

ADJOURNED PLANNING COMMITTEE MEETING

Date: Thursday 26 October 2023
Time: 6.00 p.m.
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Cox, English (Vice-Chairman), Mrs Gooch, Harwood, Holmes, Jeffery, Kimmance, McKenna, Perry, Riordan, Russell, Spooner (Chairman) and D Wilkinson

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
6. Disclosures by Members and Officers
7. Disclosures of lobbying
8. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
9. 23/500773/FULL & 23/500769/LBC - Len House, Mill Street, Maidstone, Kent 1 - 38
10. 23/501293/FULL - The Coach Yard, Old Ashford Road, Lenham, Kent 39 - 48
11. 23/501716/FULL - Cherry Barn, Old Tree Lane, Boughton Monchelsea, Kent 49 - 62
12. 23/503889/FULL - Balfour Winery, Five Oak Lane, Staplehurst, Kent 63 - 72

Issued on Monday 23 October 2023

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

PLEASE NOTE

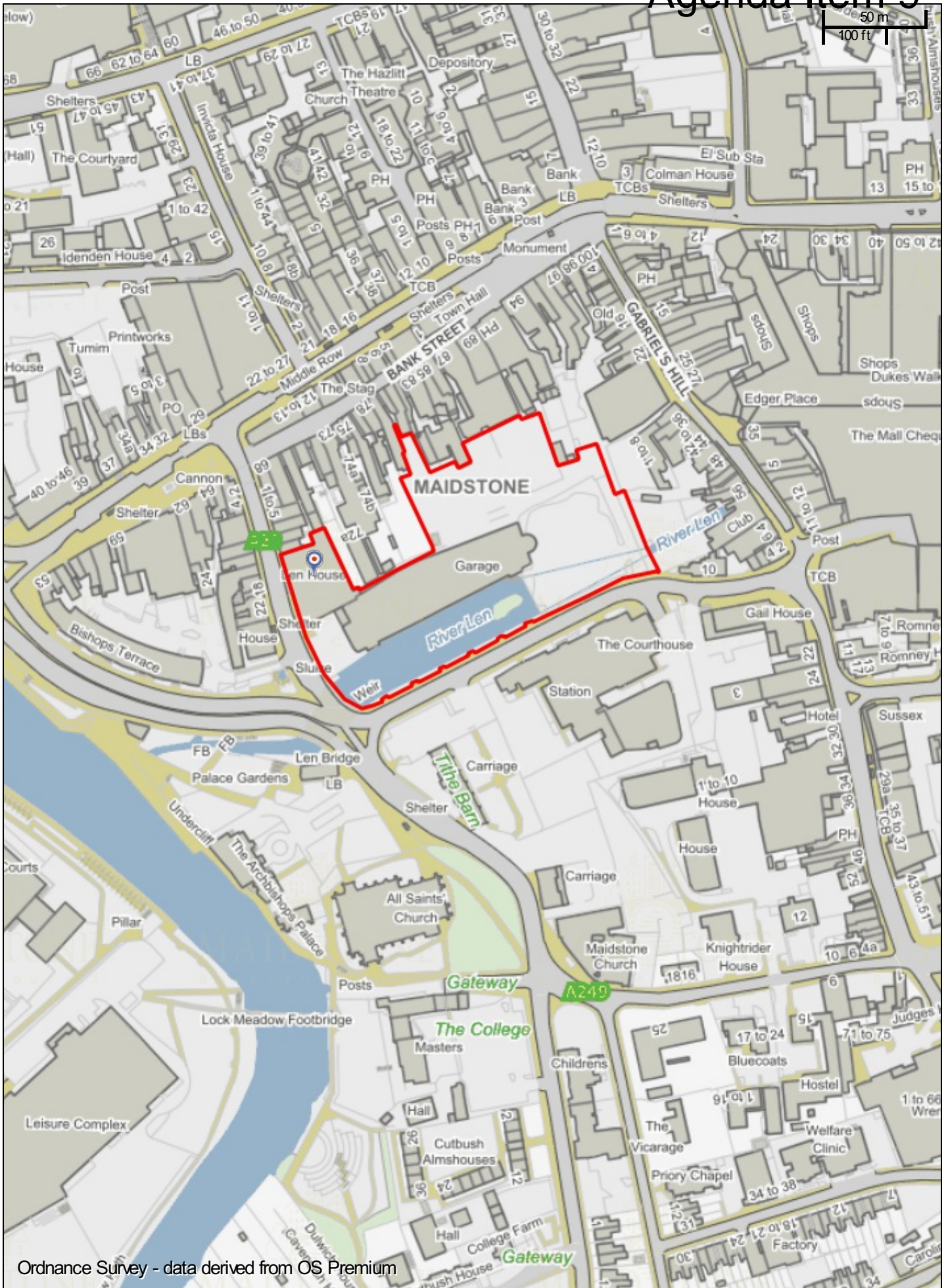
The order in which items are taken at the meeting may be subject to change.

The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.

For full details of all papers relevant to the reports on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection; please follow this link: <https://pa.midkent.gov.uk/online-applications/>

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Ordnance Survey - data derived from OS Premium

**23/500769/LBC & 23/500773/FULL - Len House, Mill Street,
Maidstone, Kent, ME15 6YD** Scale: 1:2500
Printed on: 6/10/2023 at 13:52 PM by Kirstys

REPORT SUMMARY

REFERENCE NO: - (A) 23/500769/LBC and (B) 23/500773/FULL

APPLICATION PROPOSAL:

- (A) Listed Building Consent for restoration of Len House, rebuilding of 2 bays to Palace Avenue and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide commercial floorspace within the following uses - retail, financial and professional, cafe or restaurant, drinking establishment, offices, clinic or health centre, creche, or day nursery, gymnasium or indoor recreational purposes uses (within classes E, F2(a) and Sui Generis) at ground floor. (ii) Provision of 22no. residential apartments (class C3) at first floor by conversion and erection of a part rear first floor extension and provision of 58no. residential apartments (class C3) in a two storey roof extension with rooftop amenity space (iii) Associated landscaping to roof. (revised scheme to 20/501030/LBC).
- (B) Section 73 - Application for minor material amendment to approved plans condition 2 (to allow amendments to the design and layout including rebuilding of 2 bays to Palace Avenue, omission of external boardwalk, first floor car park, 9 terraces to second floor and green roof of top roof level) and variation of conditions 3 (programme of archaeological work); 5 (contamination risks); 7 (commercial use of ground floor); 9 (materials); 10 (constructional details); 14 (roof treatments), 16 (EV charging facilities); 17 (hard landscape works); 24 (enhancement of biodiversity); 25 (LEMP); 31 (boardwalk and Mill Street forecourt), 34 (ground floor commercial space), 35 (external plant), 37 (travel plan) and 40 (sustainable surface water drainage scheme) pursuant to 20/501029/FULL (as amended by 23/500477/NMAMD) for - Restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide flexible commercial floorspace within the following uses - retail, financial and professional, cafe or restaurant, drinking establishment, offices, clinic or health centre, crèche or day nursery, gymnasium or indoor recreational purposes uses (within classes - E, F2(a) & Sui Generis of the Town & Country Planning uses Classes Order). (ii) Provision of 22 residential apartments (C3) at first floor by conversion and erection of part rear first floor extension and provision of 58 residential apartments (C3) in two storey roof extension with rooftop amenity space, together with ancillary car parking. (iii) construction of two new buildings of up to 5-storeys to provide 79 No. residential apartments (C3) with amenity space. (iv) Provision of associated car parking, open space, landscaping, earthworks including demolition of hardstanding and structures, de-culverting the River Len and reutilisation of existing vehicular access points from Mill Street and Palace Avenue.

ADDRESS: Len House Mill Street Maidstone Kent ME15 6YD

RECOMMENDATION:

- (A) Grant listed building consent subject to conditions
(B) Grant planning permission subject to conditions and legal agreement

SUMMARY OF REASONS FOR RECOMMENDATION:

General arguments have been put forward on viability and that the scheme approved could not have been built out because of building regulations especially in regard to fire separation between ground and first floor.

Negotiations to the scheme have resulted in a residents' lounge and gym and much more of the ramp being visible to the general public from more glass curtain walling. The service/back of house areas will be less intrusively positioned.

<p>Subject to appropriate updated conditions and a s106 legal agreement, in terms of heritage, parking provision, public realm, amenity space, drainage and flood risk, the amendments are considered to be acceptable overall.</p> <p>A new legal agreement can better secure de-culverting obligations and ensure the residents of the Len House conversion have access to comparable levels to the original planning permission in terms of of parking and communal open space when the wider site is developed.</p>		
<p>REASON FOR REFERRAL TO COMMITTEE: Relate to amendments to applications which are significantly different to those originally approved at Planning Committee and includes a planning obligation in regard of de-culverting (ie Daylighting) of River Len that would involve a key role for Maidstone Borough Council.</p>		
<p>WARD: High Street</p>	<p>PARISH/TOWN COUNCIL:</p>	<p>APPLICANT: Mr Glen Obee AGENT: On Architecture</p>
<p>CASE OFFICER: Marion Geary</p>	<p>VALIDATION DATE: 14/03/23</p>	<p>DECISION DUE DATE: 31/10/2023</p>
<p>ADVERTISED AS A DEPARTURE: NO</p>		

Relevant Planning History

20/501029/FULL

Restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide 3,612 sqm (GIA) flexible commercial floorspace within the following uses - retail, financial and professional, cafe or restaurant, drinking establishment, offices, clinic or health centre, crèche or day nursery, gymnasium or indoor recreational purposes uses (within classes A1/A2/A3/A4/A5/B1a/D1/D2 of the Town & Country Planning uses Classes Order) at ground floor, 18 No. residential apartments (C3) at first floor level, together with ancillary car parking. (ii) Erection of part rear first floor and two storey roof extension to provide 62 No. new residential apartments, with rooftop amenity space. (iii) Construction of two new buildings of up to 5-storeys to provide 79 No. residential apartments (C3) with amenity space. (iv) Provision of associated car parking, open space, earthworks including demolition of hardstanding and structures, and new boardwalk to north side, de-culverting the River Len and re-utilisation existing vehicular access points from Mill Street and Palace Avenue.

Approved 01.10.2020

20/501030/LBC

Listed Building Consent for restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide 3,612 sqm (GIA) flexible commercial floorspace within the following uses - retail, financial and professional, café or restaurant, drinking establishment, offices, clinic or health centre, crèche or day nursery, gymnasium or indoor recreational purposes uses (within classes A1/A2/A3/A4/A5/B1a/D1/D2 of the Town & Country Planning uses Classes Order) at ground floor, 18 No. residential apartments (C3) at first floor level, together with ancillary car parking. (ii) Erection of part rear first floor and two storey roof extension to provide 62 No. new residential apartments, with rooftop amenity space. (iii) new boardwalk to north side.

Approved 01.10.2020

21/500608/SUB

Submission of details to discharge the following conditions of LBC 20/501030: Condition 3 (Materials) (as per revised materials schedule received 06.05.21); Condition 4 (Constructional Details); Condition 5 (Large Scale Drawings - Windows, Doors and Schedule of Repairs) (as per additional West Leigh window and door details submitted

05.05.21); Condition 6 (Method Statement) (as per PAYE façade condition survey and Civic Engineers repair statement submitted 10.05.21) and Condition 8 (Full Set of Record Photographs of Existing Building).
Approved 09.06.2021

21/500611/SUB

Submission of Details to Discharge the following conditions of 20/501029/FULL (insofar as they relate to Len House): 3 (Programme of Archaeological Work); Condition 9 (Materials) (as per revised details received 5th and 6th May 2021); Condition 10 (Constructional Details) (as per revised window drawing 20.061 RP04-01 S0 P2); Condition 14 (Scheme of Treatment of the Existing Roof) and Condition 37 (Travel Plan)
Approved 09.06.2021

21/504318/SUB

Submission of details pursuant to conditions 15 (part) (renewable energy strategy for Len House Conversion), 29 (detailed scheme for Mill Street forecourt & beverage kiosk), and 32 (part) (lighting strategy for Len House Conversion) of application 20/501029/FULL (mixed-use: flexible commercial and residential development)
Pending Consideration

21/504440/SUB

Submission of details part pursuant for conversion phase for conditions 21 (landscape planting scheme), & 17 (hard landscaping), of application 20/501029/FULL (mixed-use: flexible commercial and residential development).
Part Permitted Part Refused 07.10.2022

21/504441/SUB

Submission of details part pursuant to condition 24 (biodiversity enhancement scheme) for conversion phase of application 20/501029/FULL (mixed-use: flexible commercial and residential development)
Refused 07.10.2022

21/504442/SUB

Submission of details pursuant to conditions 26 (residential noise levels), & 35 (external plant noise levels) of application 20/501029/FULL (mixed-use: flexible commercial and residential development).
Part Permitted Part Refused 06.07.2022

21/504443/SUB

Submission of details pursuant to condition 40 (sustainable surface water drainage scheme) of application 20/501029/FULL (mixed-use: flexible commercial and residential development)
Approved 01.06.2022

22/505845/NMAMD

Non-Material Amendment to Application 20/501029/FULL: Amendment to development description as detailed in cover letter dated 13/12/22.
Refused 19.01.2023

22/505984/SUB

Submission of Details pursuant to condition 5 (Large Scale Drawings Details of Windows) of Application 20/501030/LBC.
Approved 13.01.2023

22/505985/SUB

Submission of Details pursuant to condition 10 (Construction Details of Windows of Len House) of Application 20/501029/FULL.
Approved 13.01.2023

23/500477/NMAMD

Non-Material Amendment to Application 20/501029/FULL to alter the description of the development.

Approved 10.02.2023

23/500497/SUB

Submission of details to discharge condition 6 (method statement) of planning application: 20/501030/LBC.

Pending Consideration

MAIN REPORT (A) AND (B)

1. DESCRIPTION OF SITE

- 1.01 The site is a former new and used car showroom and car repair garage undergoing redevelopment for a mixed use, predominantly residential of 80 apartments on the upper floors with "town centre " type commercial uses on ground and mezzanine floors. Len House is a Grade II listed building.
- 1.02 The site includes a canalised section of the River Len along Palace Avenue before it meets the River Medway a short distance from the site. Part of the River Len is culverted on the eastern part of the site.
- 1.03 Land to the east and north east of Len House that was mainly open areas for ancillary car display, storage and parking is included in the wider application site for new build of 79 apartments to give 159 residential units for the site as a whole. That part of the overall development scheme included a podium open space of 575 sqm set above undercroft parking.
- 1.04 The approved drawings showed parking as follows

	Residential Spaces	Incl Disabled Spaces	Commercial Spaces	Incl Disabled Spaces	
First Floor Len House	20	2			
Undercroft New build	88	10			
Frontage Palace Avenue			23	2	
Total	108	(12)	23	(2)	131

- 1.05 Hence the total residential spaces were 108 giving a ratio of parking of 0.68. Disabled spaces were provided at a ratio of 10% overall.
- 1.06 The original scheme was proposed as an overall redevelopment of the car related business, both the building and the extensive area of land around it Whilst the conversion of Len House has been underway for over a year, the new build element of the original planning permission has not commenced.

2. PROPOSAL

- 2.01 These amendments relate to the conversion/extension of Len House itself which is taking place currently. The commercial uses have not yet been specified but would be as encompassed by the extant planning permission which includes: retail, financial and professional, cafe or restaurant, drinking establishment, offices, clinic

- or health centre, crèche or day nursery, gymnasium or indoor recreational purposes uses.
- 2.02 The approvals 20/501029/FULL and 20/501030/LBC were for the double height ground floor car display/workshop and mezzanine to be in commercial "town centre" uses. The vehicle ramp that linked the 2 floors was to be retained as a vehicle ramp to access private car parking of 20 spaces on the first floor of the former workshop. It would thus have continued with a functional use similar to that when the building was in industrial use.
- 2.03 The remainder of the first floor of the workshop was approved to be converted/extended to create 22 apartments. Of those apartments, 16 were to have internal "winter gardens" to the main frontages of Mill Street and Palace Avenue.
- 2.04 The approved second and third floors would comprise of 29 apartments per floor in a new build 2 storey penthouse. The approved scheme indicated 15 of the second floor apartments having stepped access via patio doors to external terraces. None of the third floor apartments were provided with private amenity space.
- 2.05 The roof of the penthouse block was indicated to have PV panels set in a sedum roof.
- 2.06 The planning permission was subject to a s106 unilateral undertaking dated 30 September 2020 which detailed:
- Granting of a licence to MBC to carry out site investigation works
 - Payment of Culvert contribution of £80,000 to contribute to the Council's costs of undertaking the Culvert works (being further surveys and works for daylighting existing culverts on the site)
 - Transfer defined "culvert land" at nil cost to MBC
- 2.07 If the above was not carried out, the developer would alternatively landscape the culvert land in accordance with approved details. None of these s106 requirements have been met by the applicants.
- 2.08 Various amendments are sought in listed building consent **application (A)** summarised as follows:
- a) Removal of external boardwalk and replacement with internal commercial street;
 - b) Amendments to proposed fenestration;
 - c) Flexible ground floor commercial floorspace;
 - d) Relocation of internal cycle stores to external area;
 - e) Amendments to mezzanine floor;
 - f) Omission of first floor car park for residents;
 - g) Amendments to first floor level;
 - h) Omission of green (sedum) roofs of second floor roof level and top roof level;
 - i) Amendments to second floor layout;
 - j) Amendments to third floor layout.
 - k) Changes to housing mix and apartment dimensions.
- 2.09 Consent for the removal of the walls enclosing Staircae 2 (Showroom) at first floor is also being sought due to damage during demolition works which affected

structural stability of the surrounding walls. The applicant states: *“they could not be retained, but that the removal of these walls has not caused harm to the overall character and appearance of the Listed Building causing “less than substantial” low level of harm that does not seriously affect the significance of the designated heritage asset”*.

- 2.10 Various amendments are sought to the ‘parent’ planning permission in **application (B)**. The applicant has also suggested a related update of the timetable of the culvert obligations described above.

	Amendment	Reason Given by Applicant
i.	Amendment to the layout of Ground floor to provide 7 commercial units (4 of which in the former workshop space). Service corridor adjacent ramp reduced to increase visibility of low part of the ramp. Commercial unit adjacent ramp to have curtain glass walls to allow lower part of ramp to be visible. Main Entrance from Mill Street to workshop area to be aligned with the ramp for public visibility.	The ground floor layout needs flexibility for further sub-division of the floorspace to ensure it can be viably let to encourage a wide range of potential end users.
ii.	Dismantling and rebuilding of 2 projecting window bays to Palace Avenue using salvaged and new pre-cast masonry units.	For structural reasons, engineers have recommended exposing and then treating the corroded supporting steel frame of these 2 bays
iii.	The original scheme included an external cantilevered boardwalk along the riverfront It is proposed to omit it, to be replaced with an internal “street” on the Palace Avenue elevation which will act as public access corridor for the proposed commercial units and a thoroughfare during daytime use (to be controlled via a planning obligation)	The external boardwalk has complications of structural design, construction, and viability. It would have involved two of the building’s windows on the façade facing the River Len being enlarged and converted to create door openings, along with invasive structural works, leading to a loss of historic fabric and character of the listed building. Door openings of that size would have required special design to deal with wind loading that would not have been in-keeping with the existing fenestration. The new internal street will allow the public to experience the entire length and height of the building as well as the structure, glazing and architecture. It can be used and experienced all year round and will display historical images and materials.
iv.	the addition of external doors, removal of some windows and the addition of ventilation louvres and Various amendments	Required following a detailed design stage review of the scheme to take into account of compliance with Nationally Described Space Standards, Building Regulations, and Fire Regulations.

	including to mezzanine and third Floor layouts are also proposed and amendments or additions of stair cores.	
v.	Changes to Housing Mix and Apartment Dimensions	To meet Nationally Described Space Standards.
vi.	Delete internal first floor car park (20 Spaces) To be replaced with 22 external spaces in the SE corner of the site with legal agreement to secure that land within the new build element.	Constraints in terms of vehicle exhaust ventilation systems and accommodation of fire safety equipment to achieve Fire Regulation compliance. The number of car parking spaces would also be reduced by lobbies and fire corridor added into the layout for fire protection.
vii.	Revision to second floor to remove 9 external terraces and alter 2 to have external not internal access.	Levels of the existing roof of the building are not consistent (being higher at Palace Avenue than Mill Street) and it is no longer feasible due to Building Regulations to provide internal steps to access 9 of the terraces
viii.	First Floor to be amended to allow for 2 apartments to increase in size and have "winter gardens" and inclusion of a communal residents' lounge and gym.	To make efficient use of space that cannot accommodate internal parking [see (vi) above] and to compensate for loss of 9 terraces ([see (vii) above]. The residents' gym and lounge will have large areas of glazing to allow the upper part of the ramp to be visible.
ix.	omission of sedum "green" roof of top of penthouse roof and adding a reduced sedum "green" roof to existing roof of Len House. The Penthouse Roof to continue to be used for PV panels.	Significant structural reinforcement requirements to add to penthouse roof as this is designed to be of a lightweight steel frame avoiding numerous new steel columns ground floor. Sedum measuring 540 sqm. can be added to edge of the existing retained concrete roof of Len House which does not present structural problems.
x.	The amount of commercial floorspace is proposed to be amended from 3,612sqm GIA to 3,331sqm GIA	Reflecting the revised drawings and need for plant rooms and mechanical and engineering services to ensure compliance with Building Regulations and Fire Regulations.
xi.	Relocation of Internal Cycle Stores to External Area	To improve the layout and optimize the commercial / residential spaces the cycle stores are to be positioned to the rear of the building externally. The external cycle store will be a two-tier storage system within a secure bike hub
xii.	variation of condition 3 (programme of archaeological work);	Update condition wording Len House compliance with details approved under submission ref. 21/500611/SUB. New build apartments- details to be submitted.

xiii.	variation of condition 5 (contamination risks)	Update condition wording. Len House compliance with details approved under submission ref. 21/502283/SUB. New build apartments- details to be submitted.
xiv.	variation of conditions 7 (commercial use of ground floor)	Update condition wording to refer to Proposed Ground Floor Plan and Update Use Classes
xv.	variation of condition 9 (materials)	Update condition wording Compliance with details approved under submission ref. 21/500611/SUB
xvi.	variation of condition 10 (constructional details)	Update condition wording Compliance with details approved under submission ref. 21/500611/SUB as amended by details approved under submission ref. 22/505985/SUB
xvii.	variation of condition 14 (roof treatments)	Condition to be revised to enable revised details to be submitted once S.73 Application approved to take into account removal of some terraces and relocation of sedum roof.
xxviii.	variation of condition 16 (EV charging facilities);	Update condition wording to remove reference to Len House Residential EV charging facilities as residential car parking provision is no longer proposed on the first floor.
xix.	variation of condition 17 (hard landscape works);	Len House compliance with details approved under submission ref. 21/504440/SUB on 7 October 2022. New build- details to be submitted.
xx.	variation of condition 24 (enhancement of biodiversity)	To allow for early completion of the landscaping to the Kiosk area (Mill Street) and the mill pond as part of the works to Len House.
xxi.	variation of condition 25 (LEMP)	To allow for early completion of the landscaping to the Kiosk area (Mill Street) and the mill pond as part of the works to Len House.
xxii.	variation of condition 31 (boardwalk and Mill Street forecourt)	Update condition to remove reference to the boardwalk.
xxiii.	removal of condition 34 (ground floor commercial space) The approved ground floor layout shows the commercial floorspace sub-divided into 3 main areas.	As (i) above. The ground floor layout needs flexibility for further sub-division of the floorspace to ensure it can be viably let to encourage a wide range of potential end users.
xxiv.	variation of condition 35 (external plant),	Update condition wording Compliance with details approved under submission ref. 22/504442/SUB

xxv.	variation of condition 37 (travel plan)	Update condition wording Compliance with details approved under submission ref. 21/500611/SUB
xxvi.	variation of condition 40 (sustainable surface water drainage scheme)	Drainage of Mill Street Forecourt area to comply with details approved under submission ref. 21/504443/SUB

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031):
Kent Waste and Minerals Plan (amended 2020):
The National Planning Policy Framework (NPPF):
National Planning Practice Guidance (NPPG):

The Regulation 22 Local Plan Review submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts moderate weight as although Stage 1 and 2 Hearings have concluded, the Plan is still in Examination.

The relevant draft policy in the Regulation 22 that need to be considered in the determination of this specific planning application is LPRSA145 which allocates the building and curtilage for approximately 159 dwelling units and approx. 3,612 sqm of retail, leisure or other appropriate town centre uses (i.e. reflecting the extant planning permission).

Statutory duty of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

4. LOCAL REPRESENTATIONS

n/a

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

Kent Police

- 5.01 Recommend the Secured By Design Commercial 2015 and Homes 2023 guides. Design and Access statements (DAS) should address crime prevention and demonstrate the seven attributes of CPTED in accordance with the NPPF. Recommend an SBD certification, which is free of cost, to show commitment to crime prevention and community safety.

UK Power Networks

- 5.02 If the proposed works are located within 6m of the substation, then they are notifiable under the Party Wall etc. Act. 1996.

KCC Archaeology

- 5.03 The proposed variations seem to refer mainly to Len House itself so no further comments

KCC Drainage

- 5.04 Need evidence to support omission of sedum roof and applicant has not taken account of wider benefits.

Southern Water

- 5.05 Siting of new buildings must avoid conflict with sewer.

Environment Agency

- 5.06 Requires a completed sequential test, to steer new development to areas with the lowest risk of flooding. The strategic flood risk assessment will provide the basis for applying this test.

- 5.07 Installation of a cantilever above the River Len or de-culverting will need a Flood Risk Activity Permit.

KCC Highways

- 5.08 The planning statement does not confirm if the quantum of parking would be identical to that previously approved, or where within Phase 2 of the development it would be provided.

Environmental Protection

- 5.09 Variation of the layout and the types of commercial use of ground floor areas as an indoor commercial street, may have effects on potential noise and odour issues. Further noise assessments are required.

Historic England

- 5.10 It is a fine example of the Art Deco style, and original interior e.g. the staircases, also contributes to its significance. The building's position beside the former Len mill pond enhanced its aesthetic appeal and local distinctiveness.
- 5.11 It is a rare example of a commercial garage and show room from an early phase of motoring. The large volume workshops and the ramp for vehicular access to a first floor workshop illustrate its historic function.
- 5.12 More sub-division of the ground and first floors, which were historically largely open spaces in the eastern wing, would cause a level of harm to the significance of the listed building.
- 5.13 The removal of car parking from the first floor, and vehicular use of the ramp would make it more difficult to appreciate its historic function. Harm to the significance of the ramp and thus to the building as a whole would be increased if ramp is obscured.
- 5.14 The removal of the boardwalk from the scheme would not harm the listed building, though the it would have connected the building to existing historic water features and would have allowed experience the river tributary in a wholly unique way. It is slightly less harmful to introduce an internal street as it is no longer necessary to alter the principal elevation.
- 5.15 The open character of the ground floor should be retained with a physical and visual link to the ramp and much better intervisibility with large, glazed partitions.
- 5.16 Clarity on the form of individual commercial units would also be helpful to prevent obscuring the structure and appreciation of its former industrial character and use.
- 5.17 The first-floor spaces at the top of the ramp (historic asset space) and the ramp itself should not have a domestic appearance as it would distil an understanding of their historic function and appearance.

- 5.18 There may also be heritage benefits that could be secured such as heritage interpretation, to explain the historic function and development of the building, its role in Maidstone and its connection to the local community.

6. APPRAISAL

- 6.01 These proposed amendments were subject to lengthy pre-application discussions and correspondence whereby, inter alia, comprehensive revised applications were sought by officers rather than incremental changes to conditions given the disparity between what was approved and what is proposed now.
- 6.02 The changes do not change the number of apartments in Len House which will remain at 80. The layout changes to the first floor means an overall loss of 1 x3 bed flat and 1 x1 bed flat replaced by 2 x 2 bed flats. The overall floor area for residential increases as more of the first floor is being used for residential in lieu of the parking with some apartments in the rest of the building increasing in dimensions accordingly.
- 6.03 The first floor internal parking is being removed to be replaced outside the building and the space is being reconfigured, partly used for 2 flats and partly for a gym (141.1 sqm) and residents lounge (107.5sqm) and a historical asset space (207sqm) at the top of the ramp to give an area where vintage vehicles can be displayed as part of the historic interpretation offer.
- 6.04 The changes are appraised below with reference to impacts on heritage, public realm and highways.

Increased Sub-division of Ground Floor Former Workshop and Loss of Functionality of Internal Ramp

- 6.05 The heritage significance of the interior mainly lies in the double height, large size, openness and industrial appearance of the former workshop which, together with the internal vehicle ramp to access the first floor, are indicative of its special character and use. The ramp is specifically mentioned in the listing description given its former use as a garage. The original planning permission aimed to minimise and control subdivision of the space to avoid obscuring the structure and appreciation of its former industrial use. A condition was imposed specifically to prevent further subdivision of the approved space without a formal approval..
- 6.06 That these are key objectives was also recognised in the Len House Planning Guidelines 2020 which state that "*there would therefore need to be a clear and convincing justification to the loss of the ramp or compromising the large open spaces*".
- 6.07 This amendment is to create more and smaller separate commercial units and an internal street (further discussed below).
- 6.08 There are also changes to the plant rooms and mechanical and engineering services to ensure Building Regulations and Fire Regulations compliance eg the plantroom needs full height partitions due to the height of the and size of sprinkler tanks.
- 6.09 It is accepted that the main retained space was very large (970 sqm) and the need for a service corridor and fire protection between it and the ramp resulted with challenging design issues with securing public visibility of the ramp. Amendments have been negotiated that significantly reduce the impact of "back of house" servicing and allow much more of the lower part of the ramp to be publicly visible by both the introduction of curtain glass and ensuring the main customer entrance will pass by the ramp and an "interpretation area" in the new foyer of the building.



View of public entrance at the base of the historic ramp



View from the street, through the commercial unit to the ramp

- 6.10 The proposals as amended do retain the internal ramp as a structure and vintage vehicles will be displayed on it to illustrate its past use. It is proposed to install a glazed screen adjacent to the entrance. The ramp would be visible to residents and visitors all times of the year.
- 6.11 The proposed omission of the first floor parking means that the ramp would no longer retain its functionality for vehicles to move between the 2 floors as would have been the case when the building was in active use as a vehicle workshop. The ramp is a key part of the historic and architectural interest of the Listed Building. This is a detrimental impact as its original use will be lost and it would be more difficult to appreciate its original function. This is a major disbenefit given the building's former use.

Replacement of Boardwalk with Internal "Street"

- 6.12 The applicant proposes to omit the external boardwalk, citing complications of structural design and viability to be replaced with an internal street with historical images displayed in the fabric of the shopfront partitions.



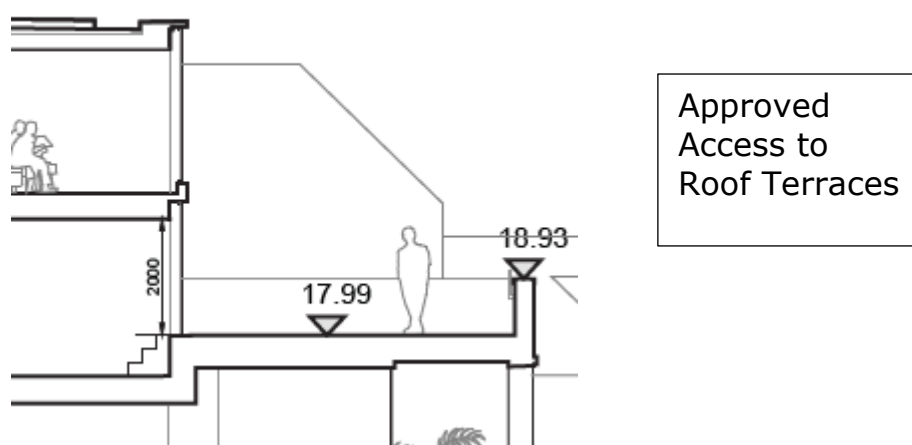
View of the internal street

- 6.13 The external boardwalk would have allowed the public to appreciate the moated area and immediate setting and connected external and internal areas. Furthermore, the approved scheme retained the ground floor openness which is a key part of the building's significance.
- 6.14 In contrast, the internal "street" will result in the more subdivision of the ground floor former workshop and contribute to a loss of openness but will give benefits in retaining existing window openings and lessen loss of historic fabric. The absence of an attachment to the main façade along the River Len will allow a better uninterrupted view of the elevation reflected in the water and will not be visually cluttered by decking, glass screen, steel handrails, balustrades, safety lighting etc.
- 6.15 The boardwalk would have interrupted the façade to Palace Avenue which has a unique aesthetic in its juxtaposition to the River Len and the need for the insertion of doors would impact on the aesthetic of the replacement steel windows because door openings as opposed to windows result in a need for greater wind loading in modern day Building Regulations- the design would have been less elegant. Furthermore the internal street proposal is an opportunity to improve the heritage interpretation for the site.
- 6.16 The original planning application 20/501029/FULL was deferred by Planning Committee of June 2020 for a number of reasons, one of which was for the then case officer to seek further information on the Boardwalk scheme in terms of ecological impacts due to shading of the river and public safety. Whilst the formal decision of the Planning Committee was to approve the boardwalk element, there are evidently both planning merits and disadvantages with it and a slight negative in terms of heritage impact on the main external façade. This is also the stance of Historic England.
- 6.17 However, the Mill Street Forecourt with the Open Air Kiosk will be retained and add some new active river edge to its new commercial use.

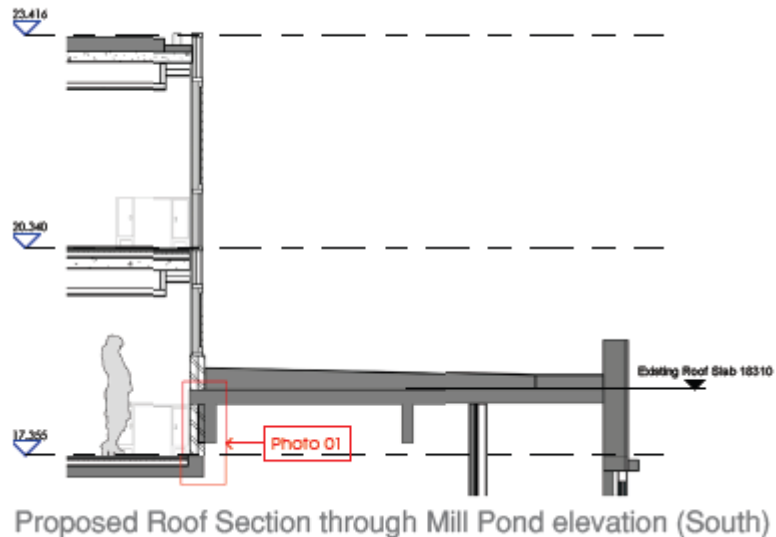
- 6.18 Overall, it is not considered that the removal of the boardwalk is unacceptable, provided that a reasonable level of public access via the “internal street” is secured by a legal undertaking.

Reduction in Number of Outdoor Terraces

- 6.19 The NPPF confirms that developments should ensure a high standard of amenity for existing and future users and Policy DM1 (iv) of the MBLP reinforces this requirement.
- 6.20 The original and revised submission both have 80 apartments overall. In the approved conversion, 15 first floor flats had internal “winter gardens” and 14 second floor flats had outside terraces. This has altered in the submission to 17 first floor flats with “winter gardens” and only 3 second floor flats with outdoor roof terraces. (NB The original submission also included a sedum roof but that was not an amenity space).
- 6.21 The justification is that the planning permission was incorrect in the floor levels, meaning that the Palace Avenue apartments are being built on new floors that are much lower than the retained roof level of the terrace and this hinders access from more of the second floor flats. They also say that an alternative of having communal or individual terraces accessed externally will impact on privacy.
- 6.22 The details submitted when planning permission was first sought indicated that all of the retained roof of Len House was level at 17.99m OD and all could be accessed from all the fourth floor penthouse apartments via 3 internal steps and 2m head height (which is the Building Regulation for this arrangement).



- 6.23 Whilst the levels of the existing roof along Mill Street can accommodate either internal or external access to terraces similar to the approval, 9 of those along Palace Avenue cannot as the level of the roof is much higher at 183.10m OD
- 6.24 Below is the applicant’s illustration of the actual levels change along Palace Avenue and it is clear there is not the requisite 2m headroom.



- 6.25 Accordingly, only 6 of the approved 15 outdoor terraces can be constructed to comply with Building Regulations. Elsewhere, at first floor level within Len House being converted, 17 of the apartments will have “winter gardens”, an increase in 1 from the 16 approved.
- 6.26 Whilst it is disappointing that there is a net loss of 8 areas of private amenity space, as detailed above, the applicant has agreed to introduce new areas of indoor communal amenity space in the form of a gym and lounge.
- 6.27 The original planning permission was presented as a comprehensive scheme with communal outdoor amenity space entirely within the new build part of the scheme i.e. podium garden above the undercroft parking. It will be the continued expectation (secured via a planning obligation) that when the new build stage of the development comes forward, that should have at least an equivalent size of outdoor amenity space that would be accessible for use by residents of the conversion of Len House as was originally envisaged.

First Floor Changes.

- 6.28 The s73 scheme involves the omission of first floor car parking for residents, said to be due to constraints posed in vehicle exhaust ventilation systems and to accommodate fire safety equipment to achieve Fire Regulation compliance.
- 6.29 To make efficient use of space that cannot accommodate internal parking and to compensate for loss of 9 terraces, it is to be amended to allow for 2 apartments to increase in size and have “winter gardens” and inclusion of a communal residents’ lounge and gym.
- 6.30 The residents’ gym and lounge will have large areas of glazing to allow the upper part of the ramp to be visible.

Proposed First Floor Plan



Image of Historical Asset Area looking down the ramp

- 6.31 The applicant has indicated he will enter into a legal agreement to secure land within phase 2 to replace the car parking. Initially, 22 spaces in the SE of the site would be dedicated to the residents of Len House. This would be enforced until the new build element of the scheme were completed.
- 6.32 The original planning permission would have provided 108 residential parking spaces for 159 units which is a ratio of 0.68. Therefore, the legal agreement will need to ensure that for the 80 units in the converted Len House, that at least 54 spaces are made available in the long term on the remainder of the wider site to residents of the conversion.

Sedum Roof

- 6.33 A sedum "green" roof was promoted in the original planning application as beneficial for drainage and biodiversity and thus its retention would be supported by policy DM3 of the MBLP.
- 6.34 Members chose to place great weight on this matter in the original permission. However, the amendments include removing the sedum on the very top floor of the new penthouse roof and adding a smaller area around the penthouse on the original roof of the building.
- 6.35 Engineering consultants have advised that the chosen structural design is to minimise the amount of new structure (ie steel columns) present on the ground floor to better retain the open plan nature of the workshop and showroom. As a result, the existing structure of Len House needs to bear a greater load configuration. The engineering consultants advise the concrete in Len House was not necessarily designed for that purpose and the building was constructed when little was understood about reinforced concrete. Also it is stated that a consistent approach to the reinforcing of the concrete was not used across the construction of the building.
- 6.36 Consequently, a light gauge steel frame has been designed and fabricated by a specialist to be used on the first floor. The remainder of the partitioning and structure have also been selected based upon low weight.
- 6.37 Hence, the engineers assert that the proposed omission of the original extent of sedum roof on the top floor of the penthouse is due to high loads over large spans which causes significant stress in elements of the original reinforced concrete structure, worsened when the load (i.e. 'sedum roof') is at a high elevation.

- 6.38 The existing concrete roof areas above the first floor level of Len House are not receiving additional construction loads and the engineering consultants consider they are robust enough to be an alternative location for the sedum roof, albeit over a reduced area.
- 6.39 However, there would be related implications for surface water drainage which was covered by a drainage strategy that referenced the sedum roof having a role in managing run-off. A condition would be needed for that strategy to be revised accordingly.

Flood Risk

- 6.40 The original FRA stated that the building of Len House lies in Flood Zone 2. Residential is a "more vulnerable" land use and these uses are on the upper floors with the commercial uses on the ground and mezzanine floor being "less vulnerable".
- 6.41 There are extant planning permissions for the redevelopment of the site and they have been reflected in the Regulation 22 LPR in draft policy LPRSA145 with one criterion being "*any development of the site shall take account of potential flood risk issues and ensure that the surface water drainage strategy does not increase the risk of surface water flooding*".
- 6.42 The Flood Risk Assessment includes an extract from the DRAFT Level 2 SFRA Detailed Site Summary Tables by JBA consulting which advises that proposals will need to demonstrate flood resilience including that:
- De-culverting could provide betterment for flood risk.
 - A commitment to contribute to continued upkeep of the defences currently offering protection
- 6.43 The FRA details that converting Len House, means it is not possible to raise the ground floor above the design flood level for this element of the proposed development. However, there is a 'less vulnerable' commercial use on the ground floor and the mezzanine level gives safe refuge above the design flood level.
- 6.44 For escape in a flood event, a dry unimpeded pedestrian access/egress route (without crossing the River Len) is available to the north-east of the site via an existing alley way leading to Gabriel's Hill.
- 6.45 Officers have considered the EA's requirement for a sequential test. The proposals involve a s73 amendment to a change of use of an existing building. The NPPF states "*Applications for minor development and changes of use should not be subject to the Sequential or Exceptions Tests but should still meet the requirements for site-specific flood risk assessments.*"
- 6.46 In this case, the conversion of Len House to 80 apartments is an extant consent for a change of use of the existing building (albeit part of the rear was shown as needing to be demolished and rebuilt). In addition, the second and third floors were also extensions which are works which clearly need to be in situ, notwithstanding the Flood Risk 2 siting. The benefits from re-using the listed building (subject to the changes being acceptable) clearly cannot be achieved on another site.
- 6.47 Therefore, the FRA's conclusion is accepted that the Sequential Test does not need to be applied to these s73 amendments to the conversion of Len House itself.

Deculverting of River Len

- 6.48 When the Planning Committee originally considered the parent planning application in 2020, Members deferred determination in order for Officers to consider a request

by the Committee for River Len Daylighting, seeking that the land, under which the culverted river runs, to be transferred to the Council in order that it can progress a scheme for the daylighting of the River.

- 6.49 This was secured by officers and formed part of the Committee resolution to approve the overall development.
- 6.50 The s106 (unilateral undertaking) that was accepted by MBC had a trigger of payment of 1 April 2021 of £80,000 to MBC as contribution to the culvert works and reasonable endeavours to transfer the land by 1 January 2022 and not to commence development until the grant of a licence to MBC to access the land for the purpose of surveys. These have not taken place.
- 6.51 The applicant has had his engineers look into the feasibility of the deculverting opportunity offered to MBC in the original planning permission and they have concluded that cost may be very significant. However, this needs further investigating by MBC itself.
- 6.52 It is considered essential for the de-culverting works that were expressly key to the original approval of the scheme and which form part and parcel of the overall planning permission to be included in the legal agreement so that they can continue to be secured. Therefore, the culvert obligations entered into for the original consent need to be updated to reflect appropriate new timescales, indexation of the culvert payment and in regard of the land to be transferred, to include access rights for MBC to implement any de-culverting works, should these go ahead.

Other Variations

- 6.53 Amendments to the proposed fenestration are the addition of external doors, removal of some windows and the addition of ventilation louvres following a detailed design stage review of the scheme. These are minor and not considered to have heritage or any other harmful impacts and thus acceptable on the basis of the continued use of the approved steel "Crittall style" replacement windows.
- 6.54 The mezzanine floor will still be for commercial office space use but with re-location of stair cores to ensure that they do not conflict with the existing structure and to comply with the fire strategy. Minor changes have been made to the location of internal walls and minor design changes to circulation areas. These are all acceptable in heritage terms.
- 6.55 The amendments to second and third floor layout include reconfiguration of residential internal layouts and amendments or additions of stair cores. All residential units will comply with National Described Space Standards. These are acceptable minor changes.
- 6.56 The use of more the first floor floorspace for 2 apartments allows changes to housing mix and more generous apartment dimensions elsewhere. There are no concerns in principle with these minor changes.
- 6.57 Most of the requested changes to conditions derive from being updated to reflect that there have been partial discharges for Len House but not for the new buildings on the rest of the overall application site.
- 6.58 However, in terms of condition on drainage, that will need to include a revised drainage strategy as discussed above due to less sedum roof.

PUBLIC SECTOR EQUALITY DUTY

- 6.59 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

CIL

- 6.60 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

7. CONCLUSION

- 7.01 This Council previously accepted zero affordable housing and a higher than normal density on the new build element to compensate for the acknowledged viability problems in this part of Maidstone so there is not significant further weight on the general viability argument. However, officers do accept that the original approval was undeliverable because of the significant lack of alignment with building regulations. It is also understood that there is a focus is on the actual delivery of apartments in the town centre.
- 7.02 Overall, the proposed changes cannot be said to enhance the listed building but it has been demonstrated that the original permission cannot now be implemented in the form that was envisioned and presented to the Planning Committee.
- 7.03 There are still clear disbenefits with these proposed incremental changes such as the loss of the functionality of the ramp but general arguments have been put forward on viability and that the scheme approved could not have been built out because of building regulations especially in regard to fire separation between ground and first floor.
- 7.04 The amendments to the ground floor sub-division are acceptable on heritage grounds taking into account the much improved scope for public visibility of and interaction with the ramp and scope for heritage interpretation.
- 7.05 Negotiations to the scheme such as the residents lounge and gym have partly reduced the harm from the loss of roof terrace amenity space and the new layout and extra internal curtain glazing of the ground floor near the ramp is improved from what was originally submitted in that much more of the ramp is visible to the general public from both the throughfare and from the nearest commercial units due to use of more glass curtain walling. The revised layout negotiated means that the service/back of house areas will be less intrusive by being located to a less sensitive part of the building.
- 7.06 The s73 process does allow a new legal agreement that can better secure the original concept of the overall scheme including much more clarity on the de-culverting obligations and ensuring that the ratio of parking for the Len House conversion remains as approved when the rest of the site is developed and communal open space on the wider site is accessible for residents of the Len House conversion.
- 7.07 Subject to appropriate updated conditions and a s106 legal agreement for, inter alia, the daylighting of the River Len culvert that Members actively sought as a positive aspect of the redevelopment originally, the amendments are considered to be acceptable overall, bearing in mind the practical and technical justification submitted by the applicant.

- 7.08 The condition on EV charging has been superseded in terms of passive charging by Building Regulations so only active charging now needs to be secured by planning condition.

8. RECOMMENDATION

GRANT Listed building consent for application (A) for revised works to the listed building subject to subject to the following conditions below with delegated authority to the Head of Development Management to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee:

GRANT planning permission for application (B) subject to the following conditions and the prior completion of a legal agreement to secure the heads of terms set out below with delegated authority to the Head of Development Management to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee:

s106 to require prior payment of monitoring fees of £3825 in total

HEADS OF TERMS

- Culvert – Within 1 month of consent to grant both a licence to MBC to carry out site investigation works and payment of Culvert contribution of £80,000 index linked from 30 September 2020; and within 6 months of consent to transfer defined “culvert land” at nil cost to MBC; grant access rights by MBC to implement any de-culverting works.
- Securing public use of the throughfare “internal street” during daytime hours
- Replacement temporary car parking spaces (22 no.) pending redevelopment of the remainder of the site and long term (54 no.) car parking spaces within any scheme for redevelopment of the remainder of the site
- To compensate for the net loss of roof terraces at Len House, any revised scheme for new build redevelopment will be required to include the provision of communal open space that provides a commensurate amount of space for the 2 elements with permanent rights of use by for residents of the apartments in Len House.

CONDITIONS for **(A) 23/500769/LBC**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Ground Floor Retention & Restoration Plan 20.061-ONA-00-00-DR-A-1400-S4 Rev P03

Proposed Mezzanine Level Retention & Restoration Plan 20.061-ONA-00-M0-DR-A-1401-S4 Rev P04

Proposed First Floor Retention & Restoration Plan 20.061-ONA-00-01-DR-A-1402 S4 Rev P03

Proposed Second Floor Retention and Restoration Plan 20.061-ONA-00-02-DR-A-1403-S1 P03

Proposed Roof Retention & Restoration Plan 19.027.500.03 P

Proposed Basement Retention & Restoration Plan 19.027.500.04 P

Proposed Retention & Restoration Elevations 20.061-ONA-00-EL-DR-A-1410-S4
Rev P03

Proposed Len House Ground Floor Plan 20.061-ONA-00-00-DR-A-1550-S1 Rev
P08

Proposed Len House Mezzanine Level Floor Plan 20.061-ONA-00-M1-DR-A-1501-
S1 Rev P04

Proposed Len House First Floor Plan 20.061-ONA-00-01-DR-A-1502-S1 Rev P08

Proposed Len House Second Floor Plan 20.061-ONA-00-02-DR-A-1503-S1 Rev06

Proposed Len House Third Floor Plan 20.061-ONA-00-03-DR-A-1504-S1 Rev P04

Proposed Len House Roof Plan 20.061-ONA-00-RF-DR-A-1505-S2 Rev P05

Proposed Len House Elevations 20.061-ONA-00-EL-DR-A-1510-S1-P06

Proposed Pump Kiosk Reinstatement 19.027.300.01 P

South Elevation - Bay Repair/Rebuild 20.061-ONA-00-EL-DR-A-1569

Residential Entrance 02 Details 20.061-ONA-00-SE-DR-A-1551 S1 P02

Proposed Second Floor Balcony to Mill Street 20.061-ONA-00-XX-DR-A-1550 S1
P01

Proposed Sections 20.061-ONA-00-SE-DR-A-1540-S1 P03

Proposed Sections 20.061-ONA-00-SE-DR-A-1541 S1 P02

Reason: To clarify which plans have been approved.

- 2) Within 3 months of this consent, constructional details at a scale of not less than 1:20 shall be submitted for the approval of the Local Planning Authority for the glazing to commercial unit 3.1, the residents' gym and residents' lounge.

Reason: To protect the historic and architectural interest of the Listed Building.

- 3) The approved works to Len House shall be constructed using the materials approved under 21/500608/SUB.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

- 4) The approved works to Len House shall include constructional details approved under 21/500608/SUB. The area annotated as Winter Gardens shall be retained as approved with single glazing to the façade (as approved under 22/505984/SUB) and shall not be used as habitable space.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

- 5) Works to Len House shall be as approved under 21/500608/SUB as amended by 22/505984/SUB in regard of

(i) windows and doors which are to be retained, restored or replaced

(ii) existing brickwork or other external finishes that are to be restored/made good or replaced, including details of any new materials that are intended to match existing

(iii) the fully detailed schedule of repairs and maintenance regime in regard of

- Alterations to staircases and stair compartments

- Internal ramps
- New internal opening or closures
- Any proposed secondary glazing

Reason: To ensure the quality of the development is maintained and to prevent harm to the special architectural and historic interest of the listed building.

- 6) All existing historic features shall be retained in situ, except where indicated otherwise on the approved drawings. Any internal and external repair works and façade repairs to the listed building shall accord with the Façade Condition Survey by PAYE approved under ref 21/500608/SUB as amended by Proposed Outline Façade Dismantle And Rebuild Methodology, Façade Repair Mark-up, Façade Repair Schedule and drawing 20.061-ONA-00-EL-DR-A-1569 (South Elevation - Bay Repair/Rebuild).

Reason: To ensure the quality of the development is maintained and to prevent harm to the listed building.

- 7) Following the initial exploratory demolition, preparatory and strip out works, a broad method statement shall be submitted to and approved by the Local Planning Authority prior to the detailed fit out scheme commencing. It shall set out the approach to the following matters and shall include mitigation measures necessary to demonstrate that the works/installations will not harm the building's special architectural and historic interest. The statement shall be supplemented with drawings/specifications of typical details as necessary.

- Plumbing including all ground and above level drainage
- Ventilation provision
- Mechanical & Electrical services for heating and lighting
- Fire strategy - measures for prevention, detection, and means of escape
- Acoustic attenuation between spaces
- Removal of any asbestos
- New interior lighting scheme
- Any special measures for kitchens and kitchen storage areas

The development shall be carried out in complete accordance with the approved details.

Reason: To protect and preserve the appearance and character of the listed buildings

- 8) There shall be no insertion of false or suspended ceilings to ground floor units 02 to ground floor units 02, 3.1, 3.2, 3.3, 04 or the Internal Street.

Reason: To protect the historic and architectural interest of the Listed Building.

- 9) Within 3 months of consent, details of the fit out for the Internal Street, ramp, first floor Historic Asset Space, Residents' Gym and Residents' Lounge shall be submitted for the approval by the Local Planning Authority. The approved works shall be implemented prior to first use and retained thereafter. No carpets shall be installed and the fit out should aim to conserve the industrial character of the listed building.

Reason: To protect the historic and architectural interest of the Listed Building.

- 10) Within 3 months of first use, heritage interpretation area(s) shall be installed in accordance with details that have been submitted to and approved by the Local Planning Authority. The full set of record photographs of the existing building submitted under 21/500608/SUB shall be made available to Kent County Council's Historic Environment Record within 2 months of this decision.
Reason: To ensure that the heritage benefits associated with archiving the building's history are secured.

CONDITIONS for **(B) 23/500773/FULL**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
- Proposed Ground Floor Retention & Restoration Plan 20.061-ONA-00-00-DR-A-1400-S4 Rev P03
 - Proposed Mezzanine Level Retention & Restoration Plan 20.061-ONA-00-M0-DR-A-1401-S4 Rev P04
 - Proposed First Floor Retention & Restoration Plan 20.061-ONA-00-01-DR-A-1402 S4 Rev P03
 - Proposed Second Floor Retention and Restoration Plan 20.061-ONA-00-02-DR-A-1403-S1 P03
 - Proposed Roof Retention & Restoration Plan 19.027.500.03 P
 - Proposed Basement Retention & Restoration Plan 19.027.500.04 P
 - Proposed Retention & Restoration Elevations 20.061-ONA-00-EL-DR-A-1410-S4 Rev P03
 - Proposed Len House Ground Floor Plan 20.061-ONA-00-00-DR-A-1550-S1 Rev P08
 - Proposed Len House Mezzanine Level Floor Plan 20.061-ONA-00-M1-DR-A-1501-S1 Rev P04
 - Proposed Len House First Floor Plan 20.061-ONA-00-01-DR-A-1502-S1 Rev P08
 - Proposed Len House Second Floor Plan 20.061-ONA-00-02-DR-A-1503-S1 Rev06
 - Proposed Len House Third Floor Plan 20.061-ONA-00-03-DR-A-1504-S1 Rev P04
 - Proposed Len House Roof Plan 20.061-ONA-00-RF-DR-A-1505-S2 Rev P05
 - Proposed Len House Elevations 20.061-ONA-00-EL-DR-A-1510-S1-P06
 - South Elevation - Bay Repair/Rebuild 20.061-ONA-00-EL-DR-A-1569
 - Residential Entrance 02 Details 20.061-ONA-00-SE-DR-A-1551 S1 P02
 - Proposed Second Floor Balcony to Mill Street 20.061-ONA-00-XX-DR-A-1550 S1 P01
 - Proposed Sections 20.061-ONA-00-SE-DR-A-1540-S1 P03
 - Proposed Sections 20.061-ONA-00-SE-DR-A-1541 S1 P02
 - Site Phasing Plan 20.061-ONA-00-00-DR-A-1002
 - Proposed Site Plan 19.027.100.03_B

Proposed Pump Kiosk Reinstatement 19.027.300.01 P
Proposed Rear Development Ground Floor Plan 19.027.210.00 P / Rev B
Proposed Rear Development Mezzanine Level Floor Plan 19.027.210.01 P / Rev B
Proposed Rear Development First Floor Plan 19.027.210.02 P / Rev B
Proposed Rear Development Second Floor Plan 19.027.210.03 P / Rev B
Proposed Rear Development Third Floor Plan 19.027.210.04 P / Rev B
Proposed Rear Development Roof Plan 19.027.210.05 P / Rev B
Proposed Elevations F, G, H 19.027.260.00 P / Rev B
Proposed Elevations I, J, K, L, M 19.027.260.01 P / Rev B
Proposed Elevations N, O, P, Q 19.027.260.02 P / Rev B
Proposed Site Section A 19.027.610.00 P / Rev B
Proposed Site Section B & C 19.027.610.01 P / Rev B
Proposed Site Section D 19.027.610.02 / P Rev B
Landscape Masterplan (dwg 0250-1000 Rev2)

Reason: To clarify which plans have been approved.

- 2) Excavations adjacent to or beneath Len House shall accord with archaeological details approved under 21/500611/SUB.

Reason: To enable the recording of any items of historical or archaeological interest.

- 3) No development of the new build stage of the scheme shall take place until the applicant has secured and had implemented a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority. This should include:

- assessment of Early Medieval and earlier archaeology
- potential for remains within the east part of the site which may have complex Post Medieval or earlier remains surviving, including Post Medieval water channels and Medieval riverside activities
- assessment of the early 20th century industrial and commercial activity represented in the archaeological resource
- some preliminary fieldwork to clarify potential for as yet unknown significant archaeology, including modern structural remains associated directly with Len House

Reason: To enable the recording of any items of historical or archaeological interest.

- 4) Prior to first occupation, a final report detailing all archaeological results and finds resulting from the approved scheme of archaeological work relevant to that unit being occupied shall be submitted to and approved by the Local Planning Authority.

Reason: In the interests of recording any below ground structures or finds and to inform KCC Heritage's archives.

- 5) A scheme to deal with the risks associated with contamination with the conversion of Len House shall accord with details approved under 21/502283/SUB. The new

build elements of the development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved by the Local Planning Authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

- 6) A Closure Report shall be submitted for approval by the Local Planning Authority upon completion of the approved remediation works. The closure report shall include full verification details and should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

- 7) Unless the prior written approval of the Local Planning authority has been obtained pursuant to this condition, the commercial use of the ground floor units 02, 3.1, 3.2, 3.3, 04, the Mill Street forecourt and Kiosk, as shown on drawing number 20.061-1550-S1 Rev P08 shall only used for purposes defined as; drinking establishment, food and drink consumption on the premises (with ancillary take away) and for the associated retail sales of food and drink and ancillary products only and for no other purpose (including any other purpose within classes E or F2(a) of the Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any statutory instrument revoking and re-enacting those Orders with or without modification).

Reason: Unrestricted use of the former workshop building (within the overall range of uses approved across the site) could cause harm to the character and appearance of the listed building and functioning of the surrounding area.

- 8) No more than 75% of the units in the new-build apartment blocks (excluding any new units created within or above Len House), shall be occupied until all of the Len House conversion works hereby approved have been completed.

Reason: To ensure the timely repair and conversion works to the listed building.

- 9) The approved works to Len House shall accord with 21/500611/SUB in regard of details and samples of the materials to be used in the construction of the external surfaces of the building. The development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

- 10) The approved works to Len House shall accord with construction details approved under 21/500611/SUB as amended by 22/505985/SUB.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

- 11) The construction of the new build apartment blocks shall not commence above slab level until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved by the Local Planning Authority. The development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

- 12) The construction of the new build apartment blocks shall not commence above slab level until the following constructional details with section drawings at a minimum scale of 1:20 have been submitted to and approved by the Local Planning Authority:

-Windows

-External doors

-Balconies

-Eaves

-Rain water goods

The development shall be constructed as approved.

Reason: To ensure a satisfactory appearance to the development

- 13) The construction of the new build apartment blocks shall be in accordance with the proposed slab levels shown on approved drawing 19.027.100.03 Rev B or in accordance with any further details approved by the Local Planning Authority.

Reason: In order to secure a satisfactory form of development having regard to the topography of the site and the relationship of the development to properties to the north.

- 14) The works to Len House hereby approved shall not commence above existing roof level until details of the scheme of treatment of the existing roof and the new penthouse roof have been submitted to and approved by the Local Planning Authority. The submitted scheme shall include details of the design, materials, specification and management plans for any roof level sedum roof..

Reason: In the interests of the character and appearance of the locality.

- 15) The works to Len House hereby approved shall not commence above existing roof level until a renewable energy strategy for the entire site has been submitted to and approved by the Local Planning Authority. The strategy shall include the physical details and energy performance of air source heat pumps and solar PV array as detailed within the approved Sustainability And Energy Statement by Sol Environment Ltd. The Renewable Energy strategy shall be implemented before first occupation of the related phase. All renewable energy systems shall thereafter be retained and maintained in a working order.
Reason: In the interests of renewable energy and the character and appearance of the locality.
- 16) Notwithstanding the approved drawings, active EV charging facilities shall be provided in accordance with the following schedule:
Residential: 6 active
Commercial: 2 active
The electric vehicle charging points as approved shall be installed prior to first occupation of the related buildings hereby permitted and shall thereafter be retained and maintained in accordance with the approved details.
Reason: To promote the reduction of CO2 emissions through the use of low emission vehicles
- 17) Hard landscape works to Len House shall accord with 21/504440/SUB.
Reason: To ensure a satisfactory appearance to the development.
- 18) The construction of the new build apartment blocks shall not commence above dpc level until details of hard landscape works have been submitted for approval by the Local Planning Authority. The hard landscape works shall be carried out in accordance with the approved details before first occupation.
Reason: To ensure a satisfactory appearance to the development.
- 19) Any works to daylight the River Len fronting Palace Avenue shall be carried out in accordance with a daylighting scheme to be submitted to and approved by the Local Planning Authority. Such a scheme shall include details of: -the water channel alignment, cross sections of the river and embankment profile, -the proposed planting mix and establishment regime (including use of organic textiles) for the aquatic environment -long-term management plan -details of an appropriately sized screen on pumps (in order to be compliant with the Eels Regulations 2009). -the construction methodology for deculverting, dewatering and potential desilting of the Mill Pond.
Reason: To ensure that any daylighting scheme is carried out to an acceptable standard and in a manner that optimises net biodiversity gain.
- 20) Should the River Len Daylighting scheme not proceed, the area shall be landscaped in general accordance with the Landscape Masterplan (dwg 0250-1000 Rev2) in accordance with details to be submitted to and approved by the Local Planning Authority and the landscaping shall be implemented in the first planting season following first use of the converted Len House.
Reason: In the interests of the visual amenity of the area.
- 21) The works to Len House hereby approved shall not commence above existing roof level until a details of a related landscape planting scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved by the Local Planning Authority that shall include all

areas of amenity land indicated in the Landscape Masterplan (dwg 0250-1000 Rev2) hereby approved. The scheme shall show all existing trees and blocks of landscaping on and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on-site replacement planting to enhance amenity and biodiversity value and include a planting specification, implementation details and a 5 year management plan.

Reason: In the interests of a satisfactory appearance to the development and biodiversity.

- 22) The construction of the new build apartment blocks shall not commence above dpc until details of a related landscape planting scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted for approval to the Local Planning Authority that shall include all areas of amenity land indicated in the Landscape Masterplan dwg 0250-1000 Rev2 hereby approved. The scheme shall show all existing trees and blocks of landscaping on and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on-site replacement planting to enhance amenity and biodiversity value and include a planting specification, implementation details and a 5 year management plan.

Reason: In the interests of a satisfactory appearance to the development and biodiversity.

- 23) All planting, seeding and turfing specified in the approved landscape details shall be completed in the first planting season (October to February) following first use or occupation of the related phase. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the Local Planning Authority. gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 24) A scheme for the enhancement of biodiversity on the relevant part of the site shall be submitted for approval by the Local Planning Authority at the following stages of the development:

-Within 2 months of this decision in relation to Len House

-Within 6 months of the first commencement of the new build apartment blocks.

These schemes shall include a Phasing Plan for implementation and shall address the enhancement of biodiversity within the Mill Pond and through integrated methods into the design and appearance of the buildings by means such as swift bricks, bat bricks and habitat for solitary bees. Details shall also include measures to minimise impact on the Mill Pond and its ecology. The development shall be implemented in accordance with the approved details and all features shall be retained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- 25) A landscape and ecological management plan covering each stage of the development, shall be submitted to and approved by the Local Planning Authority as follows:

- Prior to first occupation of any dwelling following the works to convert Len House;
- Prior to first occupation of any dwelling within the new build apartment blocks.

These details shall include a timetable for implementation and shall address long term design objectives, management responsibilities and maintenance schedules for all landscaped and open areas other than privately owned domestic gardens. Landscape and ecological management shall be carried out in accordance with the approved plan and timetable unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of biodiversity, landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 26) The development hereby approved shall not commence until a scheme has been submitted to and approved by the Local Planning Authority to demonstrate that the internal noise levels within all proposed residential units (both new build and listed building conversion) and the external noise levels in relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, Local Planning Authority. The assessment should have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation and thermal comfort for future occupants. The ceiling and floor that separated the residential and commercial unit shall resist the transmission of airborne sound such that the weighted standardised difference (DnT, W + Ctr) shall not be less than 53 decibels. The weighted standardized difference (DnT, W) a spectrum adaption term, Ctr, is quoted according to BS EN ISO 16283-1:2014+A1:2017 Acoustics - Field measurement of sound insulation in buildings and of building elements Airborne Sound Insulation. It is expected that higher levels of noise that require windows to be closed to meet BS8233 internal level specifications will need greater ventilation than the minimum standard in the Building Regulations in trying to achieve open window equivalence which will involve user control of ventilation rates to key rooms such as living rooms and bedrooms. The scheme must include an assessment of and necessary mitigation to address potential late night noise from nearby entertainment and leisure venues and include an acoustic assessment of proposed commercial uses within the converted Len House. The scheme shall be carried out as approved prior to the first occupation of the relevant residential unit and be retained thereafter.

Reason: In the interests of aural amenity and to ensure that the development does not prejudice the ongoing viability of nearby entertainment and leisure venues.

- 27) The approved details of the cycle parking and vehicle parking/turning areas shall be completed before the commencement of the use of the related land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access thereto.
Reason: In the interests of road safety.

- 28) Notwithstanding the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, no advertisements shall be placed on the site or buildings hereby approved without the express consent of the Local Planning Authority.

- Reason: To ensure adequate control of the character, appearance and setting of the listed building.
- 29) Prior to works to Len House commencing above existing roof level, a detailed scheme for the Mill Street forecourt and beverage kiosk shall be submitted for approval to the Local Planning Authority. Such a scheme shall include the design, materials, lighting strategy and hard landscaping/seating proposals for the external area and include any all weather proposals such as umbrellas or canopies. The approved scheme shall be completed prior to the first use of any part of the main A3/A4 element within Len House and the kiosk shall be used thereafter primarily for the sale of beverages unless otherwise agreed by the Local Planning Authority.
Reason: To ensure that forecourt enhancement scheme is delivered to a satisfactory standard.
- 30) Prior to works to Len House commencing above existing roof level, a detailed scheme for the proposed Mill Pond boardwalk shall be submitted for approval by the Local Planning Authority. Such a scheme shall include the form of attachment, design and materials including any handrails, a lighting strategy access and arrangements for long term management. The approved scheme shall demonstrate that the deck structure has been design to optimise natural light levels and to ensure that disturbance to the ecology in the below section of the Mill Pond is minimised and detail any integrated biodiversity enhancement works to be incorporated into the walkway design and shall be completed prior to the first use of commercial elements of the scheme.
Reason: In the interests of the Listed Building and its setting and to ensure an acceptable level of biodiversity enhancement is secured across the scheme as a whole.
- 31) The internal street on drawing 20.061-1550-S1 Rev P08 shall be retained as approved as a thoroughfare.
Reason: In the interests of pedestrian permeability.
- 32) Prior to works to Len House commencing above existing roof level, a lighting strategy of the buildings and public areas shall be submitted for approval to the Local Planning Authority. These details shall include measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors, including the Mill Pond and the proposed de-culverted River Len. The development shall thereafter be carried out in accordance with the subsequently approved details prior to first use/occupation and retained thereafter.
Reason: In the interest of visual amenity, heritage sensitivity and ecology.
- 33) Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no CCTV or other communications or monitoring equipment, including satellite dishes shall be erected on Len House without the prior written consent of the LPA.
Reason: To ensure that the character and appearance of the listed building is not harmed.
- 34) The ground floor commercial space shall be retained as hereby approved on drawing 20.061-1550-S1 Rev P08 and not be further subdivided by way of internal partitions or ceilings except in accordance with details that have been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the character and appearance of the listed building is not harmed.

- 35) There shall be no external plant (including ventilation, refrigeration and air conditioning) or ducting system except in accordance with details approved under 21/504442/SUB.

Reason: In the interests of visual and aural amenity.

- 36) Within 6 months of this decision, details of a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises, shall be submitted to for the approval by the Local Planning Authority. The scheme shall be designed in accordance with the EMAQ Publication Control of Odour and Noise from Commercial Kitchen Exhaust Systems 2018 and should typically include a grease filter, pre-filter and activated carbon treatment, together with high level fume dispersion. Any equipment, plant or process shall be installed prior to the first operation of the premises and shall thereafter be operated and retained in compliance with the approved scheme and maintained to the original specification.

Reason: To safeguard the amenities of the surrounding area.

- 37) A Travel Plan shall be implemented and monitored as approved by 21/500611/SUB. Monitoring requirements should only cease when there is sufficient evidence for all parties to be sure that the travel patterns of the development are in line with the objectives of the Travel Plan.

Reason: In the interests of environmental sustainability.

- 38) The approved details of the access points to the site shall be completed before the commencement of the use of the relevant land or buildings hereby permitted and, any approved sight lines shall be retained free of all obstruction to visibility above 1.0 metres thereafter.

Reason: In the interests of highway safety.

- 39) No use or occupation of the development hereby permitted shall take place until related highway works, to include installation reinstatement of closed crossovers, new access points and footway crossovers have been implemented in accordance with a scheme to be approved by Kent County Council under s278 of the Highways Act 1980.

Reason: In the interests of highway safety.

- 40) (i) Drainage of Mill Street Forecourt area shall comply with details approved under submission ref. 21/504443/SUB.

(ii) Within 3 months of this decision, a Revised Surface Water Drainage Strategy for the remainder of the Len House stage of the development shall be submitted for the approval of the Local Planning Authority which shall take account of the reduction in the areas of sedum roof. The drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that (with reference to published guidance):

-silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters

-appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The Revised Drainage Strategy shall be implemented as approved before first use of the building.

(iii) The development of the new build stage of the site shall not begin until a sustainable surface water drainage scheme for the relevant part of the site has been submitted to and approved by the Local Planning Authority. The drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that (with reference to published guidance): -silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters. -appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

- 41) No part of the new build element of the development shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing, and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

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

- 42) Prior to the first occupation of any part of the development, the development, a scheme of air quality mitigation measures shall be implemented in accordance with details that have been submitted to and approved by the Local Planning Authority. This should include at least one residential receptor modelled in Upper Stone Street. It should include a costed mitigation scheme showing how the money is to be spent. The damage cost could be spent on cycle storage and low NOx boilers.

Reason: In order to ensure that an acceptable level of mitigation of potential air quality impacts is secured.

INFORMATIVES

- 1) Environmental Protection re Asbestos

- 2) Environmental Protection re Noise and Vibration transmission between properties
- 3) KCC Archaeology- condition 4 for Len House and condition 3 for rest of the site
- 4) Environment Agency-De-culverting will need a Flood Risk Activity Permit.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

Urgent Update: Planning Committee 19 October 2023

Item 19 Pages 139-172

Len House, Mill Street, Maidstone

APPLICATIONS: (A) 23/500769/LBC and (B) 23/500773/FULL

Applicant

The applicant has noted some errors in drawing numbers in the conditions, suggests deletion of the condition referring to any boardwalk/decking because this is proposed to be removed in its entirety and also suggested minor rewording of conditions to better match between the 2 applications and to allow for potential phased discharge of other conditions.

They have requested revisions to the suggested Head of Terms in the S106 legal agreement:

- a) Delete the deculverting of the River Len on the application site as they consider it is not relevant to the s73 application being determined. (They also wish for any suggested conditions or informatives to be amended to omit any reference to deculverting or daylighting of the River Len).
- b) to clarify that the internal street will be open to the public during business hours only
- c) The wish to delete the requirement in regard of communal open space on the basis they have provided compensatory internal amenity space at first floor level

Discussion

The suggested corrections and rewording of conditions are acceptable except with regard to the deculverting of the River Len. The removal of that matter from the s106 legal agreement is not agreed.

As detailed in the main agenda report, the deculverting was expressly requested by Members when the parent planning permission was being determined. The Unilateral Undertaking is a fundamental part and parcel of the original planning permission and it is necessary to ensure the obligations related to it are carried forward to what will effectively be a new planning permission. Due to the passage of time, there need to be realistic new timescales and minor revisions to the clauses to ensure the works are practically implementable.

In addition, it is the case that the deculverting does also relate to the detail of the s73 application. The application significantly varies external landscaping/public realm by the deletion of the boardwalk and the daylighting the River Len needs to be considered in that context. There is also a relationship between the deculverting and the significant reduction in sedum roofs in terms of overall drainage strategy for the site.

The suggested Head of Term for communal open space on the wider site redevelopment (ie quantity and accessibility) is necessary to ensure that planning policies that related to open amenity space when the original application was considered continue to be applied consistently. The indoor lounge and gym are not full compensation for outdoor amenity space. The original planning permission showed that the open space for the

overall development would primarily be on the new build part of the scheme. It is essential that long term access rights to that communal outdoor open space on the wider site be secured for future residents of the Len House conversion.

The suggestion to revise the internal street public use to aligning with hours of business is pragmatic and is acceptable.

For the avoidance of doubt, it is recommended that the s106 agreement includes a revocation of the existing Unilateral Undertaking.

AMENDED RECOMMENDATION

(A) 23/500769/LBC

Amend Conditions

Correct drawing numbers in conditions as follows
20.061-ONA-00-EL-DR-A-1410-S4 Rev P04
20.061-ONA-00-EL-DR-A-1510-S1-P07

Conditions 2) and 3) combined as follows and subsequent conditions renumbered.

2) The approved works to Len House shall be constructed using the materials approved under 21/500608/SUB with the exception of the glazing to commercial units 3.1, 3.2, 3.3, 04, the residents' gym and residents' lounge for which constructional details at a scale of not less than 1:20 shall be submitted for the approval of the Local Planning Authority within 3 months of this consent. The approved materials shall be installed as approved and retained thereafter.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

Condition 10) amended as follows and renumbered as necessary

10) The full set of record photographs of the existing building submitted under 21/500608/SUB shall be made available to Kent County Council's Historic Environment Record within 2 months of this decision. Within 3 months of first use, heritage interpretation area(s) shall be installed in accordance with details that have been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the heritage benefits associated with archiving the building's history are secured.

(B) 23/500773/FULL

Amend Head of Terms:

- Culvert – Within 1 month of consent to grant both a licence to MBC to carry out site investigation works and payment of Culvert contribution of £80,000 index linked from 30 September 2020; and within 6 months of consent to transfer defined "culvert land" at nil cost to MBC; grant access rights by MBC to implement any de-culverting works.
- Securing public use of the throughfare "internal street" during business hours

- Replacement temporary car parking spaces (22 no.) pending redevelopment of the remainder of the site and long term (54 no.) car parking spaces within any scheme for redevelopment of the wider application site.
- To compensate for the net loss of roof terraces at Len House, any revised scheme for new build redevelopment will be required to include the provision of communal open space that provides a commensurate amount of space for the 2 elements with permanent rights of use by for residents of the apartments in Len House.
- Existing Unilateral Undertaking be revoked within the new s106 legal agreement

Amend Conditions

Correct drawing numbers in conditions as follows

20.061-ONA-00-EL-DR-A-1410-S4 Rev P04

20.061-ONA-00-EL-DR-A-1510-S1-P07

20.061-1500-S1 Rev P08

Conditions amended as follows:

4) A final report detailing all archaeological results and finds resulting from the approved scheme of archaeological work relevant to that stage of the development being occupied shall be submitted to and approved by the Local Planning Authority.

- Prior to first occupation of any dwelling following the works to convert Len House;
- Prior to first occupation of any dwelling within the new build apartment blocks.

Reason: In the interests of recording any below ground structures or finds and to inform KCC Heritage's archives.

5) The risks associated with contamination with the conversion of Len House shall accord with the scheme approved under 21/502283/SUB. The new build elements of the development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved by the Local Planning Authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

14) The works to Len House hereby approved shall not commence above existing roof level until details of the scheme of treatment of the existing roof and the new penthouse roof have been submitted to and approved by the Local Planning Authority. The submitted scheme shall include details of the design, materials, specification and management plans for any roof level sedum roof.

Reason: In the interests of the character and appearance of the locality.

Condition 30) deleted and subsequent conditions renumbered as necessary

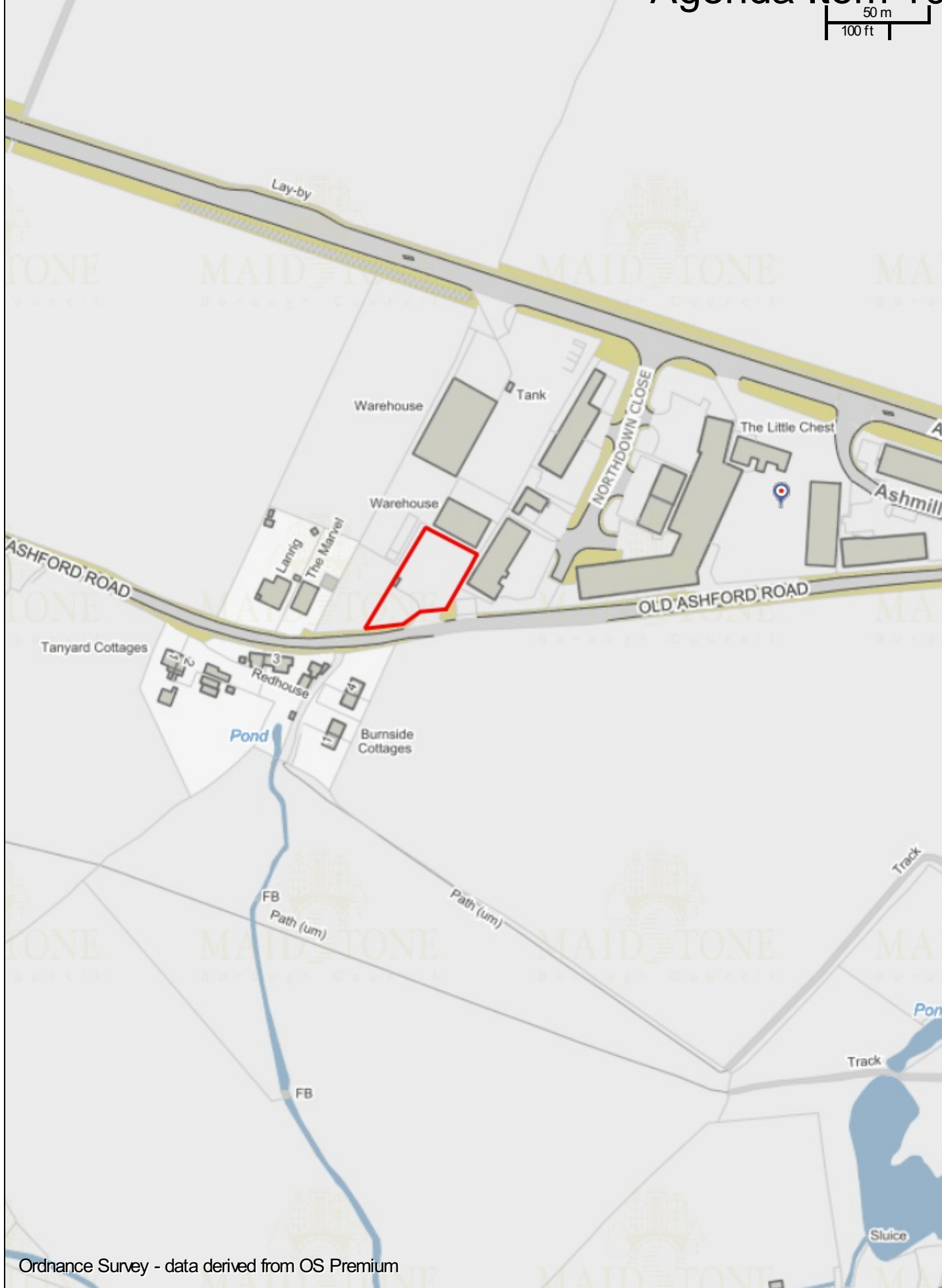
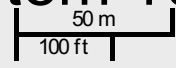
Conditions amended as follows:

32) Prior to works to Len House commencing above existing roof level, a lighting strategy of the buildings and public areas shall be submitted for approval to the Local Planning Authority. These details shall include measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors, including the Mill Pond and River Len if deculverting is implemented. The development shall thereafter be carried out in accordance with the subsequently approved details prior to first use/occupation and retained thereafter.

Reason: In the interest of visual amenity, heritage sensitivity and ecology.

36) Cooking or any other activity undertaken on the premises that generates fumes and/or odours shall not take place until there has been prior installation of equipment, plant or process for the extraction and treatment of fumes and/or odours generated in accordance with details that have been submitted to and approved by the Local Planning Authority. Scheme(s) shall be designed in accordance with the EMAQ Publication Control of Odour and Noise from Commercial Kitchen Exhaust Systems 2018 and should typically include a grease filter, pre-filter and activated carbon treatment, together with high level fume dispersion. Any installed scheme shall thereafter be operated and retained in compliance with the approved scheme and maintained to the original specification.

Reason: To safeguard the amenities of the surrounding area.



Ordnance Survey - data derived from OS Premium

REPORT SUMMARY

REFERENCE NO: - 23/501293/FULL		
APPLICATION PROPOSAL: Change of use of land for the siting of mobile burger van and canopy for the provision of hot food on the forecourt (retrospective).		
ADDRESS: The Coach Yard Old Ashford Road Lenham Kent ME17 2DG		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions		
<p>SUMMARY OF REASONS FOR RECOMMENDATION:</p> <p>There is no policy support in the Adopted Local Plan for uses of this kind in countryside locations such as this, however, material considerations discussed in this report justify a departure from the Local Plan.</p> <p>The proposal given its scale and location would not be harmful to the character and visual amenity of the site and the local area in general. No significant adverse effect is identified to the living conditions of occupiers of neighboring properties through noise, disturbance, or smells, and subject to conditions the scheme would not impose harm to the amenity of occupiers of neighbouring houses.</p> <p>The scheme would not result in a significant material increase in off-street parking demand in the locality or give rise to added congestion on the local road network, which would cause irritation and inconvenience to the local residents.</p>		
REASON FOR REFERRAL TO COMMITTEE: The application has been called in by Lenham Parish council. The reasons for committee referral are available in section 4 of this report.		
WARD: Harrietsham And Lenham	PARISH/TOWN COUNCIL: Lenham	APPLICANT: Mrs Nertila Sinani AGENT: TSJ Drawings
CASE OFFICER: Francis Amekor	VALIDATION DATE: 24/05/23	DECISION DUE DATE: 27/10/23
ADVERTISED AS A DEPARTURE: Yes		

Relevant planning history

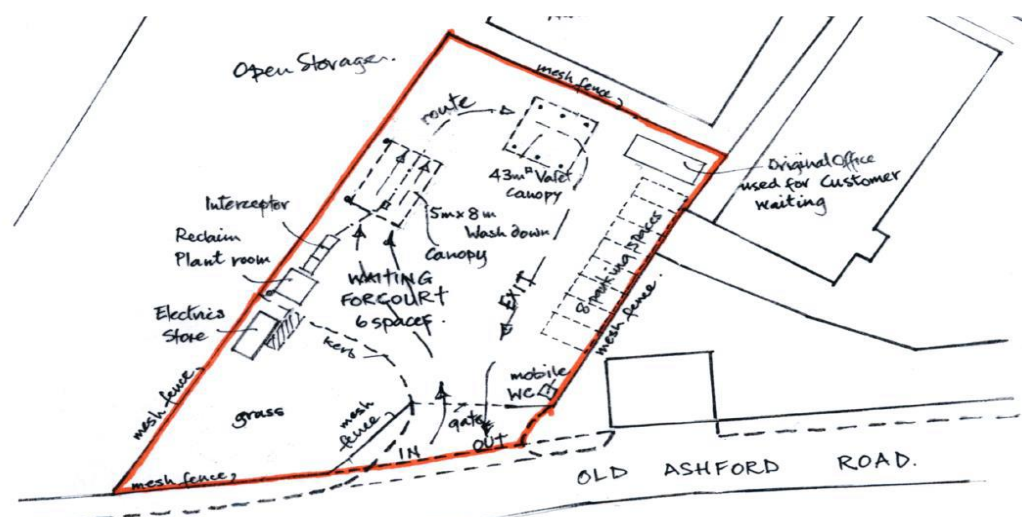
- 23/501294/FULL Retrospective application for the erection of a tyre bay building and the laying of hardstanding. Approved 29.09.2023 (resolution to approve from committee on the 21 September 2023)
- 18/501630/FULL Change of use to general commercial use and car wash/valeting, with retention and erection of wash down area and valeting canopies together with ancillary structures (part retrospective). Refused 20.06.2018
- 18/505045/FULL Change of use to general commercial use and car wash/valeting, with retention and erection of wash down area and valeting canopies together with ancillary structures and drainage, including plant room and sealed drainage system. Resubmission of 18/501630/FULL) Approved 28.11.2018
- 17/504828/FULL Retrospective application for change of use to a general commercial use and a car wash. Refused 05.01.2018
- 99/1583 Retrospective advertisement consent for a non-illuminated free-standing sign as shown on site location plan and photographs received on 30/09/99. Approved 6.12.1999

- 75/0405 Formation of hardstanding and use of land for the parking of motor coaches, Approved 17.02.1977
- 79/0040 Single storey building for garaging and servicing coaches. Approved 19.03.1981
- 83/0185 Siting of residential caravan for security reasons. Approved 13.05.1983

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application relates to the premises of a former coach travel company located on the north side of Old Ashford Road. The site is approximately 50 metres east of the built confines and settlement of Lenham, a designated as a Rural Service Centre in the Adopted Maidstone Borough Local Plan (2017). The site has permission for use as car wash and is occupied by canopies and various utility buildings associated with that use.
- 1.02 The wider area is identified in the Maidstone Landscape Character Assessment as falling within the East Lenham Vale Landscape Character Area which is described as being in 'Good' condition and of 'High' sensitivity with guidelines to 'Conserve'. The site also falls within a minerals safeguarding area.
- 1.03 The southern site boundary fronts Old Ashford Road. To the south west of the application site are two-storey semi-detached residential properties. The north east site boundary abuts warehouses that forms a part of the adjacent industrial estate.
- 1.04 The site has an established gated vehicular access from Old Ashford Road. The front boundary of the application site has a metal post fence and large areas of hardstanding associated with the former use and is very urban/commercial in appearance.
- 1.05 The site plan submitted with that previous application under reference number 18/505045/FULL (change of use to general commercial use and car wash/valeting) showing the locations of the canopies, utility buildings and car parking spaces is depicted below.

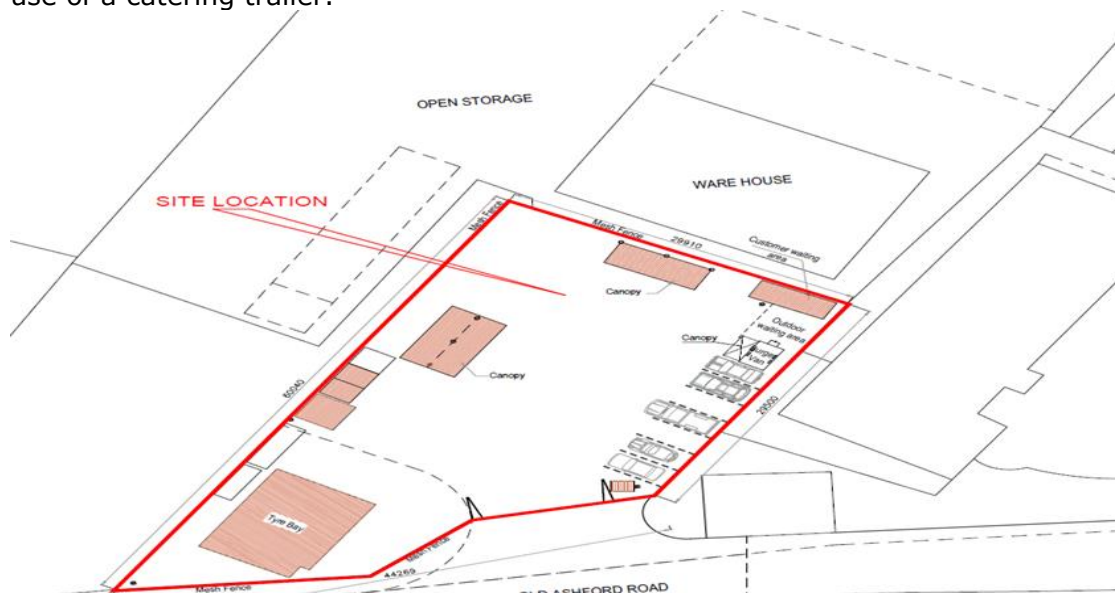


Proposed Site Plan for application ref: 18/505045/FULL

2. PROPOSAL

- 2.01 The proposal is a retrospective application to change of use of a small section of the forecourt for the stationing of mobile burger van and a canopy for preparation and retailing of hot food.

- 2.02 The burger van is positioned between the customer outdoor waiting area and car parking spaces in the north eastern part of the site. The burger van and attached canopy are 4 metres in width and 3.8 metres depth, rising approximately 3 metres above ground level.
- 2.03 The burger van and canopy would be used for preparation and retailing hot food for consumption by visiting customers, at the site or away from the site with the use of a catering trailer.



Proposed site plan showing the location of the burger van and canopy

3. POLICY AND OTHER CONSIDERATIONS

Development Plan: Maidstone Local Plan 2017:

- Policy SS1 – Maidstone Borough Spatial Strategy
- Policy SP17 – Countryside
- Policy SP21 – Economic Development
- Policy DM1 – Principle of Good Design
- Policy DM8 – External Lighting
- Policy DM23 – Parking standards

Emerging Draft Policy: Maidstone Draft Local Plan

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time. The relevant policies are as follows:

- Policy LPRSP9 - Development in the Countryside
- Policy LPRSP11 - Economic Development
- Policy LPRSP15 – Principles of Good Design
- Policy LPRTRA4 – Parking
- Policy LPRQ&D 2 - External lighting

The National Planning Policy Framework (NPPF) (2023):

- Section 2 – Achieving Sustainable Development
- Section 4 – Decision Making

Section 12 – Achieving well Designed Places

Supplementary Planning Documents

Neighbourhood Plan Lenham Policies: Policy D1 – Quality Design

Kent Waste and Minerals Plan (amended 2020):

National Planning Practice Guidance (NPPG):

Maidstone Landscape Character Assessment 2012 (Updated 2013)

SPG 4 Kent Vehicle Parking Standards July 2006

4. LOCAL REPRESENTATIONS

4.1 Local residents:

2 representations received objecting to the application for the following (summarised) reasons:

- Increase traffic queues on Old Ashford Road and associated highway safety
- Increase in noise and disturbance and general anti-social behaviour.
- The proposal would cause overdevelopment and overcrowding of the site
- Adverse effect from cooking smells.
- There is already a takeaway in Lenham.
- It would increase inappropriate parking on Old Ashford Road outside the premises
- Increase in litter and vermin.

4.2 Lenham Parish Council:

Objection to the proposals for the following reasons:

- The proposal would result in anti-social behaviour
- There is no provision for WCs which will presumably follow.
- There are no provisions for waste or litter.
- This is another example of a creeping development.
- There is no pavement access to the site for pedestrians walking from the Village.
- Noise and smells issues for the neighbours due to insufficient extraction/filtration.
- The comments of the Environmental Protection Team are inaccurate.
- The proposals would cause both overdevelopment and overcrowding of the site.
- It would result in spill over parking on Old Ashford Road
- If minded to approve, the Parish Council request committee determination.

5. CONSULTATIONS

5.01 Environmental Health

No objection. Commented that 'there are no sensitive premises directly adjacent to the site and am satisfied that the proposed use will have a negligible impact.

5.02 KCC Highways and Transport

No objection. The development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

6. APPRAISAL

The key issues are:

- Countryside location and policy SP17
- Character and appearance
- Economic development in rural areas.
- Residential amenity
- Parking and highway safety

Countryside location and policy SP17

6.01 The application site is in the countryside and the starting point for assessing all applications in the countryside is Local Plan Policy SP17. Policy SP17 of the Adopted

Local Plan states that development proposals in the countryside will only be permitted where:

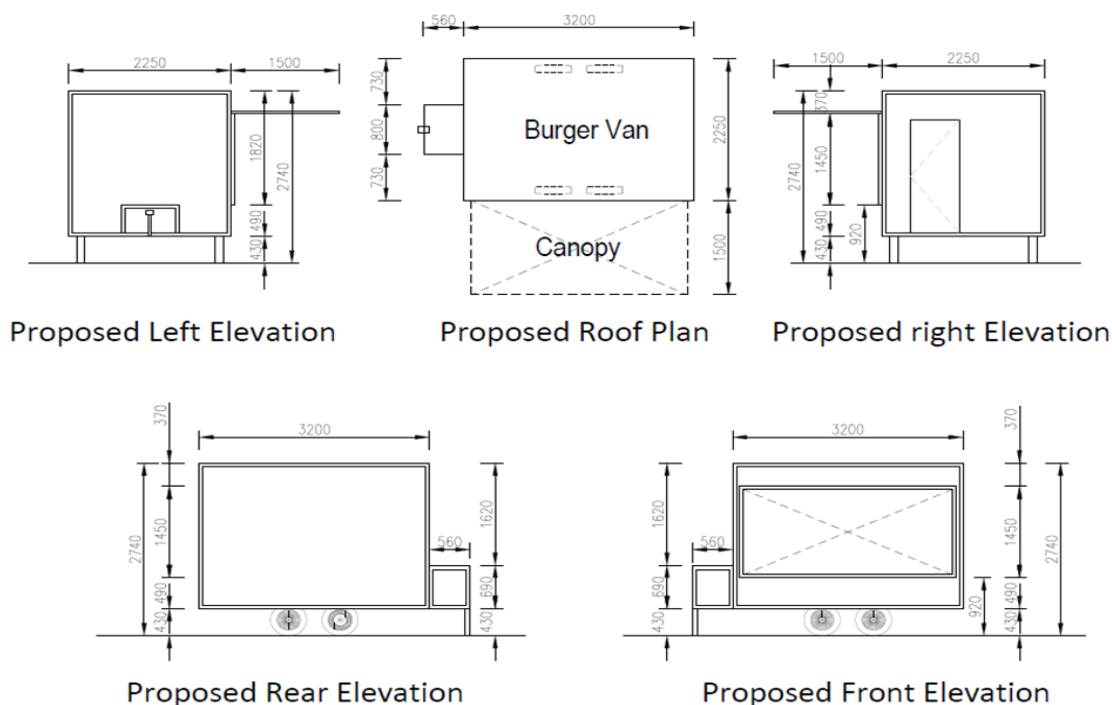
- a) there is no harm to local character and appearance, and
- b) they accord with other Local Plan policies.

- 6.02 Policy SP17 does not specify an acceptable level of harm to local character and appearance and all proposals in the countryside are likely to result in some degree of harm. In this context all development outside the designated settlements does not accord with this part of SP17.
- 6.03 In certain circumstances where there is locational need for development (equestrian, rural worker dwelling agricultural buildings etc) other Local Plan policies permit development in the countryside subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance I weighed against the harm caused to character and appearance with a proposal found in accordance with policy SP17 overall.
- 6.04 The proposal will result in harm to the character and appearance of the countryside. The burger van and canopy are not connected with the established use of the site and there are no specific polices in the Local Plan relating to uses of this kind in the countryside. The recommendation to grant planning permission would therefore be a departure from the adopted Local Plan.
- 6.05 The National Planning Policy Framework (NPPF) highlights that the planning system is plan-led. The NPPF reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require by law that planning applications "*must be determined in accordance with the development plan, unless material considerations indicate otherwise*".
- 6.06 Material considerations in this case include the degree of countryside harm including the site context and the location of the burger van and canopy on an established commercial site with permission for use as car wash and retention of the tyre bay building. Other material considerations relate to economic development in the countryside and residential amenity. These material considerations and other relevant issues are assessed below.

Character and appearance

- 6.07 Policy DM1 of the Local Plan (2017) advises that proposals should create a high-quality design which responds positively to and where possible enhance the character of the local area. Policy DM30 of the Local Plan states that new development should maintain, or where possible, enhance the local distinctiveness of an area.
- 6.08 The burger and canopy are a relatively small structure approximately 3 metres high. It is positioned within a site that is enclosed by metal fencing with an industrial appearance. The site is occupied by canopies and utility buildings associated with the existing hand car wash use, with most of the site covered in hardstanding.
- 6.09 Lenham Parish Council and residents are concerned the proposals would cause overdevelopment and overcrowding of the site. As indicated above, the site has an existing commercial character and whilst the burger van and canopy undoubtedly increase the built form at the site (and impact on appearance), due to the small scale of the burger van and canopy the proposal will not result in over development or overcrowding of the site. The burger van and canopy are viewed within the context and against the backdrop of the existing commercial site.

6.10 In terms of the effect of the use on the character of the site and the local area, the level of activity generated by this use (preparing and retailing of food for consumption by visiting customers, at the site or away from the site with a catering trailer) would not be so substantial as to adversely affect the character of the site or the local area.



Proposed elevations.

6.11 For the reasons outlined above, the proposals would comply with the requirements set out in Policy DM1, DM30 of the Maidstone Borough Local Plan, and paragraph 126 of the NPPF (2023) which jointly seeks to ensure all development are well designed to protect and enhance the special character and distinctiveness of the area in which it is situated.

Economic development in rural areas.

6.12 Government guidance in the National Planning Policy Framework (NPPF 2023) states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, through conversion of existing buildings and well-designed new buildings.

6.13 The NPPF (2023) at paragraph 81 directs that significant weight should be placed on the need to support economic growth and productivity, considering both local business needs and wider opportunities for development. At paragraph 85, it identifies that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.

6.14 Policy SP21 of the adopted Maidstone Borough Local Plan is supportive of proposals for the expansion of existing economic development premises in the countryside, provided the scale and impact of the development is appropriate for its countryside location.

- 6.15 The proposal although on a small scale would support the objectives of the NPPF (2023) to support economic growth and given its location within an existing commercial premises it is sensitive to its surroundings, would not have an unacceptable impact on local roads.

Residential amenity

- 6.16 Policy DM1 of the adopted Local Plan advises that proposals will be permitted where they “respect the amenities of occupiers of neighbouring properties...” and this includes considering the potential impact from “...excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties”.
- 6.17 The closest neighbouring properties are approximately 30m away to the west and south of the application site. The small-scale nature of the application, the enclosure of the site, and the fact that it would not attract significant numbers of customers would reduce the potential for noise nuisance from the burger van.
- 6.18 Given the nature of the proposal it would not generate significant levels of smells and odours, and imposition of a planning condition on odour extraction would not be effective. Moreover, the separation distance from the neighbouring houses and the scale and nature of the scheme means the impact on these houses is acceptable. The Environmental Health team found no reason to object based on amenity impact.
- 6.19 A planning condition is recommended to restrict opening hours (9am till 6pm Monday to Saturday and 10am to 4pm on Sunday). Moreover, any excessive noise that occurred from the site that could lead to a detrimental effect on health would be subject to other regulatory legislation controlled by Environmental Health. Operating within these restrictions would not lead to any significant harm to the living conditions of neighbouring residents.
- 6.20 On this basis, the proposals would not be harmful to the living conditions of occupiers of neighbouring properties through noise, disturbance, or smells. It would comply with policy DM1 of the Maidstone Borough Local Plan.

Highways Parking and highway safety

- 6.21 Policy DM23 of the Local Plan and supplementary planning guidance sets out the parking standards for the Borough. The policy adopts a flexible approach to minimum and maximum parking standards to reflect local circumstances and the availability of alternative modes of transport to the private car.
- 6.22 The application site consists of a significant amount of hardstanding and there would be adequate space to park vehicles on site. Considering the scale of the proposal and notwithstanding the comments from residents, the scheme would not result in a significant material increase in off-street parking demand in the locality or give rise to added congestion on the local road network. The proposals would comply with the requirements of policy DM23 and the SPG.

PUBLIC SECTOR EQUALITY DUTY

- 6.23 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The proposal will result in harm to the character and appearance of the countryside and there are no Local Plan policies that directly support the application. The application is a departure from the adopted Local Plan.

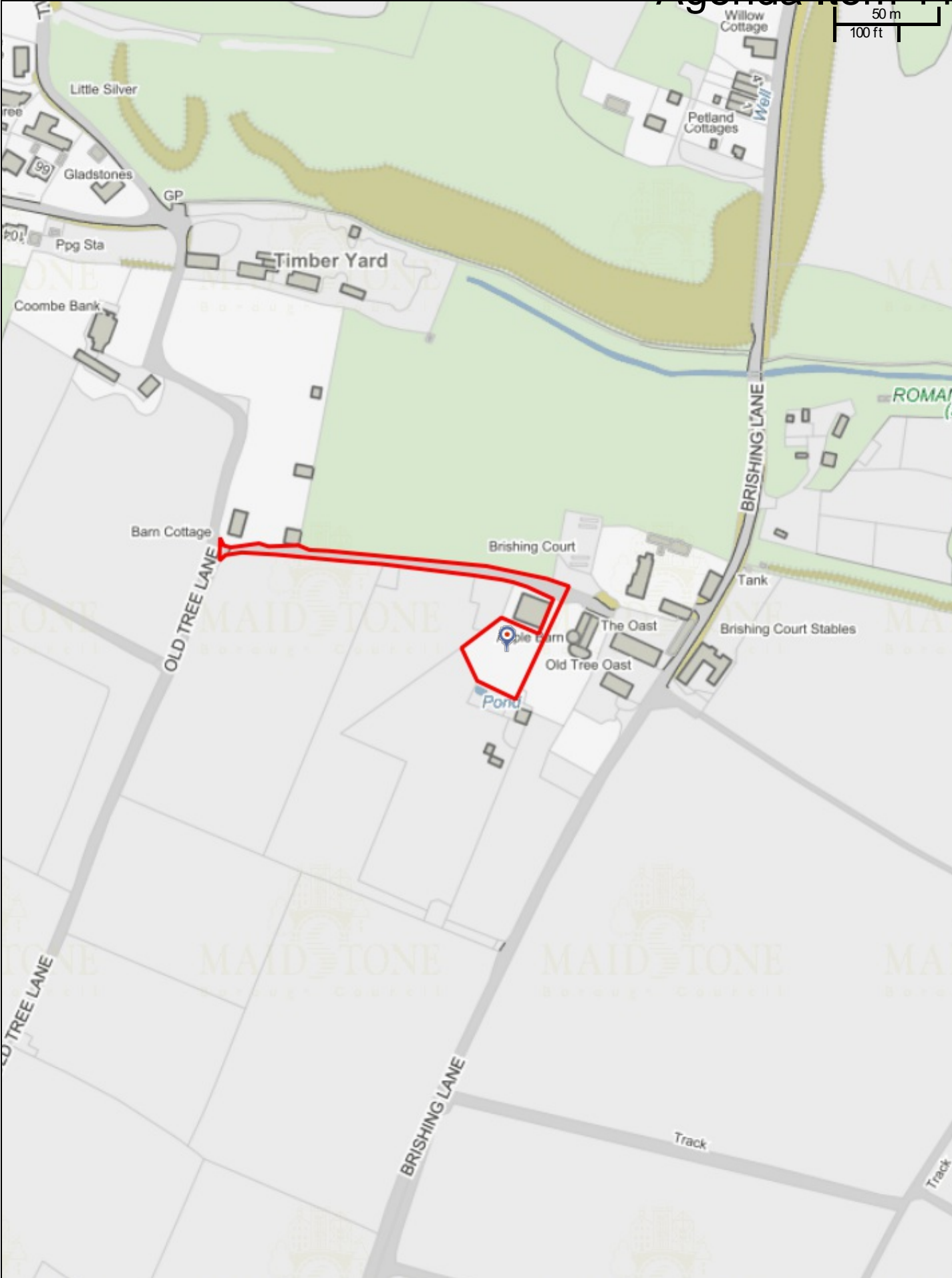
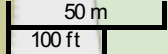
- 7.02 The National Planning Policy Framework (NPPF) reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require by law that planning applications "*must be determined in accordance with the development plan, unless material considerations indicate otherwise*".
- 7.03 The proposal is acceptable in relation to the minimal level of harm that will be caused to the character and appearance of this rural area. Whilst not supported by adopted policies in this location, the proposal will comply with the general requirements of Local Plan policy DM30, and paragraph 126 of the NPPF (2023) which jointly seek to ensure that all development is well designed to protect local character.
- 7.04 With recommended conditions, the proposal is acceptable in relation to the impact on neighbour's amenity including through noise, disturbance, or smells. The application complies with the general requirements of policy DM1 of the Maidstone Borough Local Plan that seeks to protect residential amenity. The application would not result in transport or traffic harm that would justify the refusal of planning permission.
- 7.05 Whilst a departure from the local plan it is concluded that these material considerations indicate that planning permission should be approved.

8. RECOMMENDATION GRANT planning permission subject to the following conditions with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

- 1) The development shall be carried out in accordance with the following approved plans and documents.
Drawing Number: 23/1210/HD/01 Rev C (Existing Site Location and Block Plans)
Drawing Number: 23/1210/HD/11 Rev C (Proposed Site Location and Block Plan)
Drawing Number: 23/1210/HD/13/1 Rev B (Proposed Burger Van Plan and Elevations)
Drawing Number: 23/1210/HD/02 Rev D (Existing Ground Floor Plan)
Reason: To ensure the development is carried out to an acceptable visual standard.
- 2) The burger van hereby approved shall not be open for customer business outside the hours of 0900hs-1800hrs Monday to Saturday and 1000hrs – 1600hrs on Sundays and Bank Holidays.
Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers
- 3) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011 (and any subsequent revisions) and follow the recommendations within Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting', and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.
Reason: To safeguard the character and appearance of the countryside and in the interests of residential amenity and wildlife.

- 4) The use hereby permitted shall cease and all structures, equipment, and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
- i) Within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of:
 - a) The extent of hardstanding.
 - b) Existing external lighting on the boundary of and within the site.
 - c) Details of existing landscaping and details of soft landscape enhancements.
 - d) Details of the measures to enhance biodiversity at the site, specifically bird boxes and other habitats installed around the site boundaries; and,
 - e) A waste and refuse strategy to include measures to reduce waste from the business and measures to reduce litter generated by customers and litter collection.
 - f) A timetable for implementation of the scheme including a) to e) with all details implemented in accordance with the agreed timetable and all details and measures retained for the lifetime of the development.
 - ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
 - iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved. Reason: To ensure the visual amenity, character, and appearance of the open countryside location.
- 5) All planting, seeding and turfing specified in the approved landscape details shall be completed by the end of the first planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from first planting, are removed, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.



Ordnance Survey - data derived from OS Premium

23/501716/FULL - Cherry Barn, Old Tree Lane, Boughton Monchelsea, Kent, ME17 4NG

Scale: 1:2500

Printed on: 6/10/2023 at 12:47 PM by KirstyS



REPORT SUMMARY

REFERENCE NO: - 23/501716/FULL			
APPLICATION PROPOSAL: Change of use of agricultural land to residential land and erection of 1no. dwelling with associated parking, landscaping, and amenity area, including part demolition of existing unauthorised structure (part retrospective) (resubmission of 22/504298/FULL).			
ADDRESS: Cherry Barn Old Tree Lane Boughton Monchelsea Kent ME17 4NG			
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION: The National Planning Policy Framework (NPPF) reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which requires by law that planning applications "must be determined in accordance with the development plan, unless material considerations indicate otherwise". The proposal will result in harm to the character and appearance of the countryside contrary to policy SP17 and there are no Local Plan policies that directly support the current proposal. In this context as the application is not in accordance with the adopted Local Plan, it needs to be determined as to whether there are other material considerations that justify granting planning permission. The current unkempt and derelict appearance of the application site detracts significantly from the setting and heritage importance of nearby listed buildings. It is accepted that the current proposal is in an unsustainable location will result in a degree of harm to the character and appearance of the area through associated domestic paraphneilia (limited by the backland location). This harm is outweighed by the improvements to the visual appearance of the site and associated landscaping in this sensitive location in the setting of two listed buildings. It is concluded that whilst the application is not in accordance with the development plan (a departure) these material considerations that have been outlined and the level of harm indicate that planning permission should be approved.			
REASON FOR REFERRAL TO COMMITTEE: Departure from the Local Plan			
WARD: Boughton Monchelsea And Chart Sutton	PARISH Boughton Monchelsea	COUNCIL:	APPLICANT: Christine Gibson AGENT: DHA Planning
CASE OFFICER: Francis Amekor	VALIDATION DATE: 08/06/23	DECISION DUE DATE: 27/10/23	
ADVERTISED AS A DEPARTURE: Yes			

Relevant planning history

22/504298/FULL Erection of 1no. dwelling with associated parking and landscaping, including part demolition of existing unauthorised structure (part retrospective). Refused 02.11.2022. This application was refused for the following reasons:

"The proposal will result in harm to the character and appearance of this rural location, with the siting, mass, scale and domestic design of the proposed building failing to

maintain or enhance local distinctiveness including in relation to landscape and visual amenity. The development is contrary to policies SP17 and DM30 of the Local Plan (2017), RH8 of the Boughton Monchelsea Neighbourhood Plan (2021) and guidance in the NPPF”.

14/505197/PNBCM - Prior notification for the change of use of The Apple Barn at the Oast, Brishing Lane to form two separate dwellings. For its prior approval to: Transport and highways impacts of the development; Contamination risks on the site; Flood risks on the site; Noise impacts of the development; Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed; Design and external appearance impacts on the building – Prior Approval Not Required. (NB: As the Council’s decision on this prior approval application was made outside the 56-day time period, the proposed development benefited from deemed approval).

The approval under reference 14/505197/PNBCM was for two dwellings and the ownership of the relevant land is now in separate ownership. Works to convert the larger adjacent building from agriculture to a dwelling are now at an advanced stage. The left hand image below of the neighbouring building shows the structure on the application site on the left hand side.

Images of Apple Barn on the neighbouring site



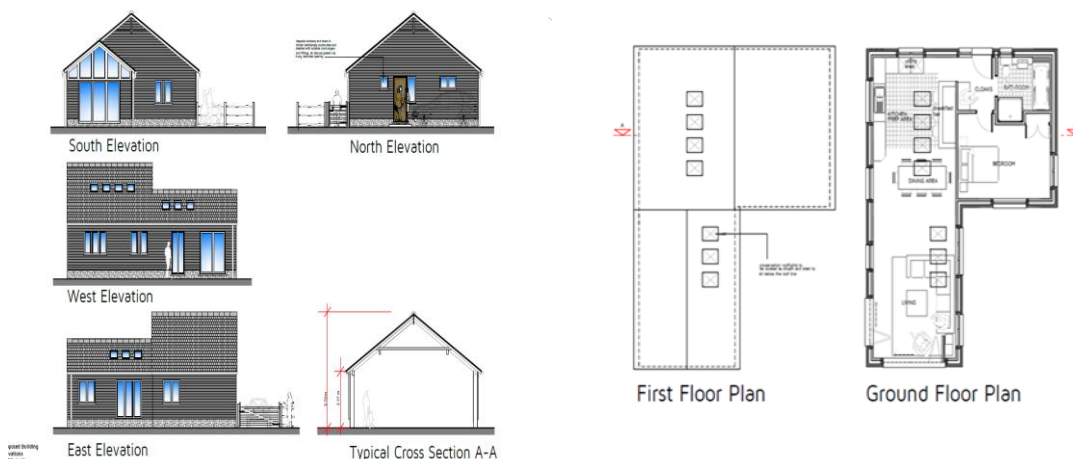
MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is located approximately 0.6km north east of Boughton Village boundary. The site is located on the edge of a small cluster of residential development, offices, and a nursery.
- 1.02 The application site includes part of the agricultural building that was known as ‘The Apple Barn’. Prior approval was in place for the conversion and separation of the building to provide two dwellings and the two buildings are now in separate ownership.
- 1.03 Following the collapse of the building the prior approval is now null and void. The prior approval proposal cannot be implemented and carries no weight in the assessment of the current application. The site currently contains an uncompleted building with work not benefiting from planning permission.
- 1.04 The Maidstone Landscape Character Assessment identifies the wider area as falling within Greensand Fruit Belt landscape character area (area 7) with a guidance to conserve and strengthen. The site is also within Farleigh Greensand Fruit Belt, on the Borough Wide Character Area, and is identified as being of high sensitivity and in good condition, with a guidance to conserve.

- 1.05 The eastern site boundary abuts the residential garden of Old Tree Oast. Brishing Barn and Brishing Court, both Grade II listed properties are located 40 to 50 metres to the east and north east of the application site. The southern and western site boundary abuts open, undeveloped agricultural field characteristic of the wider countryside beyond the application plot. A small pond lies a few metres from the southern site boundary.
- 1.06 The site access is an unmade track that leads east from Old Tree Lane passing by a former agricultural barn before arriving at the application site. This access is approximately 160 metres long and also serves other properties in the vicinity of the application site.

Floor plans and elevations for refused application Ref:22/504298/FULL



Floor plans and elevation details for current application



2. PROPOSAL

- 2.01 The application is for the change of use of the agricultural land immediately to the south of 'The Apple Barn' to residential land and erection of a one bedroom detached dwelling with associated parking, landscaping, and amenity area. The scheme is part retrospective and includes part demolition of the existing unauthorised structure.
- 2.02 The building is positioned approximately 8 metres from the southern elevation of 'The Apple Barn' and its footprint and height would be similar to the building approved under reference number 14/505197/PNBCM. This current application is significantly different from the previously refused scheme in terms of footprint, mass, appearance, and design.
- 2.03 The change in this current scheme includes an increase in the use of ragstone on the dwelling and the use of Kentish peg tiles on the roof. Additionally, the rooflights

have been removed, with the number of glazed openings restricted. The submission also indicates the extent of curtilage for the dwelling including landscaping and parking arrangements. The extent of the curtilage approved under reference number 14/505197/PNBCM is limited in size by virtue of the interpretation of "curtilage" for the purposes of Class MB. The application involves extension of the curtilage slightly to the south and west of the site.

- 2.04 The dwelling with a L shape footprint would be single storey under a simple pitched catslide roof. It would have a bedroom, open plan living, kitchen and dining area and a bathroom.
- 2.05 The Planning Statement supporting the application explains works on the development approved under ref: 14/505197/PNBCM begun within 3 years of that decision. Owing to the presence of asbestos in the building, and external factors, the applicant was unable to complete the building.
- 2.06 The walls of the building were consequently exposed to the elements and over a period the walls collapsed following bad weather and high winds. The Planning Statement indicates that the applicant was unaware at that time that the replacement of the walls meant that the building no longer had permission under 14/505197/PNBCM.

Partially reconstructed building following collapse of original building



3. POLICY AND OTHER CONSIDERATIONS

Development Plan: Maidstone Local Plan 2017:

- Policy SS1 – Maidstone Borough Spatial Strategy
- Policy SP17 – Countryside
- Policy SP18 – Historic Environment
- Policy DM1 – Principle of Good Design
- Policy DM4 - Development affecting designated and non-designated heritage assets
- Policy DM11 – Residential Garden Land
- Policy DM12 – Density of Housing Development
- Policy DM23 – Parking standards

Boughton Monchelsea Neighbourhood Development Plan (2019) policies PWP 4, RH1 & RH6 of

Emerging Draft Policy: Maidstone Draft Local Plan:

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the

consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time.

Policy LPRSS1– Maidstone Borough Spatial Strategy
Policy LPRSP2 – Maidstone Urban Area
Policy LPRSP15 – Principles of Good Design
Policy LPRTRA4 – Parking
Policy LPRQ&D6 - Technical Standards
Policy LPRQ&D7- Private Amenity Space Standards

The National Planning Policy Framework (NPPF) (2023)

Section 2 – Achieving Sustainable Development
Section 4 – Decision Making
Section 12 – Achieving well Designed Places
Section 16 - Conserving and enhancing the historic environment.

Supplementary Planning Documents:

Ministry of Housing, Communities and Local Government: National Design Guide.
Government’s Technical Housing Standards: Nationally Described Space Standards (March 2015).
National Planning Policy Guidelines (NPPG).

4. LOCAL REPRESENTATIONS

Local residents:

- 4.01 1 representation received objecting for the following (summarised) reasons.
- Conflict with Policy SP17 which seeks to protect the countryside from inappropriate development.
 - Proposals involves conversion of high-grade agricultural land to residential garden use.
 - Scale bars on the site plan and landscaping plan are wholly misleading and cannot both be correct.
 - The stated point of access would involve trespass across land not in the applicant ownership.
 - Lack of information about both foul and surface water drainage
 - The plans submitted with the application include a large tract of land whose current planning status is agricultural land.
 - Permitted development rights gained by default when Maidstone BC simply failed to process the original application.
 - The proposed development could not by any stretch of the imagination be described as of good design.
 - The access along the agricultural track is unsuitable to increased domestic traffic let alone emergency or refuse/service vehicles.
 - The development imposes an unsympathetic and badly detailed aesthetic onto an important location.
 - Approving this development would entail breach of Human Rights of occupiers of neighbouring properties.
- 4.02 The planning issues raised by neighbouring objectors are addressed in the main appraisal section of this report.
- 4.03 **Boughton Monchelsea Parish Council:**
No objection.

5. CONSULTATIONS

KCC Minerals and Waste:

5.01 No objection.

KCC Flood and Water Management:

5.02 No objection.

6. APPRAISAL

The key issues are:

- Countryside location and policy SP17
- Character and appearance
- Setting of heritage assets
- Residential amenity
- Access and parking
- Ecology

Countryside location and policy SP17

6.01 The application site is in the countryside and the starting point for assessing all applications in the countryside is Local Plan policy SP17. Policy SP17 states that development proposals in the countryside will only be permitted where:

- a) there is no harm to local character and appearance, and
- b) they accord with other Local Plan policies

6.02 Policy SP17 does not specify an acceptable level of harm to local character and appearance and all proposals in the countryside are likely to result in some degree of harm. In this context all development outside the designated settlements does not accord with this part of SP17.

6.03 In certain circumstances where there is locational need for development (equestrian, rural worker dwelling agricultural buildings etc) other Local Plan policies permit development in the countryside subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance generally outweighs the harm caused to character and appearance with a proposal found in accordance with policy SP17 overall. In this case, there are no other policies in the Local Plan that would permit a new dwelling in this location and as a result a decision to grant planning permission would be a departure from the adopted Local Plan.

6.04 The National Planning Policy Framework (NPPF) highlights that the planning system is plan-led. The NPPF reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require by law that planning applications "*must be determined in accordance with the development plan, unless material considerations indicate otherwise*".

6.05 Material considerations in this case include the degree of countryside harm including the site context and the location of the existing incomplete building in the setting of two listed buildings.

Character and appearance

6.06 Policy DM1 of the Maidstone Borough Local Plan requires proposals to create high quality design which responds positively to and where possible enhance the character of the area in which it is situated. Policy DM30 states that new development should maintain, or where possible, enhance the local distinctiveness of an area. Paragraph 124 of the NPPF (2023) state that planning policies and decisions should support development that makes efficient use of land, considering

the desirability of maintaining an area's prevailing character and setting, and securing well-designed, attractive places.

- 6.07 As noted above, the proposal approved as part of application 14/505197/PNBCM was not lawfully implemented. Whilst some building works were undertaken towards converting the building to a dwelling, these works went beyond what had been approved. The application site and building retain a lawful 'agricultural' use.
- 6.08 The current application involves partial demolition and additional building works to provide a one bedroom detached dwelling. The proposed building footprint is smaller than the earlier refused application and similar to the footprint of the building that had approval for conversion under reference 14/505197/PNBCM. The current proposal would be 5.5 metre above ground level to the highest part of the ridge, which is the same height as the prior approval development.
- 6.09 The Maidstone Landscape Character Assessment identifies the use of ragstone as a primary building material in the local area. Proposed external facing materials for the dwelling include ragstone. The building would have a simple catslide roof design using Kent peg tiles. The proposal has been designed to more closely resemble the original building footprint approved under reference number 14/505197/PNBCM.
- 6.10 The views of the proposed dwelling from public vantage points would be restricted by this backland location and existing nearby buildings. Where visible the proposed building will be seen in the context of the existing group of residential development. This enclosure and the degree of containment means that the overall effect on the landscape would be very limited.
- 6.11 The scale and design of the proposed dwelling would be subservient to the adjacent larger building, and the adjacent converted agricultural building. In the wider landscape, and due to its location behind a larger agricultural building the proposal would not have any significant adverse impact on the visual amenities of the countryside.
- 6.12 It is highlighted that a building (albeit originally of agricultural appearance) has existed on the application site for circa 30 years. With the split into two (that followed the 14/505197/PNBCM decision now known as Apple Barn and Cherry Barn) for a large part of this time the building in this location was of greater bulk and massing than what is currently proposed.
- 6.13 The resulting development in this case would assimilate well in the local environment without detriment to the visual character of the general locality. The use of ragstone as an external facing (found on neighbouring development) would also assist in successfully assimilating the development into the local landscape.
- 6.14 Policy DM1 sets out that proposed development should respond to the location of the site and sensitively incorporate natural features such as such as tree and hedges. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character. The submission indicates the planting of several cherry trees close to the proposed dwelling. These trees would enhance the setting of the site, they reference the history of the area and the activity associated with Brishing Court Farm in accordance with DM1.
- 6.15 Overall, due to its scale, location, plot coverage, and design including indicated proportions, the dwelling would appear as a thoughtfully designed addition that would resonate with the established local character. It would comply with policies DM1 and DM30 of the Maidstone Borough Local Plan, and paragraph 124 of the NPPF (2023) which jointly seeks to ensure all development are well designed to

protect and enhance the special character and distinctiveness of the area in which it is situated.

- 6.16 The proposals would result in the loss of agricultural land. Policy DM 33 of the Local Plan relates to the change of use of agricultural land to domestic garden land. Policy DM33 sets out two tests, firstly relating the level of harm the proposals would entail to the character and appearance of the countryside, and secondly, whether the scheme would result in loss of the best and most versatile agricultural land.
- 6.17 The building would be positioned generally on the footprint of the original building approved under reference number 14/505197/PNBCM. Whilst the curtilage would extend beyond that of the prior approval (and result in the loss of best and versatile land) it would not be reasonable to resist the use of an appropriately sized curtilage for domestic purposes in conjunction with a dwelling.
- 6.18 The curtilage would not extend significantly into the open countryside and the Local Plan supporting text advises that restrictions would apply where the land is 'functionally well located for agricultural purposes, such that future agricultural use is feasible...'. These tests would not apply to the current application as the land in question could not be practically used for agricultural purposes.

Setting of heritage assets

- 6.19 Policy SP18 of the Local Plan relates to the historic environment and requires that, inter-alia, the characteristics of heritage assets are protected, and design is sensitive to heritage assets and their settings. Policy DM4 of the Local Plan also relates to development affecting designated heritage assets and requires applicants to ensure that new development affecting heritage assets conserve, and where possible enhance, the significance of the heritage asset.
- 6.20 The NPPF requires the impact on the significance of a designated heritage asset to be assessed as either "substantial harm" or "less than substantial harm" with NPPG guidance setting out that "substantial harm" has a high threshold. NPPF guidance states that when assessing the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm to significance amounts to substantial harm, total loss or less than substantial harm.
- 6.21 Brishing Barn and Brishing Court are both grade II listed properties and are located approximately 40 and 50 metres east and north east of the application site. The significance of these listed buildings arises from their architectural detailing, well-preserved appearance with the oldest predating much of the surrounding built environment.
- 6.22 The current appearance of the application site consisting of an unfinished building and associated temporary fencing detracts significantly from the setting and heritage importance of these listed buildings. The NPPF "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*".
- 6.23 The current proposal bringing the building back into use and providing a new dwelling will significantly improve the setting of the nearby listed buildings. The proposals would introduce a high quality building and appropriate landscaping to the site, thereby contributing significantly the enhancing the setting of these heritage assets. These benefits carry significant weight in this assessment of the proposal overall.

- 6.24 In summary, the proposal would result in significant enhancement of the setting and heritage importance of the grade II listed Brishing Barn and Brishing Court. The proposal would comply with Sections 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy DM4 and SP18 of the Maidstone Borough Local Plan and relevant provisions of Chapter 16 (Conserving and enhancing the historic environment) of NPPF (2023).

Residential amenity

- 6.25 Policy DM1 of the Local Plan requires proposals to respect the amenities of occupiers of neighbouring properties. Proposals should also provide adequate residential amenities for future occupiers by ensuring development does not result in, or is exposed to, excessive noise, vibration, odour, air pollution, activity, or vehicular movements, overlooking or visual intrusion. Built form should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.
- 6.26 The proposed dwelling maintains acceptable separation distances from neighbouring properties, and this will avoid any adverse effect in terms of overshadowing.
- 6.27 The main proposed doors and windows would be on the southern, eastern, and western parts of the application site and would not overlook any neighbour. The windows on the northern elevation will be obscured to avoid any issues of directly looking into the adjacent residential property. The development would not create any significant noise issues and is unlikely to be affected by traffic noise.
- 6.28 All habitable rooms would comply with space standard set out in the emerging draft Maidstone Local Plan. These standards require habitable rooms of a sufficient size for daily activities and with sufficient natural light.
- 6.29 Policy LPRQ&D7 of the Emerging Draft Local Plan sets out the amenity space standards for new houses. The policy requires outdoor amenity space for a house this size must be sufficient to provide sufficient space for day to day activities and the current proposal meets these standards.
- 6.30 In conclusion, the proposals are acceptable in terms of maintaining the living conditions of neighbouring occupiers and providing adequate amenities for future occupiers of the proposed dwelling. The current proposal is in accordance with policy DM1 of the Maidstone Borough Local Plan and LPRQ&D7 of the Emerging Draft Local Plan.

Access and parking

- 6.31 Policy DM23 of the Local Plan sets out the parking standards for the Borough. The policy adopts a flexible approach to minimum and maximum parking standards to reflect local circumstances and the availability of alternative modes of transport to the private car.
- 6.32 The submitted site layout plan indicates provision of one car parking space for future residents and one visitor parking. There is sufficient turning space within the site for vehicles to enter and leave the site in a forward gear. The proposals would comply with the standards in policy DM23. The scheme includes provision of an electric vehicle charging point for future occupiers.
- 6.33 Site access is from the existing drive that leads east from Old Tree Lane, which also serves neighbouring houses. This drive passes by the adjacent converted former agricultural barn before arriving at the current application site. The single neighbour response objects to the use of this access on the basis that it is unsuitable for increased domestic traffic, and emergency or refuse/service vehicles.

The scheme being only for one small dwelling would not create significant difficulties for nearby residents.

- 6.34 It is acknowledged the width of the entire length of the access, in particular the section that passes by the converted agricultural barn is narrow. Given the low traffic levels, the need for opposing vehicles to pass each other on the track would occur relatively infrequently. The limited width of this access would serve to restrict vehicle speeds along it to a significant degree.
- 6.35 The access to the application site has adequate visibility for drivers and there is no vehicle safety issue. Vehicles would normally approach this section of the access at slower speed, and as a result there are no issues with the safety of vehicles and pedestrian using the access. The access would not have any significant impact on the free and safe movement of vehicles and pedestrians along Genn Park and its vicinity.
- 6.36 Paragraph 111 of the NPPF (2023) states that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact of the development would be severe. With the small scale of the development, any increase in car journeys resulting from the proposed scheme would not be significant enough to pose any additional highway safety challenges.

Ecology

- 6.37 Policy DM3 states that development proposals to take full account of biodiversity present including the retention and provision of native plant species. Paragraph 174 of the NPPF (2023) encourages net gains for biodiversity to be sought through decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development.
- 6.38 There is currently an uncompleted dwelling on the application site and the proposals include the planting of several cherry trees in the immediate area associated with the dwelling. Other measures which would support biodiversity interest on the site include the retention of existing trees, provision of bug hotels, log pile habitats and wildflower meadow.
- 6.39 The proposal would accord with policies DM1 and DM3) of the Maidstone Local Plan (2017), and paragraph 174 of the NPPF (2023). These policies jointly direct the planning system to contribute to and enhance the natural and local environment.

Other matters

- 6.40 Paragraph 80 of the NPPF (2023) makes clear that planning policies and decisions should avoid the development of isolated homes in the open countryside unless very special circumstances exist. The development forms part of a small cluster of dwellings and would not result in the creation of an isolated home as far as paragraph 80 of the NPPF (2021) is concerned. The application site is not in a sustainable location, but the other factors outlined in this report including improvements to the setting of listed buildings outweigh the poor location.
- 6.41 A single neighbour response has been received following consultation on the proposal, the objections raised state that the development could not be described as good design. The proposed building does provide good design for the reasons outlined in this report and the proposed building of a scale and appearance that is in keeping with the local area and nearby converted agricultural buildings.
- 6.42 The letter received from neighbour states that the access point would involve trespass across land not in the applicant's ownership. The access to the proposed

dwelling is established and officers feel that all appropriate notices have been served.

- 6.43 This neighbour is also concerned the lack of information about both foul and surface water drainage. The neighbour states that the applicant's agent's refusal to confirm how drainage will be provided, means the development fails to respect the amenity, wellbeing and quality of life of occupiers of the neighbouring property. Information about foul and waste water drainage would be secured by a planning condition. KCC Waste and Water Management were consulted and have not raised any objection to the application. The proposals would respect the amenities of occupiers of neighbouring properties.
- 6.44 The neighbour has also suggested approving this development would entail breach of their Human Rights. Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. The proposals would not undermine the objectives of this legislation.

PUBLIC SECTOR EQUALITY DUTY

- 6.45 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

CIL

- 6.46 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

7. CONCLUSION

- 7.01 The National Planning Policy Framework (NPPF) reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which requires by law that planning applications "must be determined in accordance with the development plan, unless material considerations indicate otherwise".
- 7.02 The proposal will result in harm to the character and appearance of the countryside contrary to policy SP17 and there are no Local Plan policies that directly support the current proposal. In this context as the application is not in accordance with the adopted Local Plan, it needs to be determined as to whether there are other material considerations that justify granting planning permission.
- 7.03 The current unkempt and derelict appearance of the application site detracts significantly from the setting and heritage importance of nearby listed buildings. It is accepted that the current proposal in an unsustainable location will result in a degree of harm to the character and appearance of the area through associated domestic paraphneilia (limited by the backland location). This harm is outweighed by the improvements to the visual appearance of the site and associated landscaping in this sensitive location in the setting of two listed buildings.
- 7.04 It is concluded that whilst the application is not in accordance with the development plan (a departure) these material considerations that have been outlined and the level of harm indicate that planning permission should be approved.

- 8. RECOMMENDATION GRANT planning permission subject to the following conditions** with delegated powers to the Head of Planning and Development to be

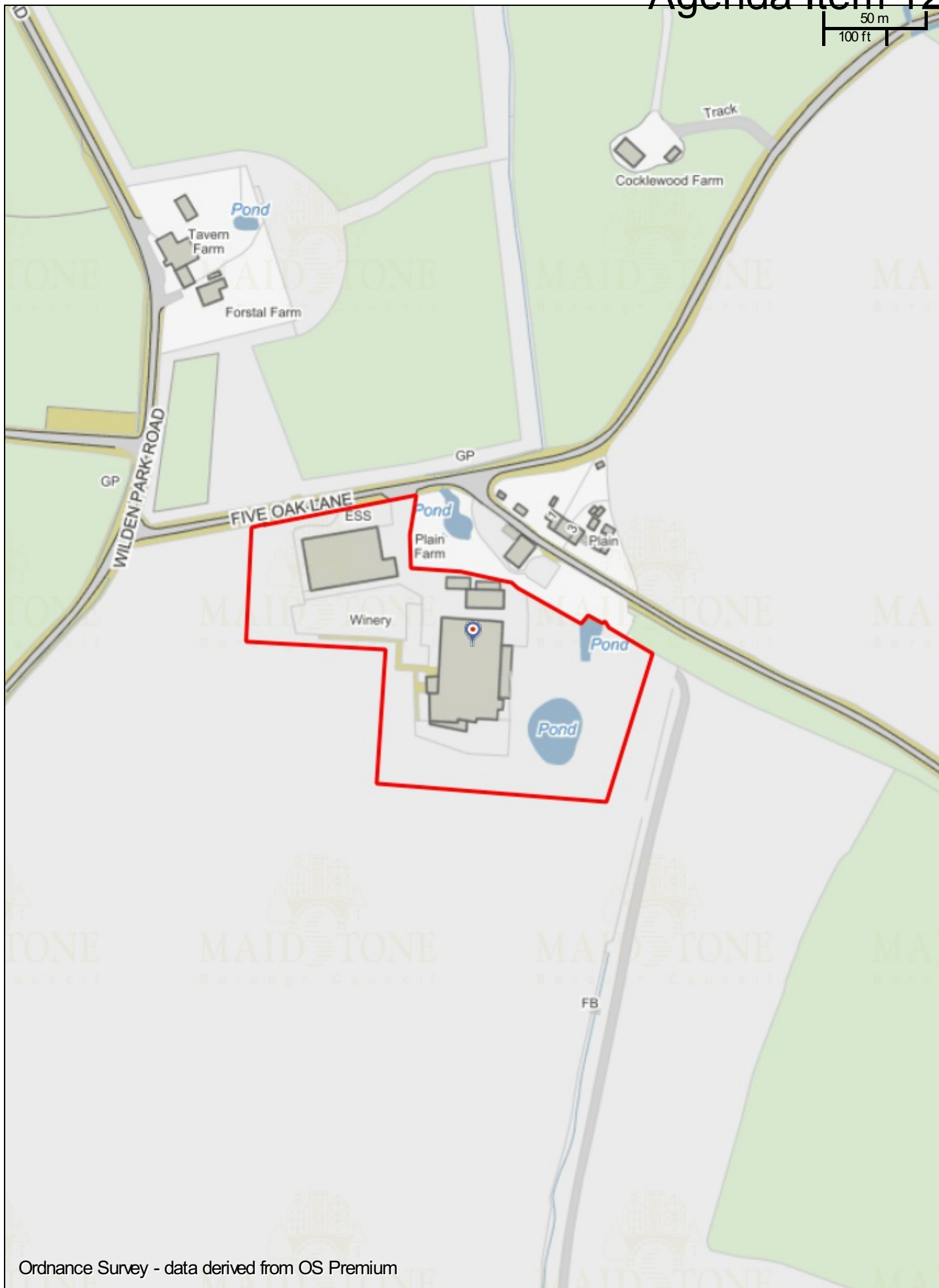
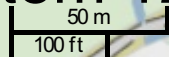
able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) No development shall take place other than in accordance with the following approved plans:
Drawing Number; M2_300_002 (Existing Elevations and Plan)
Drawing Number: M2_300_003 (Proposed Elevations and Plans)
Drawing Number; M2_300_002 (Existing Elevations and Plan)
Drawing Number; M2_300_001 Rev B (Proposed Site Plan)
Planning Statement
Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.
- 3) The development hereby approved shall not commence until, details of the method of disposal of sewage and surface water have been submitted to and approved in writing by the Local Planning Authority and these works shall be completed in accordance with the approved details before the first occupation of the dwelling hereby approved and retained as such thereafter.
Reason: To ensure adequate sewage disposal arrangements for the development.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - i. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding
 - v. wheel washing facilities
 - vi. a scheme for recycling/disposing of waste resulting from demolition and construction worksReason: In the interests of the amenities of the area and highway safety and convenience.
- 5) The development hereby approved shall not commence above slab level until until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details and retained thereafter.
Reason: In the interest of visual amenity.
- 6) The development hereby approved shall not commence above slab level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation of the approved dwelling and maintained thereafter. Reason: To ensure an energy efficient form of development.
- 7) Notwithstanding the details shown on the plans, the development hereby approved shall not commence above slab level until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local

Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- 8) All planting, seeding and turfing specified in the approved landscape details shall be completed by the end of the first planting season (October to February) following first occupation of the dwelling hereby approved. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, are removed, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.
 - 9) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.
Reason: In the interest of the amenities of occupiers of neighbouring properties.
 - 10) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light, GN01, dated 2011 (and any subsequent revisions) (Environmental Zone E1), and follow the recommendations within the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'. The submitted details shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter. Reason: To safeguard the character and appearance of the countryside, protected species and in the interests of residential amenity.
 - 11) The development hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through methods into the building structure by means such as swift bricks, bat tube or bricks to provide wildlife niches and additionally through provision within the site curtilage of measures such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors. The development shall be implemented in accordance with the approved details prior to first occupation of the approved building and all features shall be maintained thereafter. Reason: To protect and enhance the ecology and biodiversity on the site in the future.
- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.



Ordnance Survey - data derived from OS Premium

REPORT SUMMARY

REFERENCE NO: - 23/503889/FULL		
APPLICATION PROPOSAL: Replacement lighting scheme to winery site, resurfacing of car park and hardstanding and associated drainage.		
ADDRESS: Balfour Winery Five Oak Lane Staplehurst Kent TN12 0HT		
RECOMMENDATION: Grant Permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The replacement lighting scheme includes more lighting units but ones that are much more sensitively designed for the location in terms of visual impact and biodiversity due to minimising light spill, lower wattages and colour temperature. The replacement floodlights to the car park storage building will be movement triggered (PIR). A condition is suggested to secure removal of floodlights that face north towards Five Oak Lane and to prevent additional lights being added in the future without planning permission. Conditions limit the hours of use to when staff or visitor are on site and will be manually turned off with automated fail safe cut off at set times. The time of lighting for each part of the site are commensurate with evidenced health and safety issues for that part of the site. There are not considered to be any concerns in terms of harm to residential amenity or flood risk. On balance, the overall change is considered to be at least neutral and would comply with Policy DM8.		
REASON FOR REFERRAL TO COMMITTEE: Called in by Staplehurst PC		
WARD: Staplehurst	PARISH/TOWN COUNCIL: Staplehurst	APPLICANT: Mrs Leslie Balfour-Lynn AGENT: Greenhayes Planning
CASE OFFICER: Marion Geary	VALIDATION DATE: 30/08/23	DECISION DUE DATE: 29/11/23
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

17/502611/FULL

Proposed new processing hall, including visitor tasting room and administration offices.
Extension to existing barn for the storage of bottles.
Approved 05.09.2017

17/504986/FULL

Erection of a single storey extension to provide new equipment store for agricultural machinery
Approved 02.05.2018

19/501653/FULL

Bollard lighting scheme for decking and pathway in connection with winery.
Approved 10.01.2020

22/500158/AGRIC

Prior notification for erection of 1no. agricultural steel portal frame shed/barn. For its prior approval to: - Siting, design and external appearance.
Prior Approval Granted 16.02.2022

22/501047/FULL

Retention of marquee to be sited for a period of 3 years for continued use for ancillary purposes to the existing winery site.
Refused 11.05.2022
Appeal Allowed and Notice Quashed 20.03.2023

23/502076/FULL

Retrospective planning application for the addition of timber cladding to the agricultural winery shed/barn approved under 22/500158/AGRIC.
Approved 25.07.2023

Enforcement

23/500048/BOC

Operation of external lighting in Breach of Conditions for permission 19/501653/FULL.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site area is 1.5ha and it forms part of the open countryside to the south-west of the Staplehurst village settlement.
- 1.02 The site is predominantly a winery (was Hush Heath but is now known as Balfour Winery) which consists of processing and bottling areas, a shop and tasting area, bottle storage and other ancillary facilities, including parking. Associated with the application site are some 50 acres of vineyards and 10 acres for apple growing which are harvested to provide wines and ciders to the market including several major supermarket chains and export.
- 1.03 The nearest residential properties are to the NE of the site at Plain Cottages.
- 1.04 Widehurst Wood Local Wildlife Site is in the vicinity of the application site. There are no PROW near to the application site. It lies in Flood Zone 1.

2. PROPOSAL

- 2.01 Planning permission was granted in 2017 under ref 17/502611/FULL for the erection of a new processing hall extension to the existing winery building, including visitor tasting room and administration offices. The permission also included an extension to an existing barn for the storage of bottles. No lighting scheme was provided with that application or required by condition.
- 2.02 Bollard lighting was installed by the site owner and a retrospective application was approved under ref 19/501653/FULL. It included 2 conditions on hours of lighting as follows:

2) The 14 bollard lights to the walkway/car park (drawing no.689/SK/BOLLARD) shall only be used between 1st October and 31 March and shall not be used before sunset or after 19.15 each evening unless required for health and safety purposes for an evening event in accordance with the Premises Licence or a Temporary Events Notice in which case the lights shall be turned off by 23.00.

Reason: In the interest of rural visual amenity.

3) The 10 bollards to the terrace decking (drawing no.689/SK/BOLLARD) shall only be used for an evening event in accordance with the Premises Licence or a Temporary Events Notice and shall not be used before sunset and shall be turned off by 23.00.

Reason: In the interest of rural visual amenity.

- 2.03 The conditions were phrased based on the information given by the applicant at the time which was:

Lighting will be largely limited to the winter months. The car park lights being on a timer and in winter months are activated at dusk and then turned off at 7pm when the last member of staff leaves.

Lighting will not be employed in the summer months or after the clock changes at the end of March.

The lighting around the decked area will only be employed on very limited occasions when an event is held in connection with the site's temporary events licence and would not be used at other times and so has an even lesser use than the car park and access route lighting.

- 2.04 The floodlights on the existing storage building north of the car park were not considered to need planning permission.

- 2.05 It is now proposed to replace and expand that lighting scheme approved in 2019 as follows:

	Proposed	Approved
main winery to car park	13 x 450mm high 8W bollard lights	14 x 500mm high 14W bollard lights (timer controlled)
terrace decking	8 x 450mm 8W bollard lights	10x 500mm high 14W bollard lights (manual controlled)
new agricultural shed/barn	5 x 450mm 8W bollard lights	n/a
pergola	12 x 1W downlights	n/a
building north of car park	6 x 20W floodlights	6 x 50 W floodlights

- 2.06 Hours of lighting are sought until staff or visitors leave on a daily basis. The system will be fitted with failsafe which means lighting turns off automatically at 21:00hrs except when there are evening events or late night working due to harvesting which will have a automatic failsafe of 23:30hrs.

- 2.07 It is also proposed to resurface the tarmac/Type 1 car park with tarmac and drain via 4 drains leading to existing soakaway crates to the west of the car park.

- 2.08 The agent advises that the site owner has re- assessed existing lighting in respect of how the business operates and whether it meet the needs of visitors and staff.

- 2.09 They advise that:

- the existing hardstanding and car parking area is type 1 material with ruts and other imperfections

- Some staff work late especially during harvest so need the car park to be lit for safety.
- All new lighting will have consistent colour temperature of 3000K (warm white).
- The revised lighting design will minimise light spill and has lower Wattages and is more energy efficient
- the 12 recessed spotlights on the pergola will provide a discreet soft light
- Existing light fittings facing the road will be completely removed

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031):

Neighbourhood Plan: Staplehurst

Kent Waste and Minerals Plan (amended 2020):

The National Planning Policy Framework (NPPF):

National Planning Practice Guidance (NPPG):

4. LOCAL REPRESENTATIONS

Staplehurst PC:

- Upgrade of lighting is against MBC Local Plan DM8
- Car park is not permeable
- Needs an Ecological Survey
- Needs a drainage design scheme
- Previous planning conditions on 19/501653/FULL should be adhered to

Local Residents: 7 objections received from local residents raising the following (summarised) issues

- Introduces unnecessary flood lighting to the car park and downlights to pergola
- Highly obtrusive to dark landscape
- Lighting will be on longer than necessary as most occasions it is closed by around 1800hrs during weekdays
- Do not accept that all the car park building floodlights are historically installed as some postdate 2018.
- Lighting Design document only contains technical information and demonstration of compliance with the ILP Guidance Note for an intrinsically dark landscape (Environmental Zone – E1).
- There is no lighting assessment to support hours of use past 23:00hrs.
- The health and safety case should distinguish between visitors and staff including where both groups would park their vehicles.
- 2017 planning permission for a substantial extension at the winery did not refer to any need for lighting.
- The Premises Licence was varied in September 2020 and the Licencing Sub-Committee was satisfied there was already adequate lighting and no public safety risk in relation to people moving round the site after dark.
- Harm to wildlife including bats, badgers, turtle doves, rare moths, amphibians and reptiles Ecological survey needed as site is close to woodland and

surrounded by farmland being cultivated under DEFRA environmental stewardship schemes designed to increase local biodiversity

- Lighting puts Turtles Dove population at greater risk of predation.
- Tarmac will increase surface water flood risk as land is on heavy Wealden clay
- Needs upgraded drainage system

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

KCC Drainage

- 5.01 Kent County Council as Lead Local Flood Authority have reviewed the application and regard the development as low risk and are satisfied that the resurfacing plans do not change the site drainage scheme currently in place and the impermeable surface is changing in a marginal way.

KCC Biodiversity

- 5.02 Object- need clear information be provided to show whether there will be a net increase in light spill from the site affecting animals and bats. The applicant should confirm/demonstrate no light spill upon the nearby woodland and no increased lighting to the nearby ponds/hedgerows. The maintenance factor will need to be set to 1 to show the likely light spill on day 1 of operation.

Kent Wildlife Trust

- 5.03 Object: The application site is situated in close proximity to land designated as part of the Widehurst Wood, Marden Thorn Local Wildlife Site (LWS) and as ancient woodland. The LWS is known to provide habitat for priority and protected species including birds, bats, moths, and butterflies which would be impacted by inappropriate lighting schemes. The application site is also situated near to a turtle dove feeding strip which is part of a national threatened species recovery programme. Turtle dove have been recorded close to the application site and within the LWS.
- 5.04 In the absence of an ecological assessment, it is considered that the proposed development will likely have a detrimental impact on those protected and priority species.

6. APPRAISAL

The key issues are:

- Visual Impact
- Biodiversity
- Residential Amenity
- Flood Risk

Visual Impact

- 6.01 Policy DM8 of the MBLP details that proposals for external lighting should demonstrate that the minimum amount of lighting necessary to achieve its purpose is proposed and would not be visually detrimental to its immediate or wider setting,

particularly intrinsically dark landscapes. This reflects the NPPF which seeks to limit light pollution in locations which are intrinsically dark landscapes.

- 6.02 The policy recognises that external lighting can have benefits but that inappropriate and excessive external lighting can be both visually obtrusive and damage rural character. The use of PIR motion sensor lighting is encouraged as it would provide energy efficiency savings.
- 6.03 The visual impact of the bollards and lighting units themselves is not of concern as they are small scale and screened from public vantage points. The lighting itself will be low in height, lower wattages than existing and specifically designed to minimise light spillage. The colour will be 3000K which is a warm white.
- 6.04 The applicant was made aware that a health and safety justification would be needed for extending the hours of lighting into the dark hours of the evening beyond what was previously asked for and approved. To comply with policy DM8, conditions are suggested to limit the hours to those commensurate with evidenced health and safety issues for that part of the site. Essentially staff will turn off the lights when they leave the premises and failsafe automated mechanisms will be in place to turn off the lights should they staff not turn out the lights manually.
- 6.05 A condition is suggested that the new car park floodlights be PIR movement sensitive and the applicant has agreed to remove floodlights on the north facing side of the car park storage building that face Five Oak Lane.

Biodiversity

- 6.06 Policy DM8 of the MBLP states that lighting proposals that are within or are near enough to significantly affect areas of nature conservation importance will only be permitted in exceptional circumstances. Protected species, such as bats, tend to avoid well-lit areas and lighting schemes should ensure that ecological issues are fully considered in their design.
- 6.07 At its nearest, the site is SW of Widehurst Wood LWS but is separated by buildings within the winery site and intervening dwellings at Plain Cottages and it is not considered that there would be a significant effect on it from the new lighting and it should benefit from the permanent removal of existing floodlights on the front of the car park storage building that faces Five Oak Lane.
- 6.08 Compared to the lightning scheme in situ, the colour tone of the lighting is more appropriate for ecology and the application is accompanied by lighting contour plans that indicate no light spillage outside the site. The new lighting is lower wattage and specifically designed to minimise light spillage compared to the lighting bollards in situ that will be replaced. Submitted lighting contour plans demonstrate that there will be no light spill upon the nearby woodland and no increased lighting to the nearby ponds/hedgerows.
- 6.09 It is accepted that there will be more lighting units to reflect the need to light an additional walkway to the newly erected building within the winery but, on balance, the overall change is considered to be at least neutral.
- 6.10 Notwithstanding, as mentioned above, conditions are suggested to control the times of lighting to minimise unnecessary lighting late at night.

Residential Amenity

- 6.11 Policy DM1 of the MBLP refers to respecting the amenities of occupiers of neighbouring properties and uses. In this case, the dwellings in the vicinity are

screened from the lighting by existing buildings in the winery and there is not considered to be any breach of policy.

Flood Risk

- 6.12 The site is in Flood Zone 1 but there are issues of surface water flooding from the geology of the area.
- 6.13 Technically the tarmac proposed to be added to the car park is less permeable than the Type 1 aggregate existing. However, in this case, compacted Type 1 material is largely impermeable due to the underlying clay. KCC Drainage initially had concerns but are now satisfied that the additional area to be surfaced with tarmac is relatively limited and will drain within the site to adequate existing soakaway crates.

PUBLIC SECTOR EQUALITY DUTY

- 6.14 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The replacement lighting scheme includes more lighting units but ones that are much more sensitively designed for the location in terms of visual impact and biodiversity due to minimising light spill, lower wattages and colour temperature. The replacement floodlights to the car park storage building will be movement triggered (PIR).
- 7.02 A condition is suggested to secure removal of floodlights that face north towards Five Oak Lane and to prevent additional lights being added in the future without planning permission.
- 7.03 Conditions limit the hours of use to when staff or visitor are on site and will be manually turned off with automated fail safe cut off at set times.
- 7.04 The time of lighting for each part of the site are commensurate with evidenced health and safety issues for that part of the site.
- 7.05 There are not considered to be any concerns in terms of harm to residential amenity or flood risk
- 7.06 On balance, the overall change is considered to be at least neutral and would comply with Policy DM8.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions

with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

CONDITIONS:

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

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development shall be carried out in accordance with the following:
2045/L/01 Proposed Block Plan - External Works Layout received 04.10.23
2045/PL/02 Lighting Assessment by KSR P2023-0474A
Lighting Specification Floodlight FL02
Lighting Specification Recess Lights GL019
Lighting Specification Calanda Bollard 450mm
Reason: For the avoidance of doubt.
- 3) Within 1 month of first use of the lighting scheme hereby approved, the floodlights facing north towards Five Oak Lane on the building north of the car park will be permanently removed. Other than hereby approved, no further floodlights shall be installed to that building except in accordance with details hereby approved or that have been submitted to and approved by the Local Planning Authority beforehand.
Reason: In the interest of rural visual amenity and ecology.
- 4) The existing lights approved under 19/501653/FULL shall be disconnected and use ceased within 1 month of the first use of the lighting scheme hereby approved (if not disconnected beforehand).
Reason: In the interest of rural visual amenity.
- 5) The access lighting (zone 1) shall be switched off manually by the last member of staff leaving and shall be fitted with a failsafe/cut off to ensure all access lights are off by 21:00hrs (except for grape harvest periods, Friday and Saturday evenings or evening events in accordance with the Premises Licence or a Temporary Events Notice, when the failsafe/cut off will ensure lights are off by 23:30hrs instead).
Reason: In the interest of rural visual amenity.
- 6) The decking lights (zone 2) shall only be on for Friday and Saturday evenings (as permitted by the alcohol licence) or for an evening event in accordance with the Premises Licence or a Temporary Events Notice. These lights shall be manually switched off by the last staff member and shall have a 23:30 failsafe/cut off to ensure all lights are switched off by this time.
Reason: In the interest of rural visual amenity.
- 7) The lighting to the car park storage building (zone 3) will be fitted with PIR sensors during hours of operation. The lighting shall be manually turned off by the last staff to leave the site and shall be fitted with a failsafe/cutoff to ensure all lights are off by 23:30hrs.
Reason: In the interest of rural visual amenity.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

Urgent Update: Planning Committee 19 October 2023

Item 22 Pages 197-205

Balfour Winery, Five Oak Lane, Staplehurst

APPLICATION: 23/503889/FULL

The agent has submitted a layout of the lighting marked into zones to illustrate those referred to in suggested conditions 5, 6 and 7.

Update to Conditions:

5) The access lighting (zone 1 on 2045_PL_01 "Lighting Zones") shall be switched off manually by the last member of staff leaving and shall be fitted with a failsafe/cut off to ensure all access lights are off by 21:00hrs (except for grape harvest periods, Friday and Saturday evenings or evening events in accordance with the Premises Licence or a Temporary Events Notice, when the failsafe/cut off will ensure lights are off by 23:30hrs instead).

Reason: In the interest of rural visual amenity.

6) The decking lights (zone 2 on 2045_PL_01 "Lighting Zones") shall only be on for Friday and Saturday evenings (as permitted by the alcohol licence) or for an evening event in accordance with the Premises Licence or a Temporary Events Notice. These lights shall be manually switched off by the last staff member and shall have a 23:30 failsafe/cut off to ensure all lights are switched off by this time.

Reason: In the interest of rural visual amenity.

7) The lighting to the car park storage building (zone 3 on 2045_PL_01 "Lighting Zones") will be fitted with PIR sensors during hours of operation. The lighting shall be manually turned off by the last staff to leave the site and shall be fitted with a failsafe/cutoff to ensure all lights are off by 23:30hrs.

Reason: In the interest of rural visual amenity.

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 19TH October 2023**

APPEAL DECISIONS:

- 1. 22/502272/LDCEX Lawful Development Certificate to establish the existing use of the field as garden for more than 25 years.**

APPEAL: Dismissed

Field Adjoining Foley Farmhouse
Lower Street
Leeds
Kent
ME17 1TL

Delegated

- 2. 22/501301/FULL Conversion of existing barn together with the erection of a single storey extension and changes to fenestration to create an independent residential dwelling (Retrospective).**

APPEAL: Allowed

The White House Barn
Heath Road
Boughton Monchelsea
Kent
ME17 4JE

Delegated

3. 22/501761/FULL Erection of 2no. floodlit padel tennis courts, including erection of canopy over one court.

APPEAL: Allowed

Marden Sports Club
Maidstone Road
Marden
Kent
TN12 9AG

Delegated

4. 22/500119/FULL Retrospective application for the change of use to garden land and the erection of 1no. outbuilding to house home gym with associated decking, patio and hot tub area.

APPEAL: Dismissed

Cliff House
Cliff Hill
Boughton Monchelsea
Maidstone
Kent
ME17 4NQ

Committee overturn

-
5. **22/503565/FULL** **Demolition of the existing farm house and outbuilding, and erection of 4no. new residential dwellings with associated private amenity space, landscaping and parking.**

APPEAL: Dismissed

Woodford Farm
Maidstone Road
Staplehurst
Tonbridge
Kent
TN12 0RH

Delegated

6. **22/505677/FULL** **Erection of two storey rear extension, single storey rear extension, loft conversion, front porch extension and detached two bay car port with attached storage**

APPEAL: Dismissed

Horseshoe House
Dean Street
East Farleigh
Kent
ME15 0PU

Delegated

7. 23/501710/FULL **Erection of a part two storey/part single storey rear extension, two storey front extension and new front porch, installation of solar panels on the roof to the rear elevation and erection of a detached two bay car port with attached storage.**

APPEAL: Allowed

Horseshoe House
Dean Street
East Farleigh
Kent
ME15 0PU

Delegated

8. 22/504135/FULL **Erection of a new detached dwelling with associated parking, residential amenity space and landscaping.**

APPEAL: Dismissed

26 Douglas Road
Maidstone
Kent
ME16 8ER

Delegated

9. 22/505909/FULL **Erection of a detached Garage.**

APPEAL: Dismissed

12 Wents Wood
Weaving
Maidstone
Kent
ME14 5BL

Delegated

10. 22/502753/FULL **Retrospective application for temporary change of use of land to residential garden and stationing of a mobile home for ancillary use.**

APPEAL: Dismissed

1 Rose Cottages
Lenham Forstal Road
Lenham Heath
Kent
ME17 2JL

Delegated

11. 18/500353/OPDEV **Change of use of the land for storage and the siting of 2 no. storage containers, 2 no. metal containers with a lean-to timber structure attached, a partly erected building, storage of materials and laying of hardstanding.**

APPEAL: Dismissed enforcement notice upheld

Land To West Of Pear Tree Row
Sutton Road
Langley
Maidstone
Kent
ME17 3NF

12. 22/502176/FULL **Erection of three detached dwellings. Creation of a new access. (Resubmission of 21/504810/FULL)**

APPEAL: Dismissed

School House
Ashford Road
Harrietsham
Maidstone
Kent
ME17 1AJ

Committee
