

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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**Chief Executive**  
Damian Roberts

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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

22 October 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, 30th October, 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/code-of-conduct-for-members).

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

4. Minutes 9 - 12

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 18 September 2024.

5. Glossary and Supplementary Matters 13 - 20

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/24/01452/PA - Land Known as Mumbles Farm, Crouch Lane, Borough Green 21 - 30

Lawful Development Certificate Existing: Section 191, Town and Country Planning Act 1991, for the change of use of land from Agricultural Land to use as a Caravan Site for the siting of a static caravan for human habitation and land used in conjunction with that human habitation, as defined in Section 1(4) of the Caravan Sites and Control of Development Act 1960

### **Matters for Information**

7. Planning Appeals, Public Inquiries and Hearings 31 - 32

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

8. Urgent Items

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

## **Matters for consideration in Private**

9. Exclusion of Press and Public 33 - 34

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

## **PART 2 - PRIVATE**

10. Urgent Items

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

## **MEMBERSHIP**

Cllr 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](mailto: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](mailto: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, 18th September, 2024

**Present:** 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 and Cllr M Taylor

**In attendance:** Councillor D Thornewell was also present pursuant to Council Procedure Rule No 15.21.

#### PART 1 - PUBLIC

##### **AP2 24/25 DECLARATIONS OF INTEREST**

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

##### **AP2 24/26 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 2 Planning Committee held on 7 August 2024 be approved as a correct record and signed by the Chairman.

##### **AP2 24/27 GLOSSARY AND SUPPLEMENTARY MATTERS**

Decisions were taken on the following applications subject to the pre-requisites, informatives, conditions or reasons for refusal set out in the report of the Director of Planning, Housing and Environmental Health or in the variations indicated below. Any supplementary reports were tabled at the meeting.

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

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

**AP2 24/28 TM/24/00138/PA - LAND NORTH AND EAST OF TREE HOUSE,  
YOPPS GREEN, PLAXTOL, SEVENOAKS**

Installation of ground mounted solar array on adjacent field for domestic energy supply at the residential dwelling

Due regard was given to the determining issues and conditions as detailed in the report of the Director of Planning, Housing and Environmental Health, with particular reference made to a proposal from Members for a strengthened landscaping condition in respect of the planting and maintenance of native and mature hedges along the site boundaries, including an additional requirement on a minimum height of the hedges to be maintained in order to protect and enhance the appearance of the site and locality being situated within the Green Belt and the Kent Downs National Landscape.

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

- (1) an amended Condition 3 in the report to reflect a more detailed and strengthened landscaping requirement in respect of the native species of the hedges, location to be planted and a minimum height of the hedges to be maintained at no less than 2.5m above natural ground level throughout the 10 years of maintenance; and
- (2) final wording of the amended Condition 3 and, if deemed appropriate, an additional condition in order to reflect the strengthened requirements on the landscaping, being delegated to the Director of Planning, Housing and Environmental Health to agree and to be confirmed as set out in the Decision Notice to be published by the Planning Services of the Borough Council.

[Speakers: Cllr M Crane (on behalf of Plaxtol Parish Council) and Mr J Robinson (member of the public) addressed the Committee in person.]

**AP2 24/29 TM/22/01570/OA - LAND NORTH EAST AND SOUTH OF 161  
WATERINGBURY ROAD**

Outline Application: All matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Wateringbury Road

After careful consideration of the points raised by the speakers and the submitted details and conditions set out in the main and supplementary reports of the Director of Planning, Housing and Environmental Health, Members expressed significant concern in respect of the lack of assessment of potential impact of the proposed development on the surrounding listed buildings and non-designated heritage assets and the East Malling Conservation Area, with no regard having been given to the East Malling Village Conservation Area Appraisal in the report.

In order for a report from the Conservation and Case Officer to be prepared to assist Members of the Committee in making an informed decision, a deferment was therefore proposed and subsequently agreed by Members to enable the matter to be reported back for consideration at a future meeting of the Committee.

**RESOLVED:** That the planning application be DEFERRED to enable a Conservation and further Case Officer report to be prepared in order to assess the impact of the proposed development on the East Malling Conservation Area and surrounding listed buildings and non-designated heritage assets, with due regard to be given to the East Malling Village Conservation Area Appraisal.

[Speakers: Mr M Crowcroft, Ms F Reynolds, Mr J Colvile, Ms F Saunders, Mr J Allen, Mrs N Allen, Ms D Thomas, Mr M Page and Mr S Brett (members of the public) and Mr A Wilford (agent on behalf of the Applicant) addressed the Committee in person.]

#### **AP2 24/30 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 24/31 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 10.42 pm

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## **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 Tunbridge 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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**Platt**  
Borough Green And Platt

**TM/24/01452/PA**

**Location:** Land Known as Mumbles Farm, Crouch Lane, Borough Green.

**Proposal:** Lawful Development Certificate Existing: Section 191, Town and Country Planning Act 1991, for the change of use of land from Agricultural Land to use as a Caravan Site for the siting of a static caravan for human habitation and land used in conjunction with that human habitation, as defined in Section 1(4) of the Caravan Sites and Control of Development Act 1960

**Go to:** [Recommendation](#)

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## 1. Description of Proposal:

- 1.1 This application seeks to establish a lawful use on land at Crouch Lane, (also known as Mumbles Farm) Borough Green, Sevenoaks. The applicant asserts that the land has been use for the siting of a static caravan for human habitation, and land used in conjunction with that human habitation, as defined in the Caravan Sites Act 1968 Section 1(4) thus exceeding 10 years and therefore would now be Lawful.
- 1.2 As members will be aware it is possible for the Council to choose to issue a lawful development certificate for a different description from that applied for, as set out in the National Planning Policy Guidance paragraph 009.
- 1.3 As set out below, this above description is not precise enough and not supported by the evidence. A revised description has therefore been substituted as follows:
- 1.4 Lawful Development Certificate Existing: Section 191, Town and Country Planning Act 1991, for the change of use of land from Agricultural Land to use as a Caravan Site for the siting of a static caravan for human habitation and land used in conjunction with that human habitation, as defined in Section 1(4) of the Caravan Sites and Control of Development Act 1960.

## 2. Reason for reporting to Committee:

- 2.1 This application is referred to Committee by Councillor Mike Taylor on the grounds of:
  1. We do not believe there is proof that the caravan referred to has been on site or in use as a residence for over ten years,
  2. Change of use would harm the openness of the Greenbelt.

### **3. The Site:**

- 3.1 The site concerns a parcel of land located on the north side of Crouch Lane. The site is accessed directly from Crouch Lane. The caravan is located to the southeast of the site.
- 3.2 In purely policy terms the site is located within the Metropolitan Green Belt, Mineral Safeguarding Area, Archaeological Notification Area and Ground Water Vulnerability Zone. The site is not location within Flood Zones 2 or 3.

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

- 4.1 There is no recent "planning" history on the site or the wider site edged in blue since 1998. Albeit that an identical Lawful Development Certificate (Existing) for the change of use of land for the siting of a static caravan for human habitation and land used in conjunction with that human habitation, creating a caravan site as defined in the Caravan was refused 09 July 2024 under reference TM/24/00721/PA.
- 4.2 Following the decision, it become apparent that the evidence put forward by the Council was not sound, as such the certificate of lawfulness application has been resubmitted for the Council to re consider.
- 4.3 The site has been subject to enforcement investigations, these are set out in more detail within the Council's evidence.

### **5. Consultees:**

- 5.1 *Platt Parish Council:* No comments received at the time of writing the committee report.
- 5.2 *Private Representatives:* This application appears to be a duplication of that made under reference 24/00721. I cannot identify any significant difference, so I wish to repeat the objection that I made to the earlier application for a Certificate of Lawful Development.

*I have driven past this site to visit the egg farm on many occasions in the last ten years and I have no indication that anyone was living at Mumbles Farm. I also delivered leaflets to all occupied properties in Crouch Lane in connection with the construction of the new War Memorial Hall and there was nobody living in the caravan at that time.*

### **6. Determining Issues:**

- 6.1 It is first important to clarify that whilst the site is located within the Metropolitan Green Belt, consideration on whether the application would be inappropriate development or whether the proposal would harm the openness of the Green Belt is not for consideration in this case.

6.2 This application is a certificate of lawfulness application for an existing use and the only matter for consideration is whether on the balance of probabilities that the use of the land, (which in this case is for the siting of a static caravan for human habitation) has occurred for a period of more than 10 years.

6.3 The evidence submitted with an application for a certificate of lawfulness for an existing development must be sufficiently precise and unambiguous to demonstrate that, as in this case, the change of use of the land and the occupation of the static caravan has occurred more than 10 years prior to the application.

6.4 In this regard Section 191 of the Town and Country Planning Act 1990 (as amended) allows for people to ascertain whether the existing use of buildings or other land is lawful, it states:

*“If any person wishes to ascertain whether (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason), and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force”.*

6.5 If the Local Planning Authority (LPA) are provided with the information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the LPA or a description substituted, they shall issue a certificate to that effect.

6.6 Section 171B of Part VII of the Town and Country Planning Act 1990 (as amended) states that:

*“In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach”.*

6.7 The National Planning Policy Guidance (NPPG) provides advice on how applications for Certificates of Lawful Development are to be considered. It states at paragraph 006:

*“The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land...”*

*“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability”.*

### **Applicants evidence**

The evidence put forward in support of the application consists of:

- Planning Statement
- Site location Plan – Drawing No. CP/01/24/ Rev A
- Signed declaration from Mr T Williams
- Signed declaration from Mr Benjamin Harvey
- Signed declaration from Mr Patrick Delaney
- Signed declaration from Ms Sarah Randles
- Council Tax notification dated 28 April 2024.
- The application is also accompanied by two appeal decisions:
  - Appeal Ref: APP/L3245/X/19/3222768 - Clematis Cottage, 4 Rudge Heath Road, Rudge Heath, Claverley WV5 7DJ
  - Appeal Ref: APP/B3410/X/19/3239498 - Annexe/Water Lodge, Lodge Hill, Tutbury, Burton-on-Trent, Staffordshire DE13 9HF

6.8 The Planning Statement confirms that *“the application is accompanied by 4 sworn statutory declarations setting out evidence of fact. This evidence, having been sworn before a solicitor is subject to the Statutory Declarations Act 1835, filing a false declaration knowingly and wilfully is a criminal offence under Section 5 of the Perjury Act 1911 and you may be imprisoned for up to 2 years or fined or both”*

6.9 The planning statement also contends that *“The applicants submit precise and unambiguous evidence that clearly demonstrates that the material change of use of the land to a caravan site has occurred as a matter of fact for longer than the required period”*

6.10 The timeline summary within the Planning Statement is set out as follows:

- Change of use of the Caravan from ancillary to agriculture to use for human habitation commences - January 2014
- Time of application submission – Originally May 2024
- Total time used for human habitation prior to Application submission - 10 years 3 months plus.

6.11 In support of the claim the declaration evidence sets out the following:



*November 2013*

- 6.12 Within Mr Williams declaration (bullet point 6) reference is made to contact with an enforcement officer for the LPA in late 2013 concerning an alleged allegation that the caravan was being lived in. It is also stated, up until this point the caravan had never been lived in and it was only ever used as ancillary to agriculture.
- 6.13 Bullet point 7 (Mr Williams declaration) notes that the case was closed by the LPA 22 November 2013 and a copy of the Council's letter is included at Annexe 4 of Mr Williams declaration.
- 6.14 Reference to an enforcement visit is also set out within the Planning Statement. This notes that *"The LPA conducted a planning enforcement investigation into the caravan and its use which was assigned the reference 13/00082/USEM, this concluded on November 22, 2013 that the caravan at that time was not being used for human habitation and was ancillary to agriculture"*

*January 2014*

- 6.15 Mr Tony Williams - Declares that the use of the caravan for human habitation and the land outlined blue in conjunction with that Human Habitation, began January 2014 and continued without interruption until he sold on 30 March 2022 when he sold the property to Benjamin Harvey. A total period of use 8 years and 2 months.
- 6.16 In support of the above Ms Sarah Randles - Declares as to the use having commenced in January 2014 as a tenant of Mr Tony Williams and that she remained living at the property without break until 20 March 2022.

*March 2022*

- 6.17 Mr Benjamin Harvey declaration set out facts in relation to the continued use of the caravan for human habitation, where he declares that he moved into the caravan on the day of purchase, 30 March 2022 and remained living in the caravan until selling the property 23 September 2023. - A total period of use 1 year and 6 months
- 6.18 Mr Havey's declaration notes that at the time of the agreement to purchase the property the static caravan was occupied by a tenant (Ms S Randles).
- 6.19 Mr Harvey's declaration also refers to the enforcement enquiry and confirms that the prior to the caravan being let to Ms Randles it had only ever been used in connection with tending the land and to provide welfare facilities for any person working or visiting the land.

*September 2023 - to date*

- 6.20 Mr Patrick Delaney - Declares that he moved into the property on 24 September 2023 and remained living for a total period of 6 months, until a new tenant was found on 4 March 2024, the new tenant currently lives at the property.

- 6.21 Mr Delaney's declaration includes photographs of the inside and outside of a caravan. It also includes a copy of a tenancy agreement albeit that the agreement is a little out of focus.
- 6.22 In addition, the Planning Statement references Council Tax, in this regard it states that "*Mr Holloway does not pay separate Council Tax and offers no explanation in relation to his election not to register to pay council tax*". The Planning Statement then goes on to state "*Council Tax or the lack of payment of Council Tax is often mistakenly used by LPA to refuse S191 applications, I submit for the LPA consideration, two Inspectorate decisions where the non-registration of Council tax and how bills are paid or arranged does not fall to confirm that a use has not occurred*".
- 6.23 In regard to the reference to "Mr Holloway", the LPA is presuming that this is a typing error and has within its assessment of the application taken this reference to relate to the current owner of the site Mr Delaney (as set out in the application forms).
- 6.24 Lastly in regard to Council Tax, the application is accompanied by a letter from the Valuation Office Agency (dated 28 April 2024) which sets out that the valuation list has been altered and a new entry has been added as the property comprises a dwelling for Council Tax purposes.
- 6.25 **LPA's evidence**
- 6.26 In addition to the evidence submitted by the applicant it is also necessary to consider the evidence (if any) in possession of the LPA.
- 6.27 It is noted that third-party representation has stated that they have driven past the site on many occasions in the last ten years and there was no indication that anyone was living at Mumbles Farm. In addition, it was also noted that "*I also delivered leaflets to all occupied properties in Crouch Lane in connection with the construction of the new War Memorial Hall and there was nobody living in the caravan at that time*".
- 6.28 The LPA acknowledge these comments but affords them little weight in its assessment of the application as they are not substantiated by any evidence.
- 6.29 The LPA visited the site in 2002, (Enforcement Ref: 02/00261/ANAUTU), 2004 (Enforcement Ref: 04/00263/UNAUTU) and in November 2013 (Enforcement Ref:13//00082/USEM), in connection with the caravan being in residential occupation.
- 6.30 Following the LPA's investigation, which included visiting the site (on all three occasions) the LPA concluded that the caravan was used as shelter in connection with the animals on site. Such a use does not require the benefit of planning permission from the LPA. Therefore, it was concluded in 2013 that no breach of planning control was occurring.

- 6.31 The LPA must afford this significant weight in its assessment of the application.
- 6.32 In 2015 a further allegation was made to the LPA that the caravan on site was being used for residential purposes. (Enforcement Ref: 15/00380/USEM) According to the enforcement file (at paragraph 6.1) it states *"I visited the site and observed a caravan in situ. It did not appear to be inhabited"*.
- 6.33 Concluding at paragraph 7.1 *"The caravan on site has been on site for a long period of time and is not used for residential purposes"*.
- 6.34 Attached to the enforcement file are two photographs which shows a caravan, one from a distance, taken from the road the other slightly closer but also taken from the road.
- 6.35 It has come to light that the photographs attached to the enforcement file do not relate to the application site. Therefore, no weight can be afforded to these photographs.
- 6.36 In addition, the statement within the enforcement file at paragraph 6.1 is ambiguous as it states "I visited the site and observed a caravan in situ. It did not appear to be inhabited". (my emphasis added). This statement implies that an internal inspection of the caravan was not undertaken.
- 6.37 Given that the Council cannot confirm that the correct site was visited and moreover cannot demonstrate that the caravan was inspected internally, little weight can be afforded to the enforcement investigation in 2015.

**Comments on the applicant's evidence in light of the Councils evidence.**

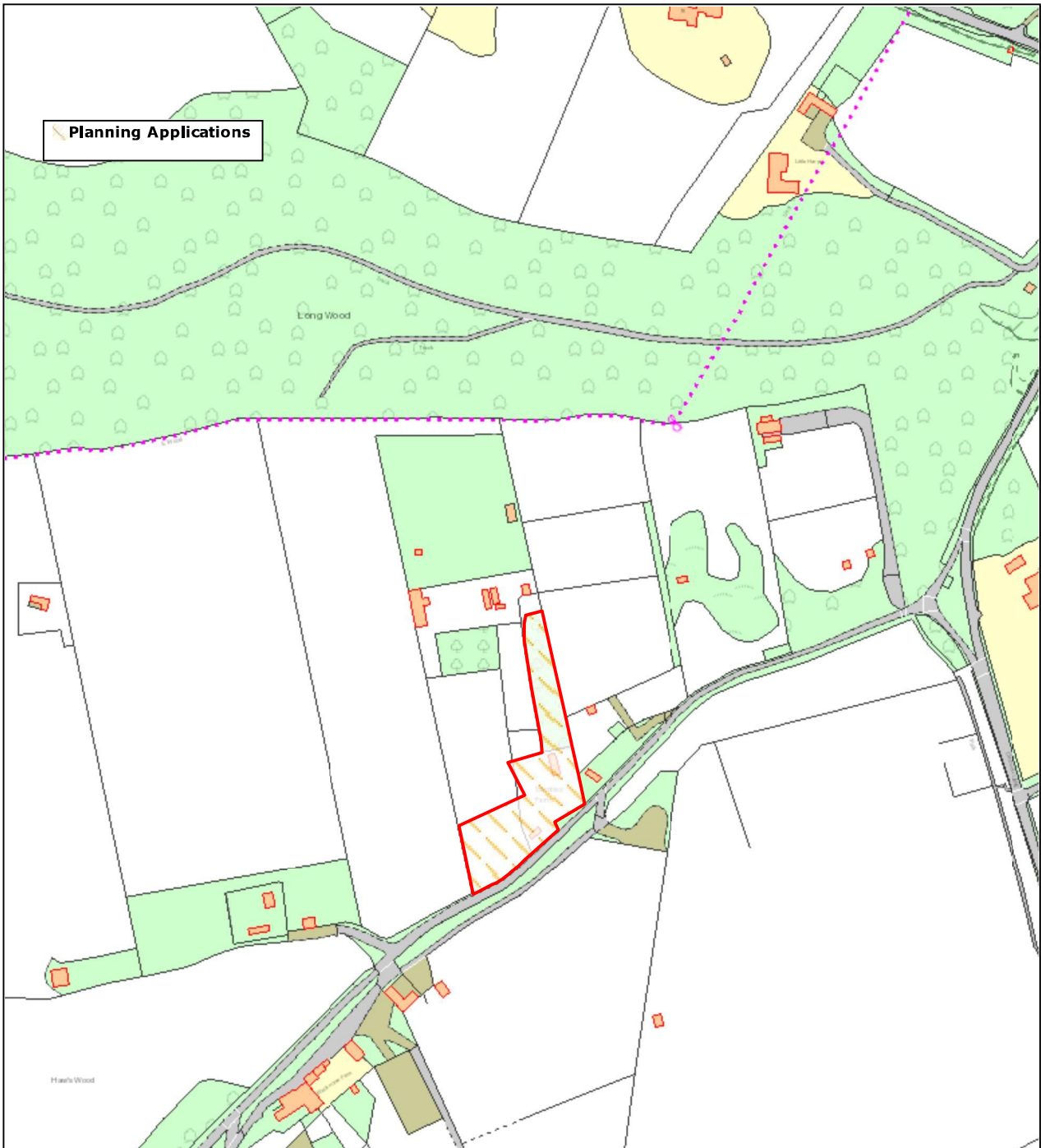
- 6.38 The LPA acknowledges that it does not have any evidence to refute the evidence submitted by Mr Benjamin Harvey and Mr Patrick Delaney and as such on the balance of probabilities it is accepted that the caravan has been used for residential purposes from March 2022 to date.
- 6.39 The LPA acknowledges the two appeal decisions submitted in regard to Council Tax and accepts the Inspectors finding in relation to those appeals. It also acknowledges that the current owner has registered for Council Tax.

**Conclusion**

- 6.40 The onus rests with an applicant to provide sufficient information to make their case in relation to a CLUED application. However, if the LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse to grant a certificate, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

**7. Recommendation: Certificate of Lawfulness is Lawful.**

Contact: Susan Field



**Planning Applications 24/01452/PA**

**Scale: 1:2500**



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Date: 18/10/2024 11:02

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## Planning Committee Area 2

### Planning Appeal Decisions for Area 2 (from 18 Sept – 18 Oct)

TMBC Ref	23/01768/FL
PINS Ref	APP/H2265/D/24/3337192
Site Address	Yew Tree Cottage 437 Bells Farm Road Hadlow
Description of development	Demolition of existing outbuildings and construction of new garage/pool house incorporating changes to hard and soft landscaping
Appeal Outcome	Allowed 6 September 2024
<i>Insert hyperlink to decision</i>	<a href="#">Appeal Decision</a>
Costs Awarded	Not Applicable

TMBC Ref	23/01484/FL
PINS Ref	APP/H2265/D/24/3342473
Site Address	The White House 8 Fortune Way Kings Hill West Malling ME19 4ET
Description of development	Proposed dropped kerb and driveway
Appeal Outcome	Dismissed 11 September 2024
<i>Insert hyperlink to decision</i>	<a href="#">Appeal Decision</a>
Costs Awarded	Not Applicable

TMBC Ref	23/01196/FL
PINS Ref	APP/H2265/W/24/3338252
Site Address	Land off Whitehill abutting London Road Wrotham
Description of development	Change of use of the land, conversion and extension to existing stables to create a two bedroom dwelling. New hardstanding
Appeal Outcome	Dismissed 11 October 2024
<i>Insert hyperlink to decision</i>	<a href="#">Appeal Decision</a>
Costs Awarded	Not Applicable

TMBC Ref	24/00094/PA
PINS Ref	APP/H2265/D/24/3345260
Site Address	15 Offham Road West Malling ME19 6RB
Description of development	Conversion of front garden into driveway for one vehicle21/02156/FL
Appeal Outcome	Dismissed 11 September 2024
<i>Insert hyperlink to decision</i>	<a href="#">Appeal Decision</a>
Costs Awarded	Not Applicable

## Area 2 Planning Committee

TMBC Ref	21/02156/FL & Enfo 21/00085/WORKM
PINS Ref	APP/H2265/W/22/3291814 & APP/H2265/C/22/3291790
Site Address	Land adjacent Maidstone Road Hadlow
Description of development	Change of use of land for the stationing of caravan for residential purposes, together with hardstanding and utility/dayroom ancillary to that use
Appeal Outcome	Appeals Allowed 23 September 2024
<i>Insert hyperlink to decision</i>	<a href="#">Appeal Decision</a>
Costs Awarded	Not Applicable

TMBC Ref	22/01237/FL
PINS Ref	APP/H2265/W/24/3340308
Site Address	Hadlow Manor Hotel Maidstone Road Hadlow
Description of development	Redevelopment of Hadlow Manor Hotel to residential use, conversion of listed building into 6no. flats, demolition of modern extensions and construction of 6no. houses on previously developed land
Appeal Outcome	Allowed 25 September 2024
<i>Insert hyperlink to decision</i>	<a href="#">Appeal Decision</a>
Costs Awarded	Not Applicable



# Agenda Item 9

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

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

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