

Aylesford
Aylesford South

30 January 2019

TM/18/03048/OA

Proposal: Outline Application: Redevelopment of existing garden furniture retail centre (with ancillary cafe) and commercial cattery and small pet boarding centre with 9 no. dwellings comprising 3 no. detached four bedroom houses and 6 no semidetached three bedroom houses with associated alterations to existing access road, new garaging and parking facilities and surface water run off pond

Location: Garden Centre Rear Of 400 Hermitage Lane Maidstone Kent ME16 9NT

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1. Description:

- 1.1 Outline planning permission is sought for the demolition of the existing garden centre buildings and the erection of residential dwellings. The proposal has been amended following initial submission, reducing the number of units and revising the layout to provide 9 dwellings comprising 3 no. detached two and a half storey four bedroom houses and 6 no semi-detached two storey three bedroom houses, along with associated alterations to the existing access road, new garaging and parking facilities, landscaping and surface water run off pond.
- 1.2 This application seeks approval of access, layout, and scale, with the final appearance and landscaping reserved. The layout plan provided shows three detached dwellings backing onto the adjacent Hermitage Court business centre, with the three pairs of semi-detached dwellings backing onto the existing dwelling The Hermitage. A landscaped buffer zone would be maintained 15m in width between the ancient woodland to the south of the site and the developed area.
- 1.3 Access is proposed via the existing track that leads from Hermitage Court, off Hermitage Lane. The existing access leads past the dwelling on site to a small car park serving the garden centre. The access would be widened as part of the development, with new parking and turning areas laid out to serve the new dwellings. Parking for most dwellings would be located on the front drive, some plots with side by side parking; others with tandem spaces; and some instead served by car ports. Two visitor spaces would also be provided.

2. Reason for reporting to Committee:

- 2.1 At the request of Councillor Michael Base in order for the committee to examine if the proposed development conflicts with policies CP5 and CP14 of the TMBCS.

3. The Site:

- 3.1 The site is a Garden Centre containing various buildings and structures, located on the western side of Hermitage Lane on the outskirts of Maidstone. The development site straddles the borough boundary. Adjacent to the site is the hermitage court business centre; to the south is an area of Ancient Woodland; and to the north is an existing dwelling, The Hermitage.
- 3.2 The site is located outside of the settlement confines in open countryside and is well screened by the existing business park. In the wider area a number of development sites are under construction including at Chapelfield Way to the north and Fullingpits Avenue to the south. West of the site across the field is quarry. These developments have had a significant impact on the local landscape character and, as such, it is best described as rural fringe.

4. Planning History (relevant):

TM/11/00940/FL Approved 21 June 2011

Demolition of 2 no. existing Class A1 retail sales buildings & erection of 2 no. replacement Class A1 retail sales building on same footprint

5. Consultees:

- 5.1 Consultees were contacted for both the initial scheme for the higher number of units, and the revised scheme before the committee now. Both sets of comments are set out below for completeness.

Comments in relation to the initial scheme:

- 5.2 PC: This proposal is contrary to Policy CP14 which restricts new development in the countryside.
- 5.2.1 There is a need to maintain the Mid Kent Strategic Gap separating the built up areas of the Medway Gap and Maidstone. Whilst this new development replaces retail units the development will continue the residential sprawl out of Maidstone Borough, further restricting the Mid Kent strategic gap. This development is therefore contrary to Policy CP5.
- 5.2.2 This development will increase traffic movements along the heavily congested Hermitage Lane and the already over capacity A20. This addition traffic movement will primarily be at peak times, which is different to the current traffic movement at this site which is during the day and not at peak time. Therefore no further development whatever the size, should take place along Hermitage Lane until 1) the works required to improve the capacity of the Coldharbour roundabout on the A20 have been completed; 2) the necessary improvements required to the A20/Hall Road/Mills Road junction have been completed; and 3) the required

improvements at the southern end of Hermitage Lane and leading to the junction between Fountain Lane and the A26 Tonbridge Road have been completed.

- 5.3 KCC Economic Development: Requests developer contributions in relation to Primary and secondary education, library book stock and high speed fibre optic broadband connections.
- 5.4 Maidstone Borough Council: Object on the following grounds: (1) The development by virtue of its location being situated within an area and 15m buffer of Ancient Woodland would result in detriment to the Ancient Woodland contrary to Paragraph 175 of the National Planning Policy Framework, and Natural England's Standing Advice on Ancient Woodland. The benefits of the development are not considered to outweigh this significant harm.
- (2) The proposed development due to its urban form of development and layout would result in overdevelopment of the site detrimental to the character and appearance of the area and harmful to the countryside contrary to paragraph 79 of the National Planning Policy Framework.
- 5.5 Kent Fire & Rescue Service: Access is satisfactory
- 5.6 KCC Flood and Water Management: Kent County Council as Lead Local Flood Authority notes the proposed application is for outline planning permission but only appearance and landscaping matters are reserved. Unfortunately no surface water drainage strategy has been provided for the proposed development, therefore we are unable to determine that the proposed layout has adequate provision for sustainable drainage systems, pursuant to paragraph 165 of the National Planning Policy Framework
- 5.7 Natural England – No objection. Natural England advises that the proposals as presented have the potential to adversely affect woodland classified on the ancient Woodland Inventory. Natural England refers you to our Standing Advice on ancient woodland <https://www.gov.uk/ancient-woodland-and-veteran-treesprotection-surveys-licences>.
- 5.8 Southern Water: Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent: A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>.

5.9 Neighbours: 16/0X/9R/7S + site notice. 9 objections, 7 comments in support raised on the following (summarised) grounds in relation to the first scheme:

- Object
- Increase traffic movements
- Roads unable to cope
- No evidence of mitigation
- When will this relentless housebuilding stop
- Caused devastation to this area
- Hermitage Lane one long traffic jam with concrete
- See sense
- Strongly oppose
- Hermitage Lane at gridlock
- Residents cannot get in or out of their homes due to constant traffic jams
- No schools or doctors to cope with additional homes
- Utterly appalling
- Open spaces are being eroded by housing developments
- Traffic chaos
- Horrendous pollution levels
- No infrastructure
- No amenities

5.10 The following comments were received in support:

- Would ease congestion
- Café generates more traffic
- Proposal would result in a reduction in traffic
- Would tidy the area
- Asset to local community
- Shortage of houses in the area
- Already commercial buildings on site
- Traffic caused by poor management system not houses

Re-consultation 21.05.2019

5.11 PC: No objection

5.12 Natural England: No objection

5.13 Southern Water: Comments as before

5.14 Kent Fire & Rescue Service: no further comments provided

5.15 KCC Flood and Water Management: No comments if 9 units as this is a minor application.

5.16 KCC Economic Development: Requests revised contribution towards education and library book stock.

5.17 KCC Highways: The proposals are an outline application for the redevelopment of the existing garden furniture retail centre (with ancillary cafe); commercial cattery and small pet boarding centre with 9 dwellings comprising 6 semi-detached houses and 3 detached house provision, of new access roads and garages and parking facilities, with appearance and landscaping reserved.

Access:

5.17.1 Access to the site is proposed via the existing priority junction that abuts onto Hermitage Court. It should be noted that this access road does not form part of the publicly maintainable highway and therefore falls outside of Kent County Council (KCC) Highway's jurisdiction, as Local Highway Authority (LHA).

5.17.2 The personal injury collision record for both the existing accesses onto Hermitage Court and the B2246, Hermitage Lane have been checked via crash map (www.crashmap.co.uk) for the last 5 year period up to 30th June 2018, and I can confirm that no collisions have been recorded. Consequently, both accesses in question have good personal injury collision records. Having reviewed the applicant's site plan (drawing number: KWTP.02 Rev A) I note that the access road that will serve the proposed dwellings will be provided with an initial width of 3.85 metres, which widens to 4.1 metres in the southern section of the site. Consideration to providing a minimum width of 4.8 metres for the entire length of the service road should be given to safely enable two-way flows. This is particularly relevant given the varying horizontal alignment proposed in the submitted drawings.

5.17.3 An existing footway fronts onto the western side of Hermitage Lane from the Hermitage Court access road, however, this footway is discontinuous. In the interest of promoting sustainable transport the applicant should be required to investigate the feasibility of providing a dropped kerb pedestrian crossing point within the immediate proximity of the site.

Traffic impact:

5.17.4 I note from the applicant's Transport Statement (TS) that a traffic survey was undertaken on Wednesday 27th March 2019 between 08:00 and 09:00, 14:45 and 15:45 and 17:00 and 18:00. This survey recorded traffic flows at the existing access onto Hermitage Court, that serves the uses currently associated with the site, and Hermitage Court's junction with the B2246, Hermitage Lane. The results of this survey demonstrate that the existing garden centre and its associated ancillary uses, cattery and pet boarding centre generate a total of 42 two-way movements (combined arrivals and departures) in the AM peak (08:00-09:00), and 29 two-way movements in the PM peak (17:00-18:00). Of the 42 two-way movements recorded in the AM peak period, 20 arrived from the direction of Hermitage Lane and 9 departed towards the direction of Hermitage Lane, with the remainder arriving from or departing to the wider Hermitage Court estate. Conversely, of the 29 two-way movements recorded in the PM peak period, 15

departed towards the direction of Hermitage Lane and 6 arrived from the direction of Hermitage Lane, with the remainder arriving from or departing to the wider Hermitage Court Estate. Whilst it is disappointing that the applicant has not quantified the number of movements that the proposals are forecast to generate using an industry standard piece of software, such as TRICS (the national trip generation database), it is acknowledged that 9 dwellings will not generate a level of traffic that could be considered 'significant' in its own right.

5.17.5 When considering the net impact of the proposals it is important to consider the level of traffic that could be generated by the sites extant (lawful) use, which in this case is a furniture garden retail centre with associated ancillary services, commercial cattery and small pet boarding centre. Should the proposals be granted permission, then these uses would cease to exist at the site and the resulting level of traffic generated from the development site altered, in line with the new land use permitted.

5.17.6 As demonstrated in the applicant's traffic survey the existing uses on the site generate a total of 42 two-way movements in the AM peak and 29 two-way movements in the PM peak. This is likely to be more than the volume of traffic that could be generated by the development proposals for 9 dwellings. Consequently, it is accepted that the proposals are anticipated to generate less traffic than the sites existing extant use; therefore, the impact of the proposals in highway capacity terms could not be reasonably described as severe in accordance with paragraph 109 of the National Planning Policy Framework (NPPF).

Sustainable travel:

5.17.7 A breakdown of the available sustainable transport opportunities for any future residents of the proposed development has been given in section 2 of the applicant's TS. As highlighted by the applicant Barming train station, which provides services to London and other regional and local destinations at varying frequencies throughout the day, is situated approximately 600 metres north of the development site. The distance to Barming train station is within the maximum suggested walking distance of 2 kilometres (km) for commuting and 1.2 km for elsewhere, (Guidelines for Providing for Journeys on Foot, The Institution of Highways and Transportation, 2000).

5.17.8 In respect of existing public bus stops it has been correctly highlighted by the applicant that the nearest existing bus stop is situated almost directly outside the development site. However, as pointed out by the applicant (paragraph 2.10 of the TS), this stop provides a limited range of services and is therefore likely to have a negligible impact on meeting the travel needs of any future occupants of the development. Although a wider range of services can be accessed from Maidstone Hospital, which is situated approximately 1 km south of the site, the existing footway that front onto the western side of Hermitage Lane that abuts the site are discontinuous.

5.17.9 Consequently, pedestrians will have to cross over to the existing footways on the eastern side of Hermitage Lane in order to access the existing continuous footway links that provide access to Barming train station, Maidstone Hospital and its associated facilities, as well as those within the immediate proximity, such as the nearby Tesco Express store for example. In the interests of promoting sustainable transport the applicant should be required to investigate the feasibility of a dropped kerbed pedestrian crossing point within the proximity of the site.

Parking:

5.17.10 The applicant has proposed to provide 18 car parking spaces. Kent Design Guide Review: Interim Guidance Note 3 (IGN3), which is the county council's adopted parking standards, states that 3-bedroom houses in a suburban location should be provided with a minimum of 1.5 spaces per unit and 4 bedroom houses a minimum of 2 independently accessible spaces per unit. In addition, IGN3 states that visitor parking should be provided at a rate of 0.2 spaces per unit; therefore, a total of 2 (1.8) visitor car parking spaces are required in this instance. It is unclear from the applicant's site plan how the requisite level of visitor parking will be provided. I would therefore be grateful if the applicant could provide clarity on this matter.

5.17.11 Supplementary Planning Guidance (SPG4) Kent Vehicle Parking Standards is the county council's adopted guidance for cycle parking. SPG4 advises that individual residential dwellings should be provided with parking a minimum rate of 1 space per bedroom. The applicant has proposed to provide the required level of cycle parking via sheds in the curtilage of each dwelling. This approach is acceptable to this authority.

Turning and servicing:

5.17.12 I note from the applicant's site plan that a turning head will be provided in the south eastern section of the site. Having reviewed the site plan the turning head measures approximately 10 metres across at its widest place and therefore may be restrictive for the turning requirements of larger vehicles. As a result, swept path analysis should be provided to demonstrate the adequacy of the turning area for the largest vehicle i.e. a refuse freighter that will require access to the development.

Summary:

5.17.13 I would be grateful if the applicant could provide the additional information/consider my initial comments in the first instance. Once the applicant has provided the additional information requested, I will provide further highway-based comments; however, if I can be of any further assistance in the interim period, then please do not hesitate to contact me.

Following discussions with the applicant, the plans were amended in line with KCC Highways comments. The following comments were then received:

- 5.17.14 This response is in addition to this authority's previous consultation responses of 13th March and 6th June 2019. I note that the applicant has submitted a revised site plan (drawing number: KWTP.02 Rev A). As requested by this authority the applicant has confirmed that they will provide a new link from the development site to the existing footway that abuts the development and dropped kerb pedestrian crossing points to allow sustainable onward connections. Whilst the exact location of the crossing has not been confirmed this should be secured by a S278 agreement under the 1980 Highways Act, with exact details of its location and design agreed at the detailed design stage as part of the technical approval process. In addition to confirming that a suitable dropped kerb pedestrian crossing will be provided, a carriageway width of 4.8 metres for the duration of the access road is now proposed to safely enable two-way traffic flows.
- 5.17.15 As well as highlighting amendments to the access arrangements it was identified by this authority that the previous layout lacked the required visitor parking provision. The applicant has addressed this matter by providing the 2 additional visitor parking spaces required within the curtilage of the development. Finally, it was previously requested that swept path analysis be provided to confirm the adequacy of the eastern turning head; although this has not been provided amendments have been made to the layout. Amendments include the provision of a 14 meter long hammer head arrangement to replace the turning circle previously proposed.
- 5.17.16 These arrangements are anticipated to be adequate for the largest sized vehicle that will require access to the development site. I refer to the above planning application and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority. In the event that the Borough Council is minded to approve the application, KCC Highways request that the following works are secured via a S278 agreement:
- Provision of a new dropped kerb pedestrian crossing point on the existing western and eastern footway.
- 5.17.17 The following requirements should be secured via condition:
- Submission of a Construction Management Plan before the commencement of any development on site to include the following:
 - (a) Routing of construction and delivery vehicles to/from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries

(d) Provision of wheel washing facilities

(e) Temporary traffic management/signage.

-Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

-Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.

-Provision of measures to prevent the discharge of surface water onto the highway.

-Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

-Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.

-Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.

-Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.

5.18 Neighbours: 4/0X/0R/4S + site notice. 4 comments in support raised on the following (summarised) grounds in relation to the revised scheme

- Cannot see any reason why development would cause further disruption
- 9 houses will not create as much traffic
- Objectors should read plans and surveys as many of their submitted facts are incorrect
- Fully support the plans
- Traffic system is the cause of traffic
- Housing would tidy up the area and create much needed housing
- 9 houses not many in the scheme of things, compared with other developments in the area

5.18.1 Woodland Trust: The Trust is writing to you in relation to application 18/03048/OA for the construction of nine dwellings, and to express concerns related to the potential impacts of such development on the adjacent area of ancient semi-natural woodland, known as Fullingpits Wood (grid ref: TQ7304056079).

5.18.2 While we acknowledge that the applicant has taken account of the ancient woodland by means of implementing a 15m buffer, we consider that the siting of the Sustainable Urban Drainage System (SUDS) within the buffer zone goes against the material planning guidance contained within Natural England's

standing advice. This guidance states that: “You should avoid sustainable drainage schemes unless: they respect root protection areas; any change to the water table does not adversely affect ancient woodland or ancient and veteran trees”.

5.18.3 Where areas of SUDS are situated in close proximity to woodland, there is potential for them to impact on the hydrology of the ancient woodland, which can subsequently adversely affect the existing stable conditions within the ancient woodland. Furthermore, the applicant’s arboricultural report shows that the area of SUDS would encroach on the root protection areas of trees on the woodland edge. As such, we consider that the siting of the SUDS within the buffer zone would be adversely impactful on the ancient woodland and clearly contradicts Natural England’s standing advice.

5.18.4 In summary, the Trust will maintain a holding objection to this application unless the applicant is able to demonstrate that the area of SUDS would not result in the deterioration of the ancient woodland and that they are able to re-locate it outside of the root protection areas of trees on the edge of the woodland. Please do not hesitate to contact us with any further questions or concerns regarding the comments we have provided.

5.19 No further comments were received from Maidstone Borough Council.

6. Determining Issues:

6.1 The LPA is required to determine planning applications in accordance with the adopted Development Plan unless material planning considerations indicate otherwise. The Development Plan currently in force is comprised of the TMBCS (September 2007), the DLA DPD (April 2008), the MDE DPD (April 2010) and the saved policies of the TMBLP. The policies contained within the NPPF and the guidance contained within the associated NPPG are material considerations.

The five-year supply of housing and presumption in favour of sustainable development:

6.2 Policy CP15 of the TMBCS sets out a requirement for the provision of at least 6,375 dwellings in the plan period 2006 – 2021, equating to 450 units per year. Historically the Council has persistently over-delivered on that requirement due to a highly successful strategy of allocating sites through plan making right across the Borough. Those sites in some cases are continuing to be delivered but many have been in residential use for some time and inevitably there are fewer sites representing similar opportunities now.

6.3 At the time of writing this report, the Council cannot demonstrate a five year housing land supply. For decision making purposes this means that the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF falls to be applied.

- 6.4 Paragraph 11 of the NPPF states that planning decisions should apply a presumption in favour of sustainable development. Under paragraph 11(d), the presumption means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:
- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (footnote 6); or
 - II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 6.5 In this case, the policies that protect areas or assets of particular importance specified in footnote 6 include those in the NPPF relating to irreplaceable habitats (in this case the adjacent ancient woodland). These are therefore addressed first in order to establish how the presumption falls to be applied in this case.

Ancient woodland:

- 6.6 The site lies adjacent to an area of Ancient Woodland, known as Fullingpits Wood. The NPPF states at paragraph 175 that when determining planning applications, local planning authorities should apply the following principles:
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
 - b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
 - c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
 - d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 6.7 Paragraph 177 reiterates that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- 6.8 Policy NE4 of the MDE DPD requires 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. This includes provision of new habitats as part of development proposals. The policy goes on to state that development that would result in the net loss or deterioration of woodland will only be permitted if all of the following tests are met:
- (a) development cannot reasonably be located on an alternative site;
 - (b) the need for development clearly outweighs any harm which may be caused to the ecological, archaeological and landscape value of the woodland; and
 - (c) harm can be reduced to acceptable limits through the implementation of positive environmental mitigation measures within the site or by replacement planting elsewhere or enhanced management.
- 6.9 Ancient woodland will be protected, and where possible, enhanced through improved management. Development that would adversely affect ancient woodland will not be permitted unless the need for, and benefits of, the development in that location can be demonstrated to override the harm that would be caused to the ecological and historical importance of the ancient woodland.
- 6.10 One of the reasons ancient woodland is considered to be so important is through the support of biodiversity. In these respects, local authorities have a statutory duty to have regard to conserving biodiversity as part of policy or decision making (section 40 of the Natural Environment and Rural Communities Act 2006). Policy NE2 of the MDE DPD requires that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.
- 6.11 Furthermore, policy NE3 states that development which 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 overall enhancement. It goes on to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.

- 6.12 The adopted policy position in these respects is in broad conformity with the requirements of the restrictive policies of the Framework at paragraph 175 that sets out that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland and ancient or veteran trees should be refused, unless there are wholly exceptional reasons.
- 6.13 Standing guidance from Natural England advises a 15m buffer between any development and Ancient Woodland. The proposal incorporates this buffer zone along the southern boundary of the site in order to avoid harmful impacts to the woodland. Furthermore an Arboricultural Impact Assessment has been provided confirming no loss of significant trees will occur, subject to the implementation of tree protection measures during the construction process. The buffer zone will be required to be maintained in a semi natural state woodland or a mix of scrub, grassland, heathland and wetland planting, in accordance with the standing advice. This would be dealt with under the future reserved matters application for details of the landscaping. Tree protection measures will be secured by condition to ensure that no storage of materials or parking of vehicles in this sensitive buffer zone occurs during the construction process.
- 6.14 Comments from the Woodland Trust are fully noted concerning the apparent provision of a SUDS system within the buffer zone. However it is important to note that there is no requirement for SUDs for a scheme to serve this number of units, and the pond shown within the landscaped buffer zone is only indicative. Because the landscaping details are indicative at this stage, when reserved matters are submitted it can be ensured that no pond is provided in this area, unless the applicants can demonstrate at this time that it would respect root protection areas and any change to the water table would not adversely affect ancient woodland or ancient and veteran trees, in accordance with Forestry Commission standing advice. A further condition in relation to landscaping will ensure the pond would not be provided, notwithstanding the indicative plan. Subject to this, no harm to the Ancient Woodland and biodiversity is considered to occur.

As a result of this, there is no clear reason to disbar the presumption as a result of the effects of the development on the Ancient Woodland, and it instead falls to consider whether granting outline permission would have a significant and demonstrable adverse impact due to the location of the development, or on neighbouring amenity, character and appearance, the viability of the adjacent business park, traffic and highways, or protected species when weighed against the benefits arising from granting planning permission.

Location of Development:

- 6.15 The site lies within open countryside where policy CP14 of the TMBCS seeks to strictly control new forms of development, of which residential dwellings is not one of the listed exceptions. However, following the recent appeal decision at Aylesford Lakes under reference TM/17/02971/OA, the Inspector considered that

policy CP14 was out of date for the purposes of determining that application, in light of the Council's lack of 5-year supply of deliverable housing sites, and the application of the tilted balance in favour of sustainable development. The inspector at paragraph 11 of his decision states quite simply *"In accordance with footnote 7 of the Framework, Policies CP13 and CP14 are out-of-date and this limits the weight that can be given to them."*

- 6.16 As a result of this decision and the Council's continued lack of 5 year housing supply, it is clear that a decision to refuse planning permission based on conflict with policy CP14 could not be sustained at appeal, regardless of it constituting development outside of any settlement confines.
- 6.17 In terms of the potential conflict with policy CP5 as identified in the initial comments by the Parish Council, as with policy CP14, policy CP5 is considered to be out of date given the age of the Core Strategy and the housing supply position and therefore not determinative.
- 6.18 It is acknowledged that the site is currently in use and provides a small amount of employment. However, as the site is not within a designated employment area, the protection afforded to policy CP21 would not apply and therefore objections to the loss of the site for employment could not be justified.
- 6.19 On this basis it is considered that no objections can be raised on the location of the development irrespective of policy CP5, CP14 and CP21.

Character and appearance:

- 6.20 Policy CP24 of the TMBCS and policy SQ1 of the MDE DPD require a high standard of design from all new developments that should respect the site and its surroundings, make a positive contribution towards the enhancement of the appearance of the area and reflect local distinctiveness. These policies are consistent with the NPPF, particularly Chapter 12 and paragraphs 124, 127 and 130 which explain that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Within the scope of this outline application consideration must be given to the impact on the character of the area as a result of the layout and scale, with final appearance of the dwellings and the landscaped reserved for future consideration.
- 6.21 Whilst the site is located adjacent to the business park, the wider area is open fields and countryside. Further south along Hermitage Lane is the outskirts of Maidstone, where significant new development is occurring alongside existing developments such as Maidstone Hospital. Nonetheless, the existing woodland serves to screen the development site and the character can generally be described as rural fringe.
- 6.22 The dwellings are proposed to be laid out around a single access road with front and rear gardens and off street parking. The use of the buffer zone is required in

order to comply with standing advice from the Forestry Commission that sets out that no development should be located within 15m from Ancient Woodland.

- 6.23 The dwellings range in height from two to two and a half storeys in scale with the detached dwellings being two and a half storeys, and the semis two storey. This is considered to be acceptable given the greater height of adjacent office blocks and the nearby Oast houses which would be taller still. Each dwelling would sit comfortably within its plot with adequate private amenity space and front garden area. Final details of the appearance of each dwelling would be dealt with in a future reserved matters application.
- 6.24 The adjacent business park contains a number of Oast Houses and, whilst the site is extensively developed with parking areas, it retains a semi-rural character and is not obtrusive within the wider landscape. The proposed development site would be effectively screened by the business park, obscuring its prominence from the wider countryside further west. It is not considered that any adverse impact would occur to the wider landscape or appearance of the area, which in any case has been significantly altered by recent new development. It is also noted that the existing site is developed and contains a collection of various buildings in use for the garden centre and these are not particularly attractive nor do they positively contribute to the wider landscape.
- 6.25 The scheme is considered to provide a well-designed layout, with the mix of dwellings and a siting reflective of the rural fringe character. The orientation of the dwellings towards the landscaped buffer will ensure oversight over this area and help ensure it does not become “dead space”, vulnerable to fly tipping or crime. Final appearance of the individual dwellings will be dealt with under a reserved matters application.
- 6.26 In terms of the remaining trees on the site (outside of the adjacent woodland) none of them are considered to offer sufficiently high amenity value to warrant retention. Details of landscaping are reserved for future consideration but new tree planting can be accommodated as part of this. Furthermore the revised scheme incorporates a continuous 15m buffer between the adjacent ancient woodland, in line with Natural England standing advice.
- 6.27 Overall it is considered no harm would arise to the character and appearance of the area.

Neighbouring amenity & amenity of future occupiers:

- 6.28 On most sides the site is separated from other residential dwellings, with the woodland to the south, the business park to the west, and to the east the road, with dwellings on that side considerably further away from the site. However, to the north is the dwelling known as The Hermitage, within the applicant's ownership. The proposed layout would see dwellings erected around 8m away from the boundary with that property's rear garden. The separation from the

houses to the dwelling itself would be in excess of 25m, meaning no loss of privacy would result within the dwelling itself. In terms of the separation distances from the garden area of this dwelling, the areas of garden closest to the new dwellings may experience some overlooking, but the garden is wide and the majority of the areas would be sufficiently far away from the new houses such that the perception of a degree of privacy would not be unduly compromised. Plots 1 and 2 would be orientated towards the outbuilding and would not compromise privacy.

- 6.29 Ultimately, due to the generous separation distances from the house itself, and the large extent of its garden, it is considered that the loss of privacy would not be significantly harmful as a whole, particularly since the areas immediately around the house in which expectations of privacy would be greatest would be a sufficient distance away to avoid severe perceptions of overlooking. The garden space to the side of the dwelling in between the road would also be far enough away to afford the owners sufficient privacy in this area.

Impact on adjacent Business Park:

- 6.30 Paragraph 121 of the NPPF explains that local planning authorities should take a positive approach to applications for alternative uses of land which are currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites. It is important therefore to consider the effect of developing the site on the adjacent business park, as a modest sized but nonetheless important employment site.
- 6.31 It is recognised that many employment uses will sit uncomfortably next to new residential developments. Inevitably complaints can arise from residents owing to noise or emissions from such sites, thereby impacting the viability of the site as an employment location. However, at the same time, many employment uses are entirely compatible with adjacent residential development. In this case, the business park is comprised of high end office accommodation. It is not considered that adjacent residential development would impact on the viability of this adjacent use that is unlikely to generate any significant noise or pollution levels. During weekends when future occupants of the dwellings are more likely to be at home, the business park would probably be closed and this would further indicate the compatibility of these two land uses. As such no objections are raised under paragraph 121 of the NPPF.

Traffic, Highways & Parking:

- 6.32 Policies CP2 of the TMBCS and SQ8 of the MDE DPD require development to not significantly harm highway safety, and demonstrate that traffic generated by the development can adequately be served by the highway network. This is consistent with the aims of the NPPF at chapter 9. Within this chapter, paragraph 109

explains 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.

- 6.33 The existing use of the site as a Garden Centre continues at the time of reporting this application and there is no suggestion from the applicants that its closure is inevitable. As such, the lawful use already attracts a certain amount of vehicle movements that would cease upon the commencement of development. Now that the number of units has been reduced down to 9, it is likely that the number of vehicles accessing the site will decrease, although it is recognised that trips could occur at any time rather than just during the opening hours of the centre. The applicant has not provided exact figures for the number of trips generated by the existing Garden Centre business, but it comprises a cattery, café, and garden centre shop and each of these uses would attract vehicle movements throughout the day.
- 6.34 Furthermore, the submitted Transport statement confirms that no unacceptable or “severe” highways impacts would result, such that the development would conflict with paragraph 109 of the NPPF. Existing traffic problems to the north of the site at the junction with the A209 are noted but, given the reduction in trips, it is not considered that the development would exacerbate these issues. It is further noted that KCC Highways and Transportation have raised no objections to the scheme on highways safety or cumulative impacts.
- 6.35 Given the location of the site on the outskirts of Maidstone, it is considered that the site falls into the category of “suburban edge” for the purposes of considering parking requirements. The adopted Interim Guidance note on Parking (“IGN3”) requires 2 parking spaces for each unit. This would be provided, although it is noted that parking for the 3 bedroom semi-detached dwellings would be in a tandem format. Whilst this is not strictly in accordance with IGN3 and it is recognised that this is not the ideal design solution, but given the somewhat constrained extent of the site, it is considered that this arrangement strikes an appropriate balance between making effective use of space and meeting parking demands. Following comments from KCC Highways and Transportation, two vehicle spaces have also been added.
- 6.36 Finally, the applicant is understood to be entering into a Section S278 agreement with KCC Highways and Transportation to provide a new dropped kerb pedestrian crossing point on the existing western and eastern footway to improve access to and from the site for pedestrians.

Protected species:

- 6.37 Policy NE3 of the MDE DPD requires development to ensure no adverse impacts on biodiversity and wildlife habitats, including those of protected species. This is consistent with paragraph 175 of the NPPF to avoid harm to biodiversity and protected species.

- 6.38 Given the nature of the construction of the existing buildings, and proximity to woodland and fields, the applicants have supplied a Preliminary Ecology Survey and Bat Emergence Survey to ensure that the development would not impact protected species.
- 6.39 No birds, badgers, reptiles or amphibians were recorded on the site. However two of the buildings on site were identified as having low roost suitability. As such a further bat emergence survey was carried out. No bats were seen emerging from Building E or Building G. Only a low number of common pipistrelle bats were seen and heard commuting and foraging. It is thus concluded that the buildings are not used as bat roosts. Thus no mitigation or licences are expected to be needed.
- 6.40 Based on this information it is considered that the development would not result in the loss of protected species or their habitats. The Ecology Report makes a series of recommendations regarding biodiversity enhancements to ensure the scheme provides a net gain to ecology, and these can be secured by condition. Subject to this, the development would not result in harm to protected species.

Planning Obligations:

- 6.41 A planning obligation may only be sought as part of a planning application if it meets three test. Firstly, it must be necessary to make the development acceptable in planning terms; secondly, it must be directly related to the development; and lastly, it must be fairly and reasonably related in scale and kind to the development.
- 6.42 The site lies within a rural area for the purposes of policy CP17: Affordable housing. In rural areas the policy requires affordable housing provision on all sites of 5 dwellings or above, or 0.16ha or above, at a level of 40% of the number of dwellings in any scheme. However, this policy is now out of date and, in particular, conflicts with national policy and guidance that sets out that affordable housing contributions should only be sought on major development schemes (10+). As such, there is no requirement to provide affordable housing.
- 6.43 The site attracts an open space contribution, in accordance with policy OS3 of the MDE DPD. The policy expectation is that this will be provided on site first, with a contribution towards maintaining off site open space if this is not possible. In the circumstances of this site, given the constrained site size and proximity of Ancient Woodland, it would not be possible to provide an adequate area of open amenity space without encroaching into the buffer zone, that is required to be retained in a semi natural state (rather than laid to lawn to provide a useable amenity area).
- 6.44 KCC Economic Development have also requested contributions towards education and library book stock. This obligation is necessary to manage increased demand as a result of the new development. Without these contributions, the development would place unacceptable pressure on education and library facilities. It is therefore considered that these obligations meet the three tests.

6.45 Total contributions sought by the development therefore amount to:

- £41,015 towards open space contributions
- £29,916 towards Primary Education
- £37,035 towards Secondary Education
- £432.18 towards Library Bookstock

6.46 These can be secured by a Section 106 agreement if Members are minded to resolve to grant planning permission.

Conclusions:

6.47 The proposal would constitute the redevelopment of a brownfield site to provide much needed housing towards local shortfall. Whilst the location of the development would not accord with policy CP5 and CP14, Tonbridge and Malling Borough Council cannot currently demonstrate a 5 year housing supply. In such circumstances paragraph 11 of the NPPF sets out that the presumption in favour of sustainable development applies and the provision of new housing carries significant weight. This presumption is only disbarred if the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

6.48 Whilst the site does lay close to Ancient Woodland which would be considered an asset of particular importance, it is considered that with the provision of the 15m buffer zone, no harm to this woodland would arise, and so there is no clear reason to disbar the presumption. The impact of the development on highways, the character and appearance of the area, neighbouring amenity and protected species are all considered to be acceptable. Furthermore subject to a Section 106 agreement, contributions can be sought towards open space provision and education in order to mitigate the impacts of the development on community infrastructure. Accordingly it is recommended that outline planning permission is granted.

7. Recommendation:

7.1 **Grant outline planning permission** in accordance with the following submitted details: Location Plan KWTP.01.LP received 27.12.2018, Site Plan KWTP.03 PSP received 11.06.2019, Planning, Design And Access Statement received 07.05.2019, Arboricultural Assessment received 20.05.2019, Bat Survey received 20.05.2019, Report Ecology received 25.04.2019, Transport Statement received 25.04.2019, subject to the following:

- The applicant entering into planning obligation(s) under section 106 of the Town and Country planning Act 1990 (as amended) with the local planning

authority to make financial contributions towards the enhancement of community infrastructure, consisting of:

1. £41,015 towards open space contributions
2. £29,916 towards Primary Education
3. £37,035 towards Secondary Education
4. £432.18 towards Library Bookstock

• The following conditions:

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 3 Approval of details of the appearance of the development and the landscaping of the site (hereinafter called the “reserved matters”) shall be obtained from the Local Planning Authority.

Reason: No such approval has been given.

- 4 No building shall be occupied until the area shown on the submitted layout for vehicle parking spaces has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to this reserved parking space.

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

- 5 The development shall be carried out in accordance with the recommendations set out in the Ecological dated 8th April 2019 Ref No 2019/03/17.

Reason: To ensure the development does not harm protected species and

provides biodiversity improvements.

- 6 The development shall be carried out in accordance with the recommendations set out in the Arboricultural Impact Assessment dated 14th May 2019 Ref No GRS/TS/TCP/AIA/TPP/32/19 and in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
- (a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
 - (b) No fires shall be lit within the spread of the branches of the trees.
 - (c) No materials or equipment shall be stored within the spread of the branches of the trees.
 - (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
 - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
 - (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

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

- 7 (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/ remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.
- (b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.
- (c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

- 8 Notwithstanding the indicative location of the SUDs pond on the submitted site plan, no pond shall be installed within the 15m buffer zone unless it can be demonstrated that it would respect root protection areas and any change to the

water table would not adversely affect ancient woodland or ancient and veteran trees.

Reason: To avoid harming the Ancient Woodland.

Contact: Adem Mehmet