would comprise a large open plan living/kitchen/dining with pantry, a separate family room, WC and officer/playroom. The first floor accommodation is served by dormer windows to the front and rear providing a master bedroom with ensuite, and walk in wardrobe. A further three double bedrooms one with ensuite together with a family bathroom are also proposed at this level.
- 6.37 The front elevation has been designed to follow a 3-bay approach which is a common feature for this style of property. The two front dormer windows are modest in size. A central two storey part glazed gable in the front elevation reflects that of the adjoining property at "Threeways" (east).
- 6.38 The attached subservient double garage would be to the side and would be approx. 6.7m wide and deep set down by approximately 1.4 metres from the main roof of the proposed dwelling. The roof form would comprise a hipped pitched roof providing internally a walk-in wardrobe and ensuite in the loft space.
- 6.39 In regard to character and appearance it is considered that the proposed dwelling in terms of its scale and overall height would be in keeping with the area and neighbouring properties. The design draws upon features within the surrounding area and specifically 'Threeways' the neighbouring property to the east, which has also been significantly extended.
- 6.40 It is also noted that in regard to the height of the dwelling, whilst the 2008 application was refused, no objection was raised in regard to the height of the main dwelling proposed on that application. There have been no changes to local plan policies or any significant changes to national policy to warrant coming to a different conclusion.
- 6.41 In regard to materials properties within Ashes Lane comprises a diverse mix of styles. The drawings indicate render. However, the agent has suggested that the applicant would like to amend the materials to include brick. Therefore, it is

suggested that a condition is imposed for materials to be submitted and approved by the Council, prior to the commencement of development.

- 6.42 Concluding on character and appearance, it is considered that the proposal would result in a well design scheme, that promotes sustainability and would fit in with the overall form and layout of their surroundings, in compliance with paragraph 135 (NPPF), Policy CP24 of the Tonbridge and Malling Borough Core Strategy and Policy SQ1 Managing Development and the Environment Development Plan.

Neighbour Amenity

- 6.43 Policy CP24 of the Tonbridge and Malling Borough Core Strategy requires that all development must be well designed and respect the site and its surroundings. It outlines that development by virtue of its design which would be detrimental to amenity will not be permitted.

- 6.44 Paragraph 135 (f) of the NPPF advises that:

“Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”.

- 6.45 Third party comments have raised concerns with regard to possible overlooking/loss of privacy to the neighbouring properties, in particular concerns are raised over windows in the western elevation, and the potential overlooking created by any Juliette balconies that have any area that can be stepped out upon.
- 6.46 In regard to the Juliette balconies on the rear elevation, these do not provide any outside amenity space, moreover, due to the design they are set in slightly within the frame of the dormer window surrounds which will limit views over the neighbouring properties.
- 6.47 There are no windows proposed in the flank elevations, and a condition would be imposed to restrict windows in these elevations. A roof light is proposed in the western flank roof slope, which serves the ensuite. It is not considered due to the position of the window that this would create any unacceptable overlooking.
- 6.48 Therefore, to conclude on neighbour amenity, subject to conditions regarding windows in the flank elevation, the proposal would not harm neighbour amenity and as such accords with Policy 24 of the Tonbridge and Malling Borough Core Strategy and the aims of the NPPF.

Access and Parking

- 6.49 Paragraph 114 of the NPPF states that, in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, inter alia, safe and suitable access to the site can be achieved for all users. Paragraph 115 adds 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.

6.50 Policy SQ8 of the Managing Development and the Environment DPD states that development proposals should comply with the adopted parking standards and development proposals will only be permitted where they would not significantly harm highway safety.

6.51 In regard to the access, this remains unchanged.

6.52 The Kent Design Guide Review: Interim Guidance Note 3 Residential Parking sets out that for a 4 bed dwelling, 2 independently accessible spaces are required, there is noted to be parking provision within the site for 4 vehicles.

Ecology and Biodiversity

6.53 Paragraph 180 of the NPPF advises planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity. Paragraph 186 of the NPPF states if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.

6.54 Policy NE2 Managing Development and the Environment Development Plan, outlines that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced. Policy NE3 Managing Development and the Environment Development Plan also states development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in an overall enhancement. Proposals for development must make provision for the retention of the habitat and protection of its wildlife links. The Council will impose conditions, where necessary and appropriate, to minimise disturbance, protect and enhance a site's ecological conservation value, to ensure appropriate management and monitoring and creating new or replacement habitats of enhanced ecological value

6.55 In regard to biodiversity, as Members are aware, since the 2 April 2024, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain. However, this application was submitted prior to the 2 April 2024 and therefore BNG is not applicable.

Trees and Landscaping

6.56 Policy NE4 of the Managing Development and the Environment DPD states, amongst other things, that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new

woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network as illustrated on the Diagram. This includes provision of new habitats as part of development proposals.

6.57 Paragraph 136 of the NPPF (2023) recognises the importance of trees and states:

“Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.”

6.58 As already noted along the frontage of the site and to the rear of the dwelling are various mature trees. The existing trees to the front of the site are covered by a tree preservation order (TPO Ref: 2, 2010).

6.59 The application was accompanied by an Arboricultural Impact Assessment and Method Statement (AIA) together with a Tree Constraints Plan. The AIA report concludes trees, T3 (located adjacent to the entrance) and T30 (location to the rear on the western elevation) should be removed, however, their removal is not to facilitate the development, they are suggested to be removed for Arboricultural reason. T3 forms part of the group of TPO's protected to the front of the dwelling.

6.60 The AIA also proposes T4 (to the front of the dwelling) to be pruned prior to the demolition of the existing dwelling. This would involve a crown lift to clear 10 metres over the existing dwelling, but secondary branches only.

6.61 In addition, it is acknowledged that in regard to T2 and T4, the hard surface will remain in situ throughout the demolition and construction phase to act as ground protection. Once complete, the hard surface will be removed, and this will be in accordance with the methodology outlined in Section 6.3. T4 and T5 will be affected by the installation of a temporary hard surface for contractor parking within the RPA. This will involve the laying of a hard surface, in accordance with the 'no dig' principles outline in the Arboricultural Association's Guidance Note 12 and utilise a cellular confinement system such as Cell Web as a subbase.

6.62 The Council's Tree Officer reviewed the AIA and Tree Protection Plan and a subsequent discussion then took place with the Case Officer in which it was noted:

- Application seeks to remove T3, which is adjacent to the existing driveway. No objection is raised to the removal of this tree as it is not in good condition. However, this will be subject to a replacement tree (deciduous/native) to the front of the dwelling. Secured via a condition.

- It was noted that in regard to the suggested lifting of the crown to T4 to 10 metres this was only secondary limbs as such was considered on balance to be acceptable.

6.63 The Council's Tree Officer's main concerns related to the tightness of the site as referred to above. There will be limited space for the storage of materials, contractor parking, spoil/muck away etc would be available.

6.64 It was considered that the method statement needed to be updated to reflect these details which are required upfront given the tightness of the site. It was suggested that these details should be provided as phasing plans, i.e. showing the parking/storage area, etc during each stage of the development from demolition, construction of the basement, etc. In addition, it was noted that no details of services have been provided albeit it is acknowledged that this is a replacement of an existing dwelling.

6.65 An updated AIA and Method Statement has been submitted, to reflect the comments noted above. No objection is raised in regard to the trees on site subject to pre commencement conditions, including the submission of a CMP, finalised arboricultural method statement and tree protection plan(s), levels details, services in relation to trees and tree replacement condition.

6.66 In relation to landscaping, it was acknowledged that as an existing dwelling a landscaping condition was not required.

Contaminated Land

6.67 The application is accompanied by a Desk Study Report (Geo-Environmental Services Ltd, 1st February 2024). The Council's Environmental Health Protection Officer notes the report presents the findings of a desk study and site walkover. Confirming that it adequately reviews the history and environmental setting of the site, and that significant contamination is not expected. However, the report recommends an intrusive investigation due to the possibility of aerial deposition from nearby historical activities and therefore conditions are recommended.

6.68 Subject to conditions the proposal is therefore in accordance with Core Strategy Policy CP1 and the NPPF.

Climate Change

6.69 Paragraph 158 of the NPPF requires Development Plans to take a proactive approach to mitigating and adapting to climate change. It encourages new development to avoid increase vulnerability to the range of impacts associated with climate change. Where there are proposals in vulnerable areas care is to be taken to mitigate and consider green infrastructure. In addition, proposals should help to reduce greenhouse gas emissions and increase the use of renewable and low carbon energy.

6.70 The application proposes the use of solar panels to the rear roof slope and a condition would be imposed for these to be installed prior to the occupation of the dwelling.

6.71 The amended Building Regulations under Approved Document S also require that new developments must include spaces with access to electric vehicle charging points equal to the number of new dwellings and that cable routes/infrastructure should be provided to other parking spaces. Where charging points would have previously been secured by condition, this is no longer reasonably required.

Conclusion

6.72 In light of the above considerations, I put forward the following recommendation:

7. Recommendation:

7.1 APPROVE subject to the following:

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 91a f of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Existing Site Location Plan – Drawing No. 001 Rev. P1

Proposed Site Plan – Drawing No. 002 Rev P2

Proposed Basement Floor Plan – Drawing No. 003 Rev P2

Proposed Ground Floor Plan – Drawing No. 004 Rev P2

Proposed First Floor Plan – Drawing No. 005 Rev P2

Proposed Roof Plan – Drawing No. 006 Rev P2

Proposed Elevations – Drawing No. 007 Rev P2

Existing and Proposed Street Scene (front) - Drawing No. 008 Rev. P1

Existing and Proposed Street Scene (rear) - Drawing No. 009 Rev. P2

Desk Study Report by Geo Environmental Ltd – Doc Ref: GE22283/DSR/FEB24
Version 1.0

Arboricultural Impact Assessment and Method Statement Rev B by GES dated
June 2024.

Tree constraints Plan – Drawing No. J21344_Arb_TCP dated 03.11.23

Appendix Tree Survey Ref: J21344 Arb TSS dated 12.09.23.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

- 3 No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall take place until details 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.

4. a) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a site specific arboricultural method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) based on an expanding upon the details in the Arboricultural Impact Assessment and Method Statement Revision B report by Greenspace Ecological Solutions dated June 2024 but updated to include full finalised details relating to all the proposed works, including by not limited to complete details regarding the installation of services for the new dwelling and what protection measures, precautions, methods and techniques will be used to prevent/minimise damage to trees during the installation of such services, finalised complete details of the no-dig construction of hard surfaces/temporary surfaces, site set-up and an auditable system arboricultural site monitoring including complete clear schedule of events/phasing, have been submitted to and approved in writing by the Local Planning Authority.

b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

5. a) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of

access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation.

6. a) No development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the Local Planning Authority.
- b) The development shall thereafter be implemented in accordance with details approved under this condition.

Reason: To safeguard the health of existing tree(s) which represent an important amenity feature.

7. Within 6 months of the commencement of the development hereby approved details of the species, cultivar, size and siting of one replacement tree shall be submitted to the Local Planning Authority for written agreement. The agreed replacement tree shall be then planted before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use. If within a period of five years from the date of any planting, the tree(s) is removed, uprooted or destroyed or dies (or becomes, in the opinion of the local planning authority, seriously damaged or defective), further planting of appropriate size and species shall be planted at the same place in the next planting season.

Reason: To maintain the visual amenities of the area.

8. No development shall take place (including ground works or vegetation clearance) until a construction management plan (CMP) has been submitted to and approved in writing by Tonbridge and Malling Borough Council. The CMP shall accord with details in the Arboricultural Method Statement and shall include the following:
 - Risk assessment of potentially damaging construction activities;
 - Details of any construction exclusion 'buffer' zones to be implemented on site;
 - Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - Responsible persons and lines of communication;
 - Details of any protective fences, exclusion barriers or warning signs to be utilised.

The approved CMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse environmental impacts of development activities are mitigated.

9. No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:
- a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

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

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

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2023 (paragraphs 189 - 191).

10. Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR

11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

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

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2023 (paragraphs 189 - 191).

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no development falling within Class(es) A, B, D and E of Part 1 of Schedule 2 to the said Order shall be carried out without the prior consent in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over future development on the site.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order), no windows or similar openings shall be constructed within the side flank elevations (east and west).

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

13. Prior to the occupation of the dwelling, the solar panels to be provided as shown on Proposed Elevations – Drawing No. 007 Rev P2 shall be implemented and thereafter managed and maintained in accordance with the approved details.

Reason: To ensure that the development is carried out in accordance with the plans and documents hereby approved.

Informative

To avoid undue disturbance to neighbours, 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 Holidays. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. The applicant is therefore advised to prohibit fires on site during the development stage of this project.

Contact: Susan Field

Planning Applications



Planning Applications 24/00307/PA

Scale: 1:1250



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Date: 26/7/2024 9:36

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Planning committee area 2 Planning appeal decisions for area 2

TMBC ref: 23/01738

PINs Ref: APP/H2265/W/23/3334514

Site Address: Land rear of 119 & 121 Teston Road West Malling

Description of Development: S73 Application to vary planning condition 10 (plans) of TM/23/00436/TDCMIN technical details of TM/20/00277/PIP to allow for first floors extensions to the garages

Appeal Outcome: Appeal Allowed 6 June 2024

[Appeal Decision](#)

Costs awarded: N/A

TMBC ref: 22/00543

PINs Ref: APP/H2265/W/23/3333798

Site Address: Dux Farm Buildings Dux Lane TN15 0RB

Description of Development: Demolition of existing commercial buildings and open-sided agricultural building and residential redevelopment of the site, comprising 1 no. single storey detached dwelling & 3 no. detached 2-storey dwellings with associated curtilages, parking and access

Appeal Outcome: Appeal Allowed 24 June 2024

[Appeal Decision](#)

Costs awarded: N/A

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Agenda Item 10

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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