

# A G E N D A

## PLANNING COMMITTEE

**Wednesday 24 March 2021 at 10.30 am**  
**Virtual Meeting - Online**

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**Members:** Councillor Noakes (Chairman), Councillors Bland (Vice-Chairman), Atwood, Backhouse, Mrs Cobbold, Funnell, Dr Hall, Hamilton, Poile, Pound, Mrs Thomas and Warne

**Quorum:** 5 Members

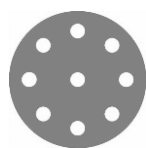
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- 1 Chairman's Introduction** (Pages 5 - 6)  
Announcement on procedural matters.
- 2 Apologies** (Pages 7 - 8)  
Apologies for absence as reported at the meeting.
- 3 Declarations of Interest** (Pages 9 - 10)  
To receive any declarations of interest by Members in items on the agenda.
- 4 Declarations of Lobbying (in accordance with the Protocol for Members taking part in the Planning Process, Part 5, Section 5.11, Paragraph 6.6)** (Pages 11 - 12)  
If a Member has been lobbied in connection with any application on the agenda, this should be declared at the start of the meeting, whether by, or in support of, the applicant or objectors.  
  
Members in doubt about such a declaration are advised to contact the Legal Services Manager/Monitoring Officer before the date of the meeting.
- 5 Site Inspections** (Pages 13 - 14)  
To note the application sites visited, as recorded at the meeting.
- 6 To approve the minutes of the meeting dated 3 March 2021** (Pages 15 - 26)

- 7 Reports of Head of Planning Services (attached)** (Pages 27 - 28)  
The running order of the applications listed below is subject to change and will be agreed by the Chairman and announced at the meeting.
- (A) Application for Consideration - 20/03810/FULL Le Bergerie, Churn Lane, Horsmonden (Pages 29 - 36)
  - (B) Application for Consideration - 21/00229/FULL Bonds, Bullingstone Lane, Speldhurst (Pages 37 - 44)
  - (C) Application for Consideration - 0031/2020/TPO Moat Farm, St Marks Road, Royal Tunbridge Wells (Pages 45 - 60)
- 8 Appeal Decisions for Noting 22/02/2021 to 15/03/2021** (Pages 61 - 62)
- 9 Urgent Business** (Pages 63 - 64)  
To consider any other items which the Chairman decides are urgent, for the reasons to be stated, in accordance with Section 100B(4) of the Local Government Act 1972.
- 10 Date of Next Meeting** (Pages 65 - 66)  
The next Planning Committee to be held on Wednesday 14 April 2021.

**Mark O'Callaghan**  
**Scrutiny and Engagement Officer**  
[Mark.OCallaghan@TunbridgeWells.gov.uk](mailto:Mark.OCallaghan@TunbridgeWells.gov.uk)

**Town Hall**  
**ROYAL TUNBRIDGE WELLS**  
**Kent TN1 1RS**  
**Tel: (01892) 554219**



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**During the Coronavirus outbreak, and the recovery which follows, the way we conduct meetings will change. This page summarises the process. If you have any questions please contact Democratic Services via the contact details on the previous page.**

### **Attending meetings**

Meetings will not be held in the town hall, instead they will be held virtually using video conferencing and webcast live online.

Any member of the public may watch/listen to the meetings online live via our website on the relevant committee's meeting page. A recording of the meeting will also be available shortly after the end of the meeting.

All meetings and agenda are open to the public except where confidential information is being discussed. The agenda of the meeting will identify whether any meeting or part of the meeting is not open to the public and explain why.

### **Speaking at meetings**

Members of the public are encouraged to participate and those wishing to comment on an agenda item will need to register with Democratic Services in advance. Registration opens when the agenda is published and closes at 4pm on the last working day before the meeting.

There may be up to 4 objectors and 4 supporters per application and speakers have up to 3 minutes each.

Once registered, speakers may submit their comments in writing to Democratic Services no later than 4pm on the last working day before the meeting. Your comments will then be read during the meeting by an independent officer. Alternatively, speakers may join the meeting online or by telephone. Speakers will need to provide contact details and the clerk will provide joining instructions to enable them to speak.

Comments should be in the form of a statement giving your opinion on the matter. Members of the committee may not answer questions or get into a debate with you.

Further details are available on the website ([www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk)) or from Democratic Services.

If you require this information in another format please contact us, call 01892 526121 or email [committee@tunbridgewells.gov.uk](mailto:committee@tunbridgewells.gov.uk)

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**Planning Committee**

**24 March 2021**

## **Chairman's Introduction**

**Procedural Item:**

Announcement on procedural matters.

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**Planning Committee**

**24 March 2021**

## **Apologies for Absence**

**Procedural Item:**

Apologies for absence as reported at the meeting.

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**Planning Committee**

**24 March 2021**

## **Declarations of Interest**

**Procedural Item:**

To receive any declarations of interest by members in items on the agenda.

For any advice on declarations of interest; please contact the Monitoring Officer before the meeting.

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**Planning Committee**

**24 March 2021**

**Declarations of Lobbying (in accordance with the Protocol for Members taking part in the Planning Process, Part 5, Section 5.11, Paragraph 6.6)**

**Procedural Item:**

If a Member has been lobbied in connection with any application on the agenda, this should be declared at the start of the meeting, whether by, or in support of, the applicant or objectors.

Members in doubt about such a declaration are advised to contact the Legal Services Officer/Monitoring Officer before the date of the meeting.

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**Planning Committee**

**24 March 2021**

## **Site Inspections**

**Procedural Item:**

To note the application sites visited, as recorded at the meeting.

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## PLANNING COMMITTEE

Wednesday, 3 March 2021

**Present: Councillor Barry Noakes (Chairman)**  
**Councillors Bland (Vice-Chairman), Atwood, Backhouse, Mrs Cobbold, Funnell,**  
**Dr Hall, Hamilton, Poile, Pound and Warne**

**Officers in Attendance:** Peter Hockney (Development Manager), Tracey Wagstaff (Senior Lawyer), Richard Hazelgrove (Principal Planning Officer), Charlotte Oben (Senior Planning Officer), Antonia James (Principal Planning Officer) and Caroline Britt (Democratic Services Officer)

**Other Members in Attendance:** Councillor McDermott

### CHAIRMAN'S INTRODUCTION

PLA125/20 The Chairman opened the meeting, introduced Committee members and officers in attendance, and outlined procedural matters of the meeting.

### APOLOGIES

PLA126/20  
Apologies were received from Councillor Mrs Thomas.

### DECLARATIONS OF INTEREST

PLA127/20 Councillor Funnell made the following statement in reference to planning application 21/00068/FULL – Recreation Ground, Southwood Road, Rusthall, Tunbridge Wells:

“With reference to agenda 8D 21/00068/FULL Recreation Ground Southwood Road Rusthall Tunbridge Wells Kent, this application relates to land in my Ward and my wife has registered to speak on the application.

I have lived in Rusthall all my life and so know the land in question well as I have helped with the local Rusthall Fete which is held in the Recreation Ground and played there as a child.

I can confirm that **I have not made up my mind on this application** or fettered myself with this application. **I will be considering the application with an open mind** in the same way as I do all other applications that come before me at the Planning Committee Meetings”.

### DECLARATIONS OF LOBBYING (IN ACCORDANCE WITH THE PROTOCOL FOR MEMBERS TAKING PART IN THE PLANNING PROCESS, PART 5, SECTION 5.11, PARAGRAPH 6.6)

PLA128/20 Councillors Atwood, Backhouse, Cobbold, Funnell, Hall, Hamilton, Poile, Pound, Warne, Bland and Noakes had been lobbied by objectors on application 21/00068/FULL – Recreation Ground, Southwood Road, Rusthall, Tunbridge Wells, Kent.

Councillors Atwood, Funnell, Hamilton, Poile, Pound, Warne, Bland and Noakes had been lobbied by supporters on application 19/03349/FULL – Land at Mascalls Farm, Badsell Road, Paddock Wood, Tonbridge, Kent.

Councillor Pound had been lobbied by objectors on application 19/03349/FULL – Land at Mascalls Farm, Badsell Road, Paddock Wood, Tonbridge, Kent.

## SITE INSPECTIONS

PLA129/20 Due to the current restrictions Members had not undertaken any site visits.

## TO APPROVE THE MINUTES OF THE MEETING DATED 27 JANUARY 2021

PLA130/20 Members reviewed the minutes. No amendments were proposed.

**RESOLVED** – That the minutes of the meeting dated 27 January 2021 be recorded as a correct record.

## TO APPROVE THE MINUTES OF THE MEETING DATED 3 FEBRUARY 2021

PLA131/20 Members reviewed the minutes. No amendments were proposed.

**RESOLVED** – That the minutes of the meeting dated 3 February 2021 be recorded as a correct record.

## REPORTS OF HEAD OF PLANNING SERVICES (ATTACHED)

PLA132/20

## APPLICATION FOR CONSIDERATION - 21/00068/FULL RECREATION GROUND SOUTHWOOD ROAD RUSTHALL TUNBRIDGE WELLS KENT

PLA133/20 **Planning Report and Presentation** - The Head of Planning Services submitted a report in respect of application 21/00068/FULL – Recreation Ground, Southwood Road, Rusthall, Tunbridge Wells, Kent and this was summarised by Richard Hazelgrove, Principal Planning Officer and illustrated by means of a visual presentation.

**Updates and additional representation** – Since publication of the agenda report, the presenter updated as follows:

- Two further objections had been received. The first raising similar issues to those already noted in Part 6 of the report. The second made reference to the TWBC Air Quality Action Plan 2018-2023. However the site was not within an area specifically identified by TWBC as requiring intervention pursuant to the Environment Act 1995 owing to current air quality issues (unlike the A26 which was a designated air quality management area).
- This was not a matter which the existing allocation in the 2016 Site Allocation Local Plan policy required to be addressed. Nor was it required to be addressed by the extant planning permission. The AQAP does not advise that any planning application that resulted in an increase in traffic should be refused on the basis of additional air quality impacts, as most developments result in a traffic increase.
- In addition, the conditions require details of cycle storage and EV



charging points plus the site was very close to a regular bus route running between Rusthall, the town centre and High Brooms.

**Registered Speakers** – There were 4 speakers registered in accordance with the Council's Constitution (Planning Committee Procedure Rules).

Public Objector

- Mrs Angela Funnell, a local resident
- Mr David Rusbridge, a local resident
- Ms Felicity Howe, a local resident
- Mr Dean Jacquin, a local resident

**Matters of Clarification by Officers and Committee Members' Question to Officers** – Members raised a number of questions and officers confirmed the following:

- Although the Transport Report stated that the site was not in a highly sustainable location, the report further added that the site was bounded to the south and east by residential areas and that there were a large number of residential areas within 2km and was therefore accessible to many by cycle and on foot. The report also detailed the provision of secure and covered cycle facilities, the presence of cycle routes and a regular bus service.
- It was important to note that there was no policy requirement for the development to be in a highly sustainable location. It was still sustainable by virtue of being on the edge of the LBD which by definition was the most sustainable location within the Borough.
- Paragraphs 10.46 and 10.47 dealt with the management of traffic and in particular at change over times. This would be secured by Condition 9.
- The traffic survey undertaken by Kent CC was conducted at various locations around Rusthall and was done to determine whether the area was suitable for a 20mph speed limit. It was not connected to this particular development. Kent CC had not raised any objections to this application.
- The survey took account of vehicles that travelled through Rusthall. It did not measure traffic going through Southwood Road.
- Paragraphs 10.01 to 10.04 stated that notice had been served on the freehold landowner of Jockey Farm but the applicant (TWBC) did not have the right to access the land to undertake development. This was not a CPO which stood outside the planning process.
- The Playing Pitch Strategy published in 2017 was the most recent (non-planning) document that addressed the need for additional playing pitches.
- There was a current allocation, adopted in July 2016, for this land for use as playing pitches in the Site Allocations DPD.
- The original allocation for this site had been in force since 2006.
- Paragraph 10.25 made clear the details related to the site being specifically allocated for this use and that the legislation was clear, proposals should be assessed in line with adopted development plan policy unless material considerations indicated otherwise.
- Site notices were put up – Tuxford Road, Southwood Road, within the Recreation Ground, plus outside the entrance to Jockey Farm. It was also advertised in the press.
- Sport England were very particular about changing room requirements and would have objected if the provisions included in the application

- were not up to the required standard.
- Condition 3 prevented the installation of any floodlights in the area without prior written planning permission.
- Condition 12 dealt with the requirements of a noise impact assessment.
- Granting this planning application would not enable the Council to undertake any development on land outside its ownership without the owner's consent. This would require a CPO. Any financial loss (compensation) to parties would be assessed and resolved as part of the CPO process. It was not possible to predict in advance the value of any compensation.
- The site had been assessed as part of the Local Plan process as suitable for recreation purposes since 2006. The planning use being applied for was for recreation, there was no such planning use for 'football pitches'. It would be for the Council as the applicant to determine how it wished to use the area of land e.g. football, rugby, hockey or cricket pitches, or as an open field. The planning use class allowed for a variety of uses within the same class.
- The reason a lot of the assessment had been done with regard to football pitches was because it was currently the applicants view as to its future use and it provided the worst case scenario in terms of traffic assessment.
- Paragraphs 10.17 to 10.23 provided details of the assessment of development on the Greenbelt. 145B of the NPPF stated that recreation was appropriate in the Greenbelt as long as the openness of the Greenbelt was preserved.
- Minor impacts on openness were set out in Paragraph 10.21. This related to the introduction of small scale structures e.g. goal posts.
- There was an extant planning permission for this site which expired on 1 May 2021. The extant planning permission was identical to the one currently being considered. This would carry significant weight should the current application go to appeal.
- The proposed use of this site had been reviewed on more than one occasion since 2006 – in 2016 and again as part of the emerging Local Plan. On each occasion it had remained in the plan.
- Decisions were taken based on the approved development plan unless there were material considerations to the contrary. In this instance there was an adopted planning policy that covered this area of land for which this application was proposing to use it for.
- It was not possible to attach a condition relating to further consultation with the local community as one of the tests of a condition was that it was necessary in order to make an unacceptable development acceptable in planning terms. However, it would be possible to include an informative that the applicant was strongly encouraged to engage with the local community. This would allow the community to have a say in the future use of this site.
- It was confirmed that Rusthall did not yet have a Neighbourhood Plan.
- It was not the role of the local planning authority to consider alternative places for the playing pitches. This would be a matter for the applicant (TWBC).
- Paragraph 10.41 onwards dealt with parking matters. Kent CC had not identified it as a highway safety concern. Parking issues would be mitigated through the management of the site (Condition 9) alongside the expansion of the car park.
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**Committee Member Debate** – Members of the Committee took account of the presentations made and raised a number of questions and issues within their discussions. These included:

- There was doubt that there was a need for these football pitches.
- It had been 15 years since it was first introduced and to date there were no plans to implement.
- There were already football pitches in the vicinity.
- Consideration should be given to remove it from the Plan.
- In addition there were concerns raised about parking, traffic and pollution levels.
- It was suggested that the application should either be deferred or refused.
- There was concern that this site was not a sustainable location for the form of recreation that was currently planned by the applicant.
- A range of alternative recreation uses should have been explored.
- The social impact on the residents of Southwood Road would be unacceptable.
- A decision on the facilities proposed at Hawkenbury should be known before any decision was taken with regards to this site.
- The drainage of the site was an issue.
- The application should be withdrawn until the outcome of the pre-submission Local Plan.
- As the applicant was the Borough Council it was hoped that it would not ignore an informative should one be attached to this application.
- There was recognition that the site was not pre-determined for football as its primary use.
- TWBC confirmed there would need to be a planning reason for any refusal. The land had been identified for recreation use and if refused the Council would not be able to deliver sufficient playing pitches for the Borough. The Playing Pitch Strategy also included the expansion at Hawkenbury – this site would be an additional site.
- TWBC confirmed that these issues were the same issues that were raised when the application came before Members 3 years ago and remained unchanged. Furthermore, the allocation was included in the Reg 18 consultation and again in the Plan that was agreed by Members in at Full Council early in 2021.
- If a deferral was sought, it would need to be clear as to what Members would be seeking from that deferral. The purpose of a deferral was to overcome a particular issue. This was a use application not a development application.
- TWBC confirmed that consultation with the local community was not a valid reason for deferral. A decision was required as the Local Planning Authority and not the applicant.
- If Members wished to add an informative, something along the following lines might be appropriate: ' the applicant is strongly encouraged to engage with a consultation process with the local community and Parish prior to any development of the site'.
- It was questioned as to where the signs advertising this application were positioned.
- Car parking when football was taking place at Jockey Farm was already an issue. Any additional pitches would make parking worse for residents.
- The livelihood of the owner of Jockey Farm remained a concern.
- Football pitches did not enhance the AONB.
- The loss of agricultural land should be considered as a material

consideration.

- The adoption of the Local Plan accepted that the use of land for recreation and not agriculture was acceptable. In addition the allocation of this site accepted that the impact on the AONB was also acceptable.
- This area of land had been designated for this use since 2006 through to 2016, again in 2017, Reg18 consultation and finally to the adoption of the Local Plan in February 2021. The time to oppose and reason the application had been there for 15 years. No evidence had been heard that matters had changed since the application was submitted in 2017 that would suggest that the planning committee was wrong in awarding permission at that time. The committee had no reason to overturn this application now.
- It was regrettable that Rusthall did not have a Neighbourhood Plan.
- EN25, an extant policy referenced in the report made mention of the use of natural resources and to minimise the loss of Greenfield sites. The site included a hedgerow and rural landscape. Under transport EN25 stated that high trip generating developments should be concentrated in accessible locations. The committee and objectors had argued that this site was not in an accessible location.
- In terms of the impact on the countryside there would be a need to demonstrate that the harm generated by this proposal was greater than that harm that was envisaged by the sites allocation. In addition there would be a need to demonstrate that the harm was different to that approved in 2017.
- The objections were based around the assumption that the land would be used for football pitches, but the use had yet to be determined.
- There was evidence to suggest there was a reduction in demand for full sized football pitches.
- Some of the land came into the Speldhurst Parish Ward. It was confirmed that Speldhurst did not have a Neighbourhood Plan.
- It was suggested the landowner of Jockey Farm would take the case through the courts and the cost the Council would be high.
- To reconfirm the planning use was for recreation – there was no planning use class specific to football pitches.
- The Council's legal officer confirmed that there was a proposal to refuse the application, but there were no specified reasons to support a refusal. Those reasons would need to be established before a vote was taken. Members should also bear in mind that this was an allocated site, the decision being made related to the use of the land for recreational purposes. Allocation for this use carried great weight.
- It was suggested that material planning reasons for refusal had been evidenced during the meeting. These included a reference to EN25, an unsustainable location, traffic congestion and associated pollution concerns. In addition, a need to minimise the loss of Greenfield sites.
- The Council's legal officer confirmed that officers had already dealt with the reasons as detailed above and that they had been taken account of in relation to this site. As such, in terms of them being a reason for refusal further explanation would be required to substantiate these reasons when the allocation had already clearly accounted for them.
- It was suggested that based on the advice from the legal officer there was no valid planning grounds for refusing this application.
- Members requested that an informative be added as follows: 'that the applicant is strongly encouraged to engage with a robust consultation with the community and the landowner so that there is a demonstrable

- and quantified view is reflected for the future use of this land.’
- TWBC were content with the wording of this informative.
- The inclusion of a condition that prohibited the land from being used for another purpose e.g. development, was not necessary. Any change of use would require planning permission in its own right.

**Decision/voting** – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Bland, seconded by Councillor Noakes and a vote was taken to approve the application in line with the officer recommendation and to include an informative as agreed by Members and Officers.

**RESOLVED** – That application 21/00068/FULL be granted subject to the plans, conditions and informatives as set out in the agenda report.

## **APPLICATION FOR CONSIDERATION - 19/03349/FULL LAND AT MASCALLS FARM BADSELL ROAD PADDOCK WOOD TONBRIDGE KENT**

PLA134/20 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application 19/03349/FULL, Land at Mascalls Farm, Badsell Road, Paddock Wood, Tonbridge, Kent and this was summarised at the meeting by Antonia James, Principal Planning Officer and illustrated by means of a visual presentation.

**Updates and additional representation** – None.

**Registered Speakers** – There were two speakers that registered in accordance with the Council’s Constitution (Planning Committee Procedure Rules)

Public Objectors:

- Mr Barry Weston, a local resident.

Public Supporters:

- Mr Alex Davies, Agent (Berkeley Group)

**Matters of Clarification by Officers and Committee Members’ Questions to Officers** – Members raised a number of questions and officers confirmed the following:

- Officers had been in regular contact with Paddock Wood Town Council (PWTC) throughout the course of the application regarding S106 contributions. PWTC confirmed a few weeks prior to the committee meeting that they were happy with the contributions offered and no further contributions were sought.
- There may not be a requirement to pay the build costs for the new Primary School c £500k if this was funded by Central Government. Berkeley had offered to cover all requested contributions, so this funding could not be reallocated elsewhere.
- The applicant had continuously stated in all documents submitted that there would be provision for affordable rented houses, not social rented housing. However, there was nothing to stop the registered provider providing those as social rented houses for future residents.
- TWBC housing department had been working with Town and Country Housing on other schemes to provide social rent where affordable rent

had already been covered within the S106 agreement. Any S106 agreement would not prohibit the provision of social rent on this site.

- The major highways works would be undertaken as the trigger had been met e.g. commencement of development at Mascalls Farm, Mascalls Court Farm and Church Farm.
- Condition 3 stated that no more than 313 dwellings should be occupied prior to the completion of the major highways works, or before the 1 October 2023, whichever was the earlier. This gave the applicant flexibility of which part of the scheme they wished to implement first and resulted in no greater impact on the highway network until the major highway works had been completed. This included a 6 month time buffer in case the highway works overran.
- Paragraph 10.63 stated that Southern Water had no objections to the scheme. Southern Water stated that no foul sewerage should be discharged into the public system until there was sufficient capacity within the foul water network to cope with the additional sewage flows.
- Southern Water were in the process of designing and planning delivery of this off site sewerage network and the re-enforcements required.
- A condition attached to this application required that the properties could only be occupied once TWBC had confirmation from Southern Water that there was sufficient capacity in the foul drainage systems to accommodate the increase in flows.
- The scheme provided a very significant net gain for biodiversity which was above policy requirements (over 40%).
- There were play areas in both phase 1 and phase 2 of the scheme.
- The applicant had proposed that 3 of the affordable units be wheelchair accessible.
- There was no policy at present that required all units to be wheelchair accessible/adaptable.
- There was a planning condition related to the trees along the public right of way. The current path was quite narrow and therefore deemed unsuitable for the projected increase in pedestrian traffic. The Public Rights of Way Officer (PROW) that the path be increased in width (to 2.5m). It was not possible to increase the width of the path to 2.5m without significantly changing the character of the PROW, or impacting existing trees. Further details of improvement works to the PROW were required by condition to ensure any widening/improvement works were not harmful to existing trees. Widening works were likely to be possible in places, but may not be possible along the full length of the PROW due to tree constraints.
- The location and design of the affordable housing within the development had been discussed with the housing team at TWBC and with Town and Country and no objections had been raised.
- Residents of the affordable housing would be closer and have easier access to the amenities in Paddock Wood than those in the market housing scheme.
- Those in the affordable houses would have equal access to all the open space available including the play areas.
- There was no gated area within the development.

**Committee Member Debate** – Members of the Committee took account of the presentations made and raised a number of questions and issues within their discussions. These included:

- There was concern that the affordable housing was not affordable to any of those currently on the housing list.
- The developers were not delivering a variety of homes if the only homes that were available were not affordable.
- It was suggested the application failed to meet the Council's policies that were put in place to protect the less advantaged in the Borough.
- If H3 was deemed out of date, the emerging H3 in the pre-submission Local Plan carried forward that value and intent.
- If the application was approved with no social rent (i.e. 60% of market value) the Council was effectively stating that it had no concern about providing genuinely affordable housing.
- Using the calculation included in the existing H3 there should be 26 social housing within the development. Based on the emerging H3 there should be 24 social housing within the development. The development only had a total of 20 affordable rented houses.
- By not building social housing the Council was condoning families to live in poverty.
- It was suggested that a request should be sent to the developers to re-evaluate the mix of housing in accordance with the Council's existing and emerging planning policies.
- The Borough Council did not have a 5 year land supply. This severely weakened what the Council was able to do to secure policy compliance when dealing with housing applications. The emerging Local Plan had limited weight at the moment and due to the lack of a 5 year land supply the existing development plan housing policies, where they are not consistent with the NPPF were considered out of date. The Council were therefore required to negotiate from a weaker position in order to get the best possible development.
- What was included in the S106 did not prevent the inclusion of social rent – it stated that it should be no more than 80% of market value, but it could be less. This was consistent with what was being delivered at other sites.
- The key matter for the Council was to achieve a 5 year land supply. This would enable the Council to insist on full compliance with adopted policies.
- It was suggested that without a 5 year land supply the Council would be unsuccessful if the application went to appeal.
- There was a request to remove reference to the Memorial Field (Page 71) as there was no planning consent for this at present.
- There was a request to ask the developers to give consideration during the construction works to the residents on the periphery of the development.
- There was no opportunity to transfer the £500k that had been allocated for the primary school (should it be funded by Central Government) to put into social rent. The specifications of S106 agreement did not allow for this. The money was required to be spent for the purpose for which it was collected.
- Money could not be collected by condition or informative.
- It was suggested that PWTC had missed an opportunity to leverage the potential of using the 'school' money for an alternative purpose.
- Agreeing this application would improve the Council's position for developments in the future.

- There was request to refuse the application on the basis of the tenure and mix of housing on the development.
- There was concern about refusing the application. 40 affordable houses were proposed within the development – was there an option to rebalance this and increase the number of social housing. A decision could be deferred so that a more acceptable solution could be sought.
- TWBC confirmed that it was within Members gift to defer an application. But to be aware, a deferral would lengthen the period of determination and opened the Council up to the possibility of an appeal against non-determination. It also decreased certainty for residents, the applicant and the Council in terms of housing numbers.
- TWBC had discussed the provision of social rent with the developer and they had confirmed it would not be viable. The issue had also been discussed in great detail with the Housing Officer who had confirmed the Council was currently in a very difficult position as current policies on affordable housing and housing in general were out of date.
- The scheme provided 100 dwellings towards meeting the 5 year land supply. It included 40% affordable housing which was 5% over the adopted policy. The development also included a number of other benefits including £1.5m towards community services and facilities. Although the Council and applicant considered the financial contributions were CIL compliant, contributions might be at risk should the application go to appeal, should the Inspector have a different opinion.
- It should be noted that the breakdown of affordable housing was the same as approved by Members at a recent application at Turnden. At Turnden, there was a total of 40% affordable housing, 50% affordable rent and 50% shared ownership. There was no social rent included as part of the application.
- A deferral would have the same risk and implications as a refusal. But the outcome would be a matter for the Inspector.
- Given that it would probably be lost at appeal the application should be agreed. Once the Council reached its 5 year housing supply it would be in a much better position to insist in compliance with its housing policies.
- It was acknowledged that it was known before this meeting that the developer was not going to include any social rented homes.

**Decision/voting** – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Pound, seconded by Councillor Warne and a vote was taken to refuse the application on the grounds that the mix of tenure of affordable properties failed to meet the identified local need (failure to deliver in accordance with TWBC Core Policy 11, Paddock Wood and the emerging pre-submission Local Plan H3). The motion was not carried.

A motion was proposed by Councillor Bland and seconded by Councillor Backhouse and a vote was taken to approve the application in line with the officer recommendations.

**RESOLVED** – That application 19/03349 FULL Land at Mascalls Farm, Badsell Road, Paddock Wood, Tonbridge, Kent be granted subject to the plans, conditions and informatives as set out in the agenda report.



## **APPLICATION FOR CONSIDERATION - 20/03410/FULL THE CORN EXCHANGE THE PANTILES ROYAL TUNBRIDGE WELLS KENT**

PLA135/20 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application 20/03410/FULL The Corn Exchange, The Pantiles, Royal Tunbridge Wells, Kent and this was summarised at the meeting by Charlotte Oben Strategic Sites Senior Planning Officer and illustrated by means of a visual presentation.

**Updates and additional representation** – None.

**Registered Speakers** – There were no speakers that registered in accordance with the Council's Constitution (Planning Committee Procedure Rules).

**Matters of Clarification by Officers and Committee Members' Questions to Officers** – Members raised a number of questions and officers confirmed the following:

- In September 2020 the use class order was changed. D1 under the old system was education, under the new class order it was now F1A.

**Committee Member Debate** – N/A.

**Decision/voting** – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Dr Hall, seconded by Councillor Poile and a vote was taken to approve the application in line with the officer recommendation.

**RESOLVED** – That application 20/03410/FULL The Corn Exchange, The Pantiles, Royal Tunbridge Wells Kent be granted subject to the plans, conditions and informatives as set out in the agenda report.

## **APPLICATION FOR CONSIDERATION - 20/03615/LBC THE CORN EXCHANGE THE PANTILES ROYAL TUNBRIDGE WELLS**

PLA136/20 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application 20/03615/LBC The Corn Exchange, The Pantiles, Royal Tunbridge Wells, Kent and this was summarised at the meeting by Charlotte Oben, Strategic Sites Senior Planning Officer and illustrated by means of a visual presentation.

**Updates and additional representation** – None.

**Registered Speakers** – There were no speakers that registered in accordance with the Council's Constitution (Planning Committee Procedure Rules)

**Matters of Clarification by Officers and Committee Members' Questions to Officers** – N/A.

**Committee Member Debate** – N/A.

**Decision/voting** – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Dr Hall, seconded by Councillor Hamilton and a vote

was taken to approve the application in line with the officer recommendation.

**RESOLVED** – That application 20/03615 The Corn Exchange, The Pantiles, Royal Tunbridge Wells, Kent be granted subject to the plans, conditions and informatives as set out in the agenda report.

## **APPEAL DECISIONS FOR NOTING 05/01/2021 TO 22/02/2021**

PLA137/20 **RESOLVED** – That the list of appeal decisions provided for information, be noted.

## **URGENT BUSINESS**

PLA138/20 There was no urgent business for consideration.

## **DATE OF NEXT MEETING**

PLA139/20 The next Planning Committee meeting was scheduled for Wednesday 24 March 2021.

NOTE: The meeting concluded at 3.00 pm.

**Planning Committee**

**24 March 2021**

## **Reports of Head of Planning Services**

**Procedural Item:**

The running order of the applications listed below is subject to change and will be agreed by the Chairman and announced at the meeting.

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## REPORT SUMMARY

|  |   |   |          |
|--|---|---|----------|
| <b>REFERENCE NO - 20/03810/FULL</b>  |   |   |          |
| <b>APPLICATION PROPOSAL</b>  |   |   |          |
| Seal up front door and erect single storey extension to chalet bungalow.   |   |   |          |
| <b>ADDRESS</b> Le Bergerie Churn Lane Horsmonden Tonbridge Kent TN12 8HL   |   |   |          |
| <b>RECOMMENDATION - Refuse (see section 11 of the Report for the full recommendation)</b>  |   |   |          |
| <b>SUMMARY OF REASONS FOR REFUSAL.</b>   |   |   |          |
| <ul style="list-style-type: none"><li>- The proposed extension, by reason of its scale, siting and design, is considered to be disproportionately large and over-dominant in built form.</li><li>- The volume increases involved with the extension would not be 'modest' as required by saved Local Plan Policy H11.</li><li>- It would visually dominate the existing dwelling, resulting in a poorly proportioned building thereby harming its character and appearance.</li><li>- The extension lends itself to future sub-division to form a separate dwelling.</li></ul> |   |   |          |
| <b>INFORMATION ABOUT FINANCIAL BENEFITS OF PROPOSAL</b>  |   |   |          |
| The following are considered to be material to the application:  |   |   |          |
| <b>Contributions (to be secured through Section 106 legal agreement/unilateral undertaking): N/A</b>   |   |   |          |
| <b>Net increase in numbers of jobs: N/A</b>  |   |   |          |
| <b>Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs: N/A</b>   |   |   |          |
| The following are not considered to be material to the application:  |   |   |          |
| <b>Estimated annual council tax benefit for Borough: N/A</b>   |   |   |          |
| <b>Estimated annual council tax benefit total: N/A</b>   |   |   |          |
| <b>Estimated annual business rates benefits for Borough: N/A</b>   |   |   |          |
| <b>REASON FOR REFERRAL TO COMMITTEE</b>  |   |   |          |
| The applicant is related to a Borough Councillor   |   |   |          |
| <b>WARD</b> Brenchley & Horsmonden   | <b>PARISH/TOWN COUNCIL</b> Horsmonden Parish Council    | <b>APPLICANT</b> Mr Andy March<br><b>AGENT</b> Peter Bodman Design Services |          |
| <b>DECISION DUE DATE</b><br>10/03/21   | <b>PUBLICITY EXPIRY DATE</b><br>26/02/21                | <b>OFFICER SITE VISIT DATE</b><br>05/02/21                                  |          |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>  |   |   |          |
| 74/00002   | Outline - Erection of an agricultural workers bungalow. | Refused   | 16/05/74 |
| 74/00821   | Vehicular access for agricultural purposes only.        | Deemed Refused  | N/A      |

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 This site is located approximately 280 metres to the north of Churn Lane and accessed by a private drive which is approximately 480 metres in length. The site measures an area of 482m<sup>2</sup>. There is no clear defined residential curtilage, partly due to the lack of planning history on the site and partly due to the rural and agricultural nature of the land which this plot lies within.
- 1.02 The site contains a very small dwelling, which consists of a single bedroom at first floor level and open plan lounge/kitchen/dining room at ground floor level. The dwellinghouse is in a remote position in an open field. Trees and hedgerow surround the agricultural field on all sides but there is no clear boundary treatment which divides the plot from this land. The dwellinghouse therefore is located in an area which is highly rural in its character and which is sparsely developed. There is a pond to the north of the site.
- 1.03 The building is constructed in red brick and timber weatherboarding, with a tiled roof. From the front, the building has a single storey appearance. However, there is a large dormer on the rear elevation, which serves the bedroom within the roof.
- 1.04 It is unclear exactly when this building was erected or first came in to residential use. However, the Council's historic maps which go back to 1871 / 1878 indicate a structure in this position at this time. The dwelling, including the dormer is shown on the earliest aerial photographs on the Council's system that date back to 2003.
- 1.05 There are also single storey detached outbuildings to the west side of the dwellinghouse, although they are not the focus of the application

### 2.0 PROPOSAL

- 2.01 The proposal seeks to provide a single storey extension to the side (east), which would be accessed via a link from the existing building. The proposed extension measures 4-6 metres in width and 12.8 metres in depth and would create a 'L' shaped building. The proposal seeks to use materials that would match the existing (red brick and, timber weatherboarding, with a tiled roof)
- 2.02 The proposed extension would use a link extension with a pitched roof of low height, the link would connect to a pitched roof gable ended extension which would extend by 90° to the north(rear). There are no proposed changes to landscaping or parking provision within the grounds, nor to the outbuildings. This extension would provide an extra bedroom with ensuite, a lounge, utility closet and, W/C.

### 3.0 SUMMARY INFORMATION

|                           | Existing dwellinghouse | Proposed extension | Resulting dwellinghouse |
|---------------------------|------------------------|--------------------|-------------------------|
| Max height (metres)       | 5.24                   | 4.1                | 5.24                    |
| Max eaves height (metres) | 2.3                    | 2.1                | 2.3                     |
| Max Width (metres)        | 8                      | 4-6                | 14.2                    |
| Max Depth (metres)        | 5.3                    | 12.8               | 12.8                    |
| Approximate volume        | 164.703                | 239.68             | 404.38                  |

|                |  |  |  |
|----------------|--|--|--|
| (cubic metres) |  |  |  |
|----------------|--|--|--|

## 4.0 PLANNING CONSTRAINTS

- Outside the Limits to Built Development
- Agricultural Land Classification Grade 3

## 5.0 POLICY AND OTHER CONSIDERATIONS

### **The National Planning Policy Framework (NPPF) (2019)** **National Planning Practice Guidance (NPPG)**

#### **Development Plan:**

#### **Tunbridge Wells Core Strategy 2010:**

Core Policy 4 - Environment

Core Policy 5 – Sustainable Design and Construction

Core Policy 14 – Development in the villages and rural areas

#### **Tunbridge Wells Borough Local Plan 2006:**

Policy LBD1 - Limits to Built Development (as amended by AL/STR1 of the Site Allocations Local Plan 2016)

Policy EN1 - General development criteria

Policy EN25 – Development outside the defined Limits to Built Development

Policy H11 - Extensions to dwellings outside the defined Limits to Built Development

#### **Tunbridge Wells Borough Council Supplementary Planning Documents/Guidance:**

Alterations and Extensions SPD 2006

Landscape Character Assessment SPD 2017

#### **Pre-Submission Local Plan (February 2021)**

The Draft Local Plan sets out the Council's proposed development strategy, distribution for growth and housing need for the borough. At this stage in the Local Plan review process, only limited weight can be attached to the policies in the Draft Plan.

- Policy EN1 - Sustainable Design
- Policy EN18 - Rural Landscape
- Policy EN20 - Agricultural Land
- Policy H11 - Residential extensions, alterations, outbuildings

## 6.0 LOCAL REPRESENTATIONS

6.01 Two site notices were displayed on 5<sup>th</sup> February 2021.

6.02 No comments were received from neighbours or other members of the public.

## 7.0 CONSULTATIONS

#### **Horsmonden Parish Council**

7.01 (01/02/21): Support the application, subject to compliance with the Horsmonden Parish Council Sustainability Policy (*Officer's Note: this is not an adopted TWBC planning policy, nor a Neighbourhood Plan policy*)

## **Landscape and Biodiversity Officer**

- 7.02 (10/03/2021): Verbal comments received as follows: No objections on landscape grounds. Aerial views of the site indicate residential use of the plot for a significant period of time. The location of the extension would be likely within that area considered to be 'residential curtilage' and, would not impede on the existing agricultural land. There are no proposed changes to landscaping and the proposed link extension would minimise the level of attachment to the existing dwellinghouse so that an impact on protected species should they be present, would be minimal. A bat survey would not be required in this instance.

## **Principal Conservation Officer**

- 7.03 (11/03/2021): provided verbal comments after reviewing the application: The historic maps do show a building in a similar position as the existing dwellinghouse before the 1900's. However, there are clear alterations to the location and, form of the building over time. The site photographs indicate that the section of chimney below the shoulders is likely Victorian era or older. The other parts of the dwellinghouse are more modern, such as the brickwork, and dormer which has the appearance of a 1970's attachment. Given that much of the building is modern, it would not be considered a Non Designated Heritage Asset. However, retention of the historic chimney is encouraged. In this case, the proposal would not impact the chimney breast. The proposed extension appears incongruous with the existing dwellinghouse and, a more appropriate design, such as an extension with outbuilding features and, relevant fenestration would be more neutral in appearance and compatible with the rural area. However, given that the building is not a Non Designated Heritage Asset there are no particular heritage reasons to object. Should the application be approved, conditions requiring further details of proposed fenestration should be included.

## **8.0 APPLICANT'S SUPPORTING COMMENTS**

- 8.01 The applicant provided a cover letter. The letter highlights the unusually small size of the existing dwellinghouse. They require the additional space due to the applicant's personal circumstances, resulting in a larger household. They advise that the property has been in family ownership for over forty years and that they have strong desire to keep the property in family ownership.

## **9.0 BACKGROUND PAPERS AND PLANS**

Site Location Plan

AM/1 – Existing Site Plan, Floorplans and Elevations

AM/2 – Proposed Site Plans, Floorplans and Elevations

Cover Letter

## **10.0 APPRAISAL**

### **Principle of Development**

*Assessment against saved Local Plan Policy H11*

- 10.01 This application falls primarily to be assessed against saved Policy H11 of the 2006 Local Plan. This states that extensions to dwellings outside the LBD will be permitted providing three criteria are satisfied.
- 10.02 Criterion 1 requires that the existing dwelling was designed, constructed or converted for residential use and was built on permanent foundations on the site. There is little planning history for the site and none relating to this dwelling. However, aerial views



from 2003 clearly show the dwellinghouse in place and with the appearance of residential use. It has also been liable for Council Tax at Band B as a dwelling since 2013. There is no requirement for a dwelling to benefit from a Certificate of Lawful/Existing Use to be considered under this policy. With no evidence to the contrary, it is considered reasonable to assume on the balance of probability that the dwellinghouse is lawful and that the proposal meets this criterion.

- 10.03 Criterion 2 requires that the extension would be 'modest' and in scale with the original dwelling and would not dominate it visually or result in a poorly-proportioned building or detract from its character or setting. The policy provides a volumetric allowance for additions to be considered 'modest' and this is explained in the supporting text;

*'The Local Planning Authority would normally judge an application as modest if it would result in an increase of approximately 50% in the volume of the dwelling or 150 cubic metres (gross), whichever is the greater, subject to a maximum of 250 cubic metres (gross).'*

- 10.04 This is a cumulative figure and would include any addition from May 2001. The planning history indicates that the site has not received any previous permission for extensions. Therefore, the addition would benefit from the full H11 allowance.

- 10.05 In this case, the existing dwellinghouse has an existing volume of 164.703 cubic metres. The proposed extension would be 239.68 cubic metres, excluding the existing dwellinghouse. The proposal would increase the size of the dwelling to 404.383 cubic metres, equating to a 145.523% increase.

- 10.06 Given the small scale of the existing house, the increase would be limited to an increase of 150 cubic metres, which would almost double the size of the house. The proposal exceeds the allowance by 89.68 cubic metres.

- 10.07 Although the volumetric calculation applied within this policy is intended to be used as guidance only (hence its presence in the supporting text rather than in the policy wording), the volumetric increases are significantly higher than the guidelines. The figures need to be balanced with the visual impact of the proposal. H11 makes it clear that each application must be determined on its own merits. As stated earlier the extension must also be in scale with the original dwelling and must not visually dominate it, nor result in a poorly proportioned building, nor detract from its character or setting.

- 10.08 The proposed extension would extend to the rear of the plot by an additional 8.8 metres, reformulating the existing layout and, appearance of the dwellinghouse entirely. The increased floorspace would clearly result in a much larger footprint than the existing dwellinghouse and, although the extension has been set below ridge height of the existing dwellinghouse in an attempt to reduce the visual bulk on the original building, the cumulative impact of the scale of the additional massing, form and, location of the addition would appear to be disproportionately large in comparison to the original dwellinghouse. The proposed form, layout and, appearance of the extension would appear to be fragmented from the existing building and, would not compliment the original building. That is not to suggest that the existing building is of particular merit in its design. Whilst the proposed materials, roof form and design attributes would reflect the existing dwellinghouse, the proposed 'link' design and reformulated layout would result in a disjointed appearance. The extension would not appear subordinate to the main house and the resulting bulk would dominate the immediate locality to the detriment of its character and appearance.

- 10.09 Criterion 3 requires that the dwelling as extended would not lend itself to future sub-division to form a separate dwelling. The proposed footprint of the proposed extension would be almost double that of the existing dwellinghouse. Although there is currently a singular access point, the existing drive is large and with two dwellings there would be likely future pressure to extend existing garden spaces into the agricultural land, particularly as the defined boundary line is ambiguous. The scale of the extension, its internal layout, provision of separate WC and bathroom plus the tokenistic link that attaches the extension to the dwellinghouse would lend itself to future subdivision to form a separate dwellinghouse in what is a remote, unsustainable location.
- 10.10 Therefore the proposal would fail Criteria 2 and 3 of Local Plan Policy H11 and it is proposed the application is refused on this basis.
- 10.11 It should be noted that Policy H11 of the emerging Local Plan would apply a similar volumetric and visual assessment as applied under the current policy. Under that emerging policy, the extension would not be considered modest either (however it can only be given limited weight at this point in time).
- 10.12 As stated earlier, the residential curtilage of the dwelling is not formally defined by a previous planning permission or Certificate of Lawful/Existing Use. The judgement as to where the curtilage lies is a matter of fact and degree and the extent/location will vary from one case to the next. The courts have held that the curtilage is an area around the dwelling which is necessary for it to function as such. The proposed extension is considered to be located within an area that meets this criteria, and does not encroach on to agricultural land.

*Other relevant policies*

- 10.13 Paragraph 130 of the National Planning Policy Framework (2019) states as follows:
- ‘Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. ....’*
- 10.14 The Council’s Alterations and Extensions Supplementary Planning Document 2006 states:
- ‘In the countryside, all proposals should respect local distinctiveness and be of high quality design in order to maintain character. Policies allow for modest extensions, where there have been none previously and provided proposals do not impact on the character of the countryside, or result in the loss of smaller dwellings in a locality.’*
- 10.15 The NPPF, Core Policy 4 and the Alterations and Extensions SPD 2006 prioritise high quality development which reflects the local character of the area and its local distinctiveness. The extension proposed would not be modest, as set out earlier. It is of poor design and would fail to take the opportunities available for improving the character and quality of the area, thereby conflicting with paragraph 130 of the NPPF, CP4 and the SPD.
- 10.16 Likewise, for the above reasons the proposal would fail Policy EN1 (3) of the current Local Plan which requires that the design of the proposal, encompassing scale,

layout and orientation of buildings, and external appearance, would respect the context of the site.

- 10.17 The nature of this proposal as an extension to an existing dwelling is such that wider landscape impact is likely to be very limited. The development would be seen in the landscape, but this alone does not equate to harm. In this regard the proposal would not conflict with the NPPF (Para 170, which refers to 'valued landscapes') and saved Development Plan policy EN25 – which allows development that has a minimal impact on the landscape character of an area. Neither would there be conflict with the elements of Core Policies 4 and 14 that seek to protect the wider landscape beyond the immediate development site and the character of the countryside.

## **Other Matters**

- 10.18 Given the linked nature of the proposed extension, it is not considered that the development would have impact on protected species, particularly bats potentially inhabiting the building. Given the limited likely impact on biodiversity, any net gain could easily be provided for by way of bat/bird boxes that could have been sought by condition had permission been recommended.
- 10.19 No alterations are proposed to highways and parking and, the continued use as an extended single dwellinghouse would not result in a significant increase in vehicular traffic.
- 10.20 Given the nature of the application site and the remote position of the dwelling, there is considered to be no impact on any residential neighbours.

## **Conclusion**

- 10.21 The proposed extension would be disproportionately large in this rural area. It would result in a poorly proportioned building and would detract from its character and setting. The proposed form and design would not reflect the existing character of the building.
- 10.22 The proposal would therefore conflict with Policy H11 of the Local Plan that seeks an extension to be in scale with the original dwelling, not to dominate it visually or result in a poorly-proportioned building or detract from its character or setting. The proposal would also conflict with Policy 4 of the Tunbridge Wells Borough Core Strategy (the Core Strategy) 2010 and Policy EN1 of the Local Plan that require development to respect the context of the site and to conserve the character of rural landscapes, in this case where that character relates to development of rural dwellings/buildings. There would also be conflict with NPPF Para 130 and the Alterations and Extensions SPD 2006. As such, the recommendation is to refuse this application.

## **11.0 RECOMMENDATION – Refuse for the following reasons:**

- (1) The proposed extension by reason of its scale, siting and design is considered to be immodest and disproportionately large. It would visually dominate the existing dwelling, resulting in a poorly proportioned building thereby harming its character and appearance. The extension also lends itself to future sub-division to form a separate dwelling. The proposal would be contrary to paragraph 130 of the National Planning Policy Framework 2019, Core Policy 4 of the Tunbridge Wells Borough Core Strategy 2010, Policies EN1 and Policy H11 of the Tunbridge Wells Local Plan 2006, and the Alterations and Extensions Supplementary Planning Document

## INFORMATIVE

- (1) The following plans and details have been taken into consideration in reaching this decision to refuse permission:

Site Location Plan

AM/1 Existing Site Plan, Floorplans and Elevations

AM/2 Proposed Site Plan, Floorplans and Elevations

Cover Letter

Case Officer: Lisa Williams

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

## REPORT SUMMARY

|  |  |   |          |
|--|--|---|----------|
| <b>REFERENCE NO - 21/00229/FULL</b>  |  |   |          |
| <b>APPLICATION PROPOSAL</b>  |  |   |          |
| Construction of open air exercise pool and paved surround together with associated works   |  |   |          |
| <b>ADDRESS</b> Bonds Bullingstone Lane Speldhurst Tunbridge Wells Kent TN3 0JY   |  |   |          |
| <b>RECOMMENDATION – GRANT subject to conditions (see Section 11.0 for full recommendation)</b>   |  |   |          |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION</b>   |  |   |          |
| <ul style="list-style-type: none"><li>• The principle of the development is acceptable</li><li>• The scale, location and design of the development would respect the context of the site and would preserve the landscape character of the locality and the Historic Park &amp; Garden.</li><li>• The proposal would not harm the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty.</li><li>• The proposal would be appropriate development within the Green Belt.</li><li>• The proposal would preserve the setting of the Grade II Listed Building.</li><li>• The development would not cause significant harm to the neighbouring residential amenity spaces.</li></ul> |  |   |          |
| <b>INFORMATION ABOUT FINANCIAL BENEFITS OF PROPOSAL</b>  |  |   |          |
| The following are considered to be material to the application:  |  |   |          |
| <b>Contributions (to be secured through Section 106 legal agreement/unilateral undertaking):</b> N/A   |  |   |          |
| <b>Net increase in numbers of jobs:</b> N/A  |  |   |          |
| <b>Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs:</b> N/A   |  |   |          |
| The following are not considered to be material to the application:  |  |   |          |
| <b>Estimated annual council tax benefit for Borough:</b> N/A   |  |   |          |
| <b>Estimated annual council tax benefit total:</b> N/A   |  |   |          |
| <b>Estimated annual business rates benefits for Borough:</b> N/A   |  |   |          |
| <b>REASON FOR REFERRAL TO COMMITTEE</b>  |  |   |          |
| The agent for the application was an officer of the Council within the last three years.   |  |   |          |
| <b>WARD</b> Speldhurst & Bidborough  | <b>PARISH/TOWN COUNCIL</b> Speldhurst Parish Council | <b>APPLICANT</b> Mr and Mrs Hodgkinson<br><b>AGENT</b> Mr Kelvin Hinton |          |
| <b>DECISION DUE DATE</b><br>07/04/21 EOT   | <b>PUBLICITY EXPIRY DATE</b><br>05/03/21             | <b>OFFICER SITE VISIT DATE</b><br>11/02/21                              |          |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>  |  |   |          |
| <b>11/00085/HOUSE</b>  | Construction of in ground open air                   | <b>Refused</b>  | 23/03/11 |

|                     |  |                  |          |
|---------------------|--|------------------|----------|
|                     | swimming pool, hard paved terrace and suspended hardwood terrace, new access steps, solar panels to heat water to swimming pool, installation of main access gates to driveway |                  |          |
| <b>10/00448/FUL</b> | Wendy House with associated steps and platform decking, single shed to replace two existing sheds in the same location, and a log store  | <b>Permitted</b> | 31/03/10 |

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The property is a Grade II listed building, which lies within the Metropolitan Green Belt, High Weald Area of Outstanding Natural Beauty (AONB) and outside of the Limits to Built Development.
- 1.02 The property is located on Bullingstone Lane in a rural setting. Properties within the lane are well spaced and have large curtilages. The house sits at a lower ground level than the lane, although the off road parking area is sited at higher level than the house and adjacent to the roadside hedge. The north-eastern boundary is marked partly by mature landscaping and partly by closeboarded fencing.
- 1.03 Ground levels within the rear garden are relatively flat immediately adjacent to the house, where there is a patio which leads to a flat area of lawn. A timber outbuilding is situated to the north-west of the lawn. Ground levels drop steeply down to the south-west.

### 2.0 PROPOSAL

- 2.01 The proposal is for the installation of an exercise pool within the garden of the property. The pool would be sited on the existing flat lawn area and partly encroach into the bank to the north-east. An existing timber 'wendy house' structure in this location would be removed. The pool would have a paved surround extending to link with the existing patio.
- 2.02 An existing low retaining wall bounds the north eastern edge of the flat lawned area and this would be removed and replaced with a new retaining wall to the rear of the recessed pool area.
- 2.03 Excavated material from the area where the proposed pool would be sited would be used to raise the remaining flat lawn area to the same level as the patio area at the rear of the dwelling, which is approximately 0.4m higher.
- 2.04 The plant for the pool would be housed in an existing timber building which is located to the far western end of the lawn. This building is at slightly lower ground level than the flat lawn area and is largely screened by existing vegetation.

### 3.0 SUMMARY INFORMATION

| Proposed |  |
|----------|--|
| Pool     |  |

|            |      |
|------------|------|
| Max length | 9m   |
| Max width  | 4m   |
| Max depth  | 1.2m |

## 4.0 PLANNING CONSTRAINTS

- Area of Outstanding Natural Beauty AONB - (*statutory protection in order to conserve and enhance the natural beauty of their landscapes - National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000*)
- Metropolitan Green Belt
- Outside the Limits to Built Development
- Listed Building 1261067 - Grade: II – (*Statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*)
- Tree Preservation Order YEW – (001/2004) located by the well to the south east of the house and away from the development area
- Historic Parks and Gardens – KCC – Danemore Park Grade II – located approx. 80m to the south west
- Public Footpath WT75 – located to the south west and at approx.95m distance
- Local Wildlife Sites 15m Buffer – KWT
- Rural Lane – Bullingstone Lane

## 5.0 POLICY AND OTHER CONSIDERATIONS

### **The National Planning Policy Framework (NPPF) 2019 National Planning Practice Guidance (NPPG)**

The Development Plan:

#### **Tunbridge Wells Borough Core Strategy 2010**

- Core Policy 2 – Green Belt
- Core Policy 4 – Environment
- Core Policy 5 – Sustainable design and construction
- Core Policy 14 – Development in the villages and rural areas

#### **Tunbridge Wells Borough Local Plan 2006**

- Policy MGB1 – Metropolitan Green Belt
- Policy LBD1 – Development outside the Limits to Built Development
- Policy EN1 – Development control criteria
- Policy EN11 – Historic Parks and Gardens
- Policy EN13 – Tree and woodland protection
- Policy EN25 – Development control criteria for proposals affecting the rural landscape

#### **Supplementary Planning Documents**

- Borough Landscape Character Area Assessment
- Kent Design Guide
- Rural Lanes

## 6.0 LOCAL REPRESENTATIONS

- 6.01 A site notice was displayed at the property on 11.02.21.

6.02 No neighbour representations have been received.

**Speldhurst Parish Council**

6.03 (16.02.21): Neutral.

## 7.0 CONSULTATIONS

**TWBC Conservation Officer**

7.01 (25.02.21): Specialist advice from the Built Heritage Team is not deemed necessary for the determination of this application.

**TWBC Tree Officer**

7.02 (03.02.21 & 02.03.21): A pre-commencement condition relating to details of tree protection is required to protect the yew tree to the east, which is a significant tree.

**TWBC Landscape & Biodiversity Officer**

7.03 (09.03.21): No objection in principle but recommend a condition seeking further details of retaining walls, existing and proposed levels, arrangements for the disposal of any surplus material etc. A condition should also be imposed on the provisions for any overflow and/or needs to empty the pool – i.e. not to be into the local water course or discharged over ground.

7.04 Officer response:

Conditions have been added to request specific information in respect of construction details; the retaining wall; and to ensure materials are not stored within the root protection area of the protected tree to the south of the dwelling. Details of levels have already been provided with this application. Provisions for any overflow and/or needs to empty the pool are matters that would be addressed under Building Regulations. The excavated soil would be re-distributed onto the lawn area (as shown on the submitted sections) and therefore a further condition in respect of disposal of surplus material, is not considered to be necessary given the minor scale of the proposal.

## 8.0 APPLICANT'S SUPPORTING COMMENTS

- The pool would be a minor form of householder development, ancillary to the use of the dwelling and located within the established residential curtilage;
- The positioning of the pool, and its scale/design, provides clear separation from the listed building and an acceptable relationship;
- The works would not adversely impact the Green Belt or Area of Outstanding Natural Beauty;
- No additional structures are necessary to service the pool;
- The majority of the existing established landscaping in the subject area would be retained and the extent of this planting is such that no supplementary planting will be required;
- Excavated material would be spread across the immediate lawn area to raise its height by approximately 400mm to match that of the existing patio;
- The siting of the pool would have no impact on any neighbouring property.

## 9.0 BACKGROUND PAPERS AND PLANS

9.01 The following plans/documents were taken into consideration during the determination of this application:



- Design and Access/Heritage Statement
- Location plan
- Site survey – Drg no. r1869
- Proposed block plan – Drg no. 79934/2
- Proposed plan and sections – Drg no. 79934/1
- Confidential medical letter

## 10.0 APPRAISAL

### Background

- 10.01 A previous application for a swimming pool was refused in 2011 (11/00085/HOUSE refers) on steeply sloping land to the rear (west) of the dwelling. The application was refused because it was deemed harmful to the landscape character of the locality; the character and appearance of the AONB and historic park and garden; the setting of the listed building; and, the openness of the Green Belt. In addition, insufficient information was submitted to assess the impact of the proposal on protected species, existing trees and the stability of the land. Given the significant changes in levels in this location, the refused scheme would have required extensive engineering operations and retaining structures, which would have resulted in significant visual intrusion and alteration of the existing land levels, which would have resulted in harm as identified within the reasons for refusal.
- 10.02 The current scheme is not considered to be directly comparable with the refused scheme, as it would be sited on relatively flat land to the north-west of the house and would not require the same amount of earthworks. The discreet siting of the current scheme would ensure the visual amenity of the locality would not be compromised.

### Principle of Development and impact on the Metropolitan Green Belt

- 10.03 The proposal is for an exercise pool within the garden of the subject property. The pool would be a minor form of householder development, ancillary to the use of the dwelling and located within the established residential curtilage.
- 10.04 The site lies within the Metropolitan Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, some exceptions are allowed including works which would comply with Para 145(b) of the NPPF, which allows the provision of appropriate facilities in connection with the existing use of the land, for outdoor sport and recreation. Para 146 (b) also states that engineering operations are 'not inappropriate' development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in it.
- 10.05 The pool would be a below ground structure within the curtilage of the dwelling and would not impact the openness of the Green Belt. The relocation of the retaining wall, external paving and changes in levels (including those associated with the deposition of spoil on to the lawn) would also be limited in scale such that they preserve the openness of the Green Belt. The proposal is therefore considered appropriate development in the Green Belt. The proposal would therefore comply with Section 13 of the NPPF, saved Policy MGB1 of the 2006 Local Plan and Core Policy 2 of the Core Strategy. The principle of the development and impact on the Metropolitan Green Belt are deemed acceptable.

## Impact on AONB and visual amenity

- 10.06 Para 172 of the NPPF states that *'great weight should be given to conserving and enhancing landscape and scenic beauty in... Area of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.'* Core Policy 4 of the Core Strategy seeks to conserve and enhance the High Weald AONB. Core Policy 14 states that *'the countryside will be protected for its own sake and a policy of restraint will operate in order to maintain the character and quality of the countryside.'*
- 10.07 The proposed pool would be sited on relatively flat land that is screened from Bullingstone Lane by existing soft landscaping and fencing. In contrast to the previously refused scheme, the current application would not involve significant cut and fill engineering operations and would not lead to a change in the landscape character of the site. The pool would be discreetly sited and given that it is a below ground structure, it would preserve the character and appearance of the AONB and would have no impact on views from the Public Right of Way, which is located approximately 80m to the south-west of the site or the rural lane.
- 10.08 The existing garden has dense vegetation along the north-east boundary and the majority of this would be retained. A low retaining wall currently flanks the bottom edge of this bank. The proposal would see this removed to allow for the creation of the recessed area for the pool. A new, low retaining wall would form the back edge to the pool. An area of paving would be placed around the pool with a paved link to the existing patio.
- 10.09 The excavated material would be re-used within the site to raise the level of the flat area of lawn up to the level of the existing patio which sits approximately 0.4m higher. This is a small-scale levelling operation within the existing residential curtilage that has a very limited, localised impact.
- 10.10 Subject to further details of the retaining wall and external materials, it is considered that the proposal would preserve the character and appearance of the AONB. The proposal would have no impact on the setting of the Historic Park and Garden, which is located approximately 80 metres to the south-west of the site or the rural lane (Bullingstone Lane). The proposal would therefore comply with Sections 12 and 15 of the NPPF, Core Policies 4 and 14 of the Core Strategy and Policies EN1, EN11 and EN25 of the Local Plan.

## Impact on the listed building

- 10.11 The proposed exercise pool would be sited approximately 7 metres to the north-west of the listed building. The exact position has been chosen to achieve a clear separation from the listed building and an acceptable relationship. The pool itself would be sited below ground level, which minimises its visual impact. Further details of the retaining walls and external materials can be required by condition to ensure a satisfactory visual appearance. The proposal would preserve the setting of the designated heritage asset and would therefore comply with Section 16 of the NPPF and Core Policy 4 of the Core Strategy.

## Residential Amenity

- 10.12 The proposal is not considered to be harmful to the residential amenity of any neighbouring property as the nearest dwelling, The Old Farmhouse, is sited on the opposite side of the road and would be approximately 30m away. The nearest dwelling to the north-west is located approximately 70m from the proposed pool. The

use of the pool may cause additional noise disturbance; however, due to the distance and use, this is not considered significant enough to warrant a refusal on this ground as it is unlikely to be materially worse than the noise and disturbance associated with a typical garden use. The proposal would therefore comply with Policy EN1 of the Local Plan.

- 10.13 It is noted that no letters of objection have been received.

## **Highways**

- 10.14 The proposal would be ancillary to the existing residential use and would have no greater impact on the highway than exists at present.

## **Impact on trees and ecology**

- 10.15 The proposal would have no impact on the protected Yew tree. There is another Yew tree to the east of the pool, which may be impacted by the proposal. The Tree Officer recommends that details of tree protection measures are required prior to commencement of works in order to protect this tree, which makes a positive contribution to the visual amenity of the locality.
- 10.16 The location of the pool is outside the designated Local Wildlife site to the north/north west. The Landscape & Biodiversity Officer has not objected to the development on ecological grounds,

## **Other Matters**

- 10.17 The pre-commencement condition has been agreed with the agent.
- 10.18 The pool is considered acceptable on its own merits. Nonetheless, confidential medical evidence has been submitted with this application which further supports the provision of an exercise pool ancillary to this property.

## **Conclusion**

- 10.19 The principle of the development is considered acceptable. The proposal would preserve the character and appearance of the High Weald Area of Outstanding Natural Beauty and the openness of the Metropolitan Green Belt. The proposal would also preserve the setting of the Grade II listed building and the nearby Historic Park & Garden. The proposal would not be harmful to the residential amenity of nearby properties.

## **11.0 RECOMMENDATION – GRANT** Subject to the following conditions:

- (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements 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 hereby permitted shall be carried out in accordance with the following approved plans:

Proposed block plan - Drg no. 79934/2

Proposed plans and sections - Drg no. 79934/1

Reason: To clarify which plans have been approved.

- (3) No development shall take place until details of tree protection in accordance with the current edition of BS:5837 have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

No equipment, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection, except to carry out pre-commencement operations approved in writing by the Local Planning Authority.

These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the prior written consent of the Local Planning Authority.

Reason: To safeguard existing trees to be retained, including those off site, and mitigate impacts from demolition and construction which could lead to their early loss.

- (4) Prior to the commencement of paving works, written details of the paving for the pool surround shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To preserve the setting of the listed building and in the interests of visual amenity.

- (5) Prior to the construction of the retaining wall, details of the height and materials of the retaining wall shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To preserve the setting of the listed building and in the interests of visual amenity.

Case Officer: Hayley Starkey

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

## REPORT SUMMARY

|  |                                      |               |
|--|--------------------------------------|---------------|
| <b>TREE PRESERVATION ORDER NO: 0031/2020/TPO</b>   |                                      |               |
| <b>ADDRESS</b> Moat Farm, St Marks Road, Tunbridge Wells   |                                      |               |
| <b>TPO Served Date:</b><br>23.10.2020  | <b>TPO Expiry Date</b><br>23.04.2021 |               |
| <b>Served on:</b><br>Beechcroft Developments Ltd of 1 Church Lane, Wallingford, Oxfordshire OX10 0DX<br>70 Frant Road<br>1 Moat Farm<br>3 Moat Farm<br>18 Moat Farm<br>20 Moat Farm<br>21 Moat Farm<br>22 Moat Farm<br>23 Moat Farm<br>15 St Mark's Road<br>1 Waterfield<br>2 Waterfield<br>5 Waterfield<br>6 Waterfield<br>7 Waterfield<br>9 Waterfield<br>10 Waterfield<br>11 Waterfield   |                                      |               |
| <b>Copied to:</b><br>KCC Highways<br>GIS<br>Land Charges   |                                      |               |
| <b>Representations</b>   | Support: 0                           | Objections: 1 |
| <b>RECOMMENDATION:</b> CONFIRM TREE PRESERVATION ORDER 0031/2020/TPO   |                                      |               |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> <ul style="list-style-type: none"> <li>The Council received an expression of intent by phone to fell an oak (later identified as oak T7 on TPO no. 008/1985), which was plotted on the original TPO plan prior to development without adequate geographic references, and was shown post-development at an incorrect property.</li> <li>Accordingly, it was necessary to either vary the original Order to indicate the correct location of oak T7, revoke and replace the original Order or revoke the original Order without replacement if the trees no longer merited protection.</li> <li>Further inspection showed that numerous trees covered by the original TPO had been removed, possibly as part of the approved development in 1986, and it was therefore preferable to revoke the original TPO and replace it with this new Order.</li> <li>The oak in question remains of sufficient condition and public amenity value as to warrant protection.</li> </ul> |                                      |               |

**Reasons for making TPO, as stated on Regulation 5 Notice:**

1. This Tree Preservation Order replaces Order no. 008/1985, which had become unreliable due to subsequent development and the loss of trees covered by that Order.
2. The Council considers that some of the remaining trees and other trees near to the area, identified in the accompanying schedule and plan, continue to contribute to the public amenity and local landscape character and their inclusion in a replacement Order is expedient.

**REASON FOR REFERRAL TO COMMITTEE**

All TPOs with unresolved objections are presented to the Planning Committee for decision if the recommendation is to Confirm.

|   |   |   |
|---|---|---|
| <b>WARD</b><br>Pantiles & St Marks                        | <b>PARISH/TOWN COUNCIL</b><br>n/a   | <b>SITE OWNER</b><br>Various                        |
| <b>DECISION DUE DATE</b><br>n/a                           | <b>OBJECTIONS DEADLINE</b><br>2 November 2020   | <b>OFFICER SITE VISIT DATE</b><br>11 September 2020 |
| <b>RELEVANT PLANNING HISTORY (objector address only):</b> |   |   |
| 21/00473/TPO  | OAK (T1) - fell (option 1); or crown reduction of 25%, lifting and dead wood clearance (option 2) | Pending consideration                               |
| 04/00287/FUL  | Enlargement of single garage to double garage (TW/03/01653 refers)                                | Granted<br>18/03/2004                               |
| 03/01653/FUL  | First floor extension, ground floor porch and garage with vehicle access                          | Granted<br>09/09/2003                               |
| 86/00404/REM  | New road, 74 houses and garages   | Granted<br>28/08/1986                               |
| 82/01367/OUT  | Outline - Residential development   | Granted<br>16/08/1984                               |

**Tree Preservation Orders:**

|               |  |   |
|---------------|--|---|
| 008/1985      | Various trees at Moat Farm, St Marks Road, Tunbridge Wells | Served 14/08/1985<br>Confirmed 27/11/1985<br>Revoked 23/10/2020 |
| 0031/2020/TPO | Various trees at Moat Farm, St Marks Road, Tunbridge Wells | Served 23/10/2020   |

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 Moat Farm is a development with several cul-de-sacs (Barnfield, Harescroft, Moat Farm and Waterfield) and a single access from St Mark's Road.
- 1.02 This provisional TPO includes various individual trees, groups of trees and a small woodland at the site of the historic moat.
- 1.03 The tree subject to the objection is oak T1, located in the front garden of 21 Moat Farm.

## **2.0 BACKGROUND**

- 2.01 The Council's Tree Officer received a call in February 2020 from a prospective purchaser of 21 Moat Farm (Mr Holmes) enquiring if there were any TPOs at the property. The officer consulted the Council map and informed Mr Holmes that no TPO was shown at this address, but noted that TPOs can be served at any time if the LPA considers it expedient (the officer does not have notes from this or subsequent phone conversations). The officer was unable to visit site at the time to assess the tree.
- 2.02 The officer was contacted by Mr Holmes again in July 2020 after he had purchased the property, asking specifically whether a tree in the front garden was protected and advise that he planned to remove it. The officer discussed the tree and Mr Holmes' concerns over the phone and advised that, from Mr Holmes' description, there was not a compelling reason to remove the tree but confirmed that it was not covered by TPO. The officer again did not have capacity to assess the tree in person.
- 2.03 In August and September 2020, two members of the public expressing concern, one directly and one via a Borough Councillor, over the future of this oak and asserting that the tree was in fact covered by a TPO made in 1985, and that the public map was incorrect.
- 2.04 After reviewing the original TPO plan and historical aerial imagery, it is the officer's view that this tree is clearly 'Oak T7' of TPO no. 008/1985, but that it was plotted on the plan prior to development of the farmland and with limited reference points. Although the tree's location was accurately copied from the original plan to the public TPO map, it appeared at the wrong address (18 Moat Farm) due to its misalignment on the original plan. The officer spoke with the owner of No.18 who stated that he has lived at that address for 11 years and during this time there was never an oak in his front garden, nor evidence that one had ever been there.
- 2.05 Two previous planning applications (ref. 03/01653/FUL and 04/00287/FUL) reference the oak in question, and although the tree officer at the time was unaware of the TPO error the oak was subject to multiple tree protection conditions.
- 2.06 The officer contacted Mr Holmes and advised him that it was his view that the oak was in fact protected, and if it was removed without an application he could be committing an offence under The Town and Country Planning (Tree Preservation) (England) Regulations 2012. The officer then met with Mr and Mrs Holmes on site to discuss the matter and informed them that the TPO would need to be varied to correct this discrepancy and that they would have the opportunity to object to the variation.
- 2.07 Having reviewed the TPO in its entirety and discovered a number of other inaccuracies, the officer determined to instead revoke the original TPO and replace it with an up-to-date Order. The officer did not identify grounds on which to justifiably exclude this oak from the replacement Order.

## **3.0 LOCAL REPRESENTATIONS**

- 3.01 The TPO was served on all 'interested persons', as defined in The Town and Country Planning (Tree Preservation)(England) Regulations 2012.

## 4.0 OBJECTIONS

- 4.01 The objections are summarised below with the Tree Officer's response shown in italics.

Objection 1 – The Tree Officer gave misleading and inaccurate information in communication with the objectors prior to their purchase of the property, and their decision to purchase the property was based on this information.

*It is regrettable that the information I provided was incorrect, but it was given in good faith and I informed the Holmes's as soon as I was aware of the error. It is not practical to visit site or undertake research to determine the accuracy of the Council's TPO map following every enquiry.*

Objection 2 – The tree is large, excessively shades the front garden and makes that area unusable.

*This oak has existed in its present relationship with the front garden and dwelling for approximately 35 years, having been maintained close to its present size either through pruning or short shoot extension growth, or both. It no doubt precludes certain uses of the front garden but should not prevent enjoyment of this space.*

*Applications may be made to prune the tree in accordance with good arboricultural management and these would not be unreasonably refused.*

Objection 3 – Two independent tree surgeons have advised that the tree has no amenity value.

*I am not sure how they would have reached this conclusion and no assessment making this case has been submitted. I undertook a TEMPO assessment, an established TPO suitability evaluation method, which is appended to this report (Appendix 1).*

Objection 4 – The tree has been poorly maintained in the past, having some split branches, truncated branches and large amounts dead wood.

*While some historical works have been severe, these have not seriously impaired the tree's aesthetic form nor, from available evidence, its structural condition.*

*The leader has been removed, creating a pruning wound on the trunk in the upper crown; it is not obvious from the ground whether this has led to decay or cavity formation which might require remedial works, but as a species English oak can effectively compartmentalise, or contain, even relatively large damage.*

*If there are split/truncated branches, these may be reduced or removed as appropriate.*

*Dead wood formation is normal in mature trees and can be removed at any time without notification of the Council. During my site visit I did not observe an unusual amount of dead wood.*

Objection 5 – This is not a significant tree in the context of the surrounding tree stock and its loss would have no major impact on the area.



*Although not a tall tree, it is a prominent specimen from the nearby road and footpath.*

## **5.0 APPRAISAL**

- 5.01 Oak T1 is prominent in public views at the northern end of Moat Farm. It has a symmetrical form with a character typical of mature, retrenched oaks.
- 5.02 The trunk and crown show no irremediable defects and no evidence of decline or structural instability. It has long-term potential in its present context.
- 5.03 The tree considerably predates the nearby properties and there is no evidence it is damaging them or is likely to damage adjacent structures.
- 5.04 This tree is not readily replaceable and should be retained until no longer warranted by its condition. Any tree which could recover this oak's character, landscape amenity or ecological value would require many decades to achieve that same level of value.

## **6.0 RECOMMENDATION**

- 6.01 That TPO no. 0031/2020 be confirmed without modifications.

Appendix 1: TEMPO assessment of tree T1

Appendix 2: Mr and Mrs Holmes' objection

Appendix 3: Copy of provisional Tree Preservation Order 0031/2020/TPO

Case Officer: Jeff Mashburn

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

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# Appendix A

## TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

### SURVEY DATA SHEET & DECISION GUIDE

|                          |                        |
|--------------------------|------------------------|
| Date: 18/09/20           | Surveyor: Mashburn     |
| <b>Tree details</b>      |                        |
| TPO Ref.: n/a            | Tree/Group No: T1      |
| Owner: See Request Sheet | Species: Oak           |
|                          | Location: 21 Moat Farm |

#### REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

#### **Part 1: Amenity assessment**

##### **a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point**

- |                          |                         |
|--------------------------|-------------------------|
| 5) Good                  | Highly suitable         |
| 3) Fair                  | Suitable                |
| 1) Poor                  | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable              |

##### **Score & Notes**

5 – Mature tree of typical form/condition for species and management history; no evidence that decline is occurring or imminent; significant intervention in the foreseeable future is unlikely to be necessary

*\* Relates to existing context and is intended to apply to severe irremediable defects only*

##### **b) Retention span (in years) & suitability for TPO**

- |           |                 |
|-----------|-----------------|
| 5) 100+   | Highly suitable |
| 4) 40-100 | Very suitable   |
| 2) 20-40  | Suitable        |
| 1) 10-20  | Just suitable   |
| 0) <10*   | Unsuitable      |

##### **Score & Notes**

4 – Possibly longer, though could be limited by management pressure

*\*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

##### **c) Relative public visibility & suitability for TPO**

*Consider realistic potential for future visibility with changed land use*

- |   |                     |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees  | Highly suitable     |
| 4) Large trees, or medium trees clearly visible to the public       | Suitable            |
| 3) Medium trees, or large trees with limited view only              | Suitable            |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable     |
| 1) Trees not visible to the public, regardless of size              | Probably unsuitable |

##### **Score & Notes**

4 – medium tree clearly visible to the public

##### **d) Other factors**

*Trees must have accrued 7 or more points (with no zero score) to qualify*

- |  |  |
|--|--|
| 5) Principal components of arboricultural features, or veteran trees                           | <b>Score &amp; Notes</b><br>1 – some veteran features and habitat value, though insufficient to warrant higher ranking |
| 4) Tree groups, or members of groups important for their cohesion                              |  |
| 3) Trees with identifiable historic, commemorative or habitat importance                       |  |
| 2) Trees of particularly good form, especially if rare or unusual                              |  |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) |  |

#### **Part 2: Expediency assessment**

*Trees must have accrued 9 or more points to qualify*

- |                               |  |
|-------------------------------|--|
| 5) Immediate threat to tree   | <b>Score &amp; Notes</b><br>5 – expressed intent to fell |
| 3) Foreseeable threat to tree |  |
| 2) Perceived threat to tree   |  |
| 1) Precautionary only         |  |

#### **Part 3: Decision guide**

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-6   | TPO indefensible      |
| 7-11  | Does not merit TPO    |
| 12-15 | TPO defensible        |
| 16+   | Definitely merits TPO |

##### **Add Scores for Total:**

19

##### **Decision:**

Include in replacement TPO

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# Appendix B

21 Moat Farm  
Royal Tunbridge Wells  
Kent  
TN2 5XG

8<sup>th</sup> November 2020

Tunbridge Wells Borough Council  
Stephen Baughen  
Planning Services  
Town Hall  
Tunbridge Wells  
TN1 1RS

## Tree Preservation Order 0031/2020/TPO

Dear Sirs,

I am writing to object to the above TPO affecting our property.

To give the history of this tree as it affects us, in February of this year, my wife and I looked at 21 Moat Farm with a view to purchasing it. On viewing day, we asked the estate agent if there were any restrictions on the tree which could determine what could be done with it. The agent did not know so a few days later I phoned the tree officer, Jeff Mashburn, and after a lengthy conversation he stated that there was no TPO in effect and we were free to do whatever we wanted. Based on his statement, we went ahead and spent a not inconsiderable amount of money and purchased 21 Moat Farm.

Then in July, after taking possession of the property, I again phoned Jeff Mashburn to confirm our position with the tree. After another lengthy conversation with him, he confirmed there was no TPO and he also stated that he would not raise one just to stop any work on the tree.

Then out of the blue, I received a phone call from him a few weeks ago stating that the council had made a mistake in 1985 and identified the wrong tree on the original order and it should have been our tree on the order.

We both feel that the tree officer has given us totally misleading and inaccurate information, not once but twice, regarding the oak tree and feel that this misinformation gives us a good case to have the order rescinded.

We are now in the position of having a very large tree blocking light to our front garden and rendering the space unusable due to the tree canopy leaving this area in constant shade. I have had two independent tree surgeons look at the tree and they have both stated that in their opinion the tree has no amenity value at all. Now that the leaves have fallen, it is plainly obvious that the tree has been poorly maintained in the past with several split branches, hacked off branches and a lot of dead wood being very evident.

We see no advantage in keeping this tree in its current state, it needs serious work to clean it up and ideally needs removing and replaced with a more appropriate tree or trees more suited to a garden location. The area around Moat Farm has many mature oaks and other hardwood species and the loss of one poor specimen will have no major impact to the greenery of the area.

Regards,

Mr and Mrs N Holmes



**Dated 23 October 2020**

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**Town and Country Planning Act 1990**

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**Tunbridge Wells Borough Council**

**TREE PRESERVATION ORDER No. 0031/2020/TPO**

**Moat Farm, Royal Tunbridge Wells, Kent,**

## **Town and Country Planning Act 1990**

### **Tunbridge Wells Borough Council**

#### **Tree Preservation Order No. 0031/2020/TPO**

##### **Moat Farm, Royal Tunbridge Wells, Kent,**

The Tunbridge Wells Borough Council in exercise of the powers conferred on them by Section 198 of the Town and Country Planning Act 1990 make the following Order –

#### **Citation**

1. This Order may be cited as the Tunbridge Wells Borough Council Tree Preservation Order No. 0031/2020/TPO Moat Farm Royal Tunbridge Wells Kent

#### **Interpretation**

2. (1) In this Order “the authority” means Tunbridge Wells Borough Council
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

#### **Effect**

3. (1) Subject to Article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of Section 198 (power to make tree preservation orders) or subsection (1) of Section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in Regulation 14, no person shall –
  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with Regulations 16 and 17, or of the Secretary of State in accordance with Regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### **Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of Section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.



**Tunbridge Wells Borough Council**  
**Tree Preservation Order No. 0031/2020/TPO**  
**Moat Farm Royal Tunbridge Wells Kent**

**Article 3**

## SCHEDULE

### Specification of trees

**Trees specified individually** (encircled in black on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i>                |
|-------------------------|--------------------|---------------------------------|
| T1                      | Oak                | Front garden of 21 Moat Farm    |
| T2                      | Horse Chestnut     | Rear garden of 10 Waterfield    |
| T3                      | Sycamore           | Rear garden of 10 Waterfield    |
| T4                      | Oak                | Rear garden of 10 Waterfield    |
| T5                      | Oak                | Rear garden of 15 St Marks Road |

**Trees specified by reference to an area** (within a dotted black line on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i> |
|-------------------------|--------------------|------------------|
| A                       | NIL                |                  |

**Groups of trees** (within a broken black line on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i>   |
|-------------------------|--------------------|--|
| G1                      | Red Oak            | 2 Red Oak Trees - Front garden of 1 Moat Farm  |
| G2                      | Various            | 5 Beech, 3 Yew, 1 Red Oak, 1 Birch, 1 Hawthorn Trees - Southern boundary of 66-68 Frant Road |

**Woodlands** (within a continuous black line on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i>  |
|-------------------------|--------------------|---|
| W1                      | Various            | Mixed species, including Oak, Goat Willow, Rhododendron, Holly, Yew, Birch, Pear and Rowan - Within and encircling The Moat |

**Tunbridge Wells Borough Council**

**Tree Preservation Order No. 0031/2020/TPO**

**Moat Farm, Royal Tunbridge Wells, Kent**

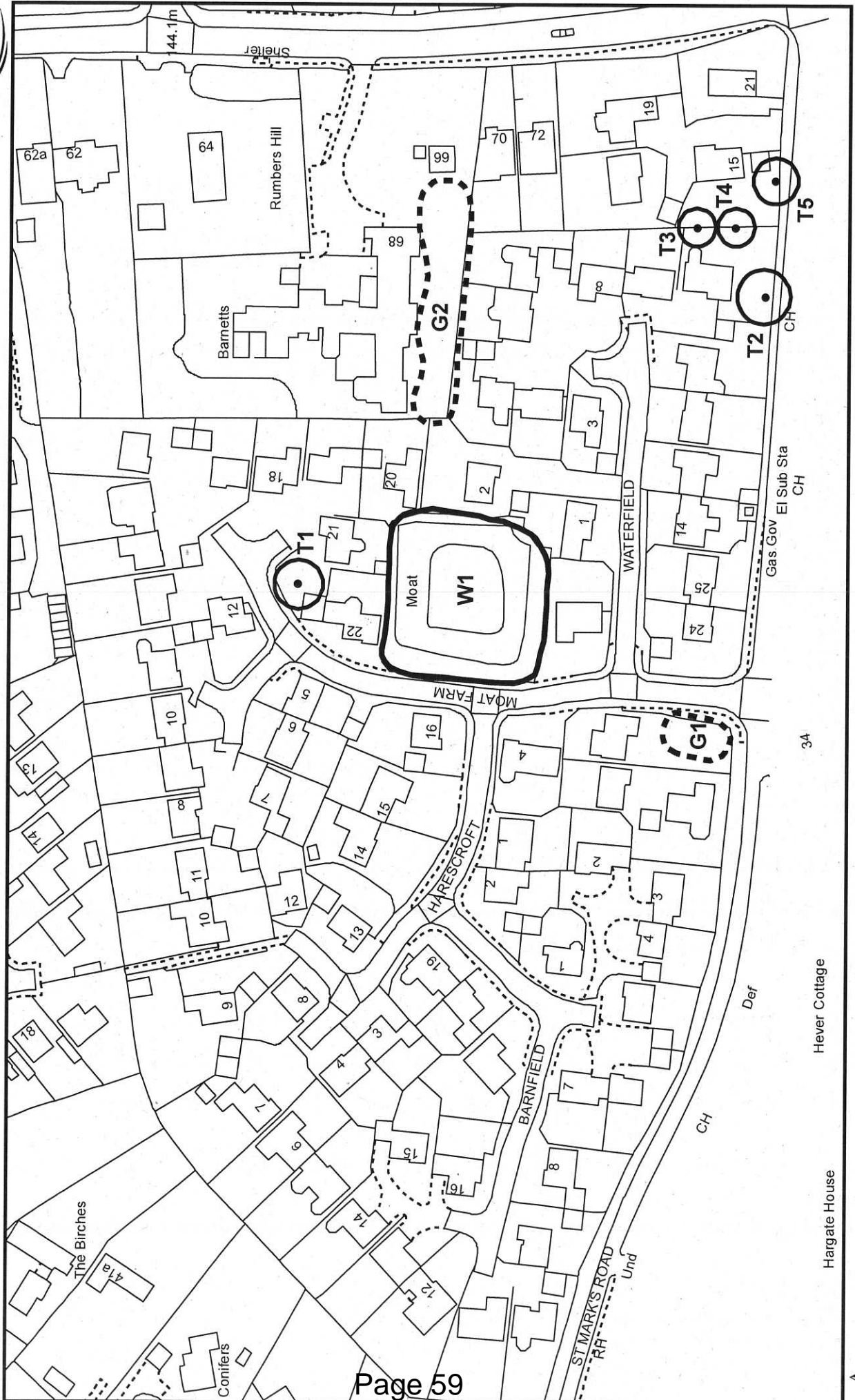
Dated this...23rd.....day of ...October.....2020

Signed on behalf of Tunbridge Wells Borough Council



Signed on behalf of Tunbridge Wells Borough Council





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**APPEAL DECISIONS for noting**  
**22/02/2021–15/03/2021**

**1. 19/03536/FULL**

Erection of a research and development building

**APPEAL: ALLOWED (22.02.21)**

Cranden Diamonds  
Cranbrook Road  
Benenden

(Delegated)

**2. 19/03627/FULL**

Conversion and extension of rural building and its  
curtilage to residential use, plus demolition of  
existing outbuildings and erection of new  
garage/stable building

**APPEAL: DISMISSED (15.03.21)**

Redhouse Barn  
Goddards Green Road  
Benenden

(Delegated)

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**Planning Committee**

**24 March 2021**

## **Urgent Business**

**Procedural Item:**

To consider any other items which the Chairman decides are urgent, for the reasons to be stated, in accordance with Section 100B(4) of the Local Government Act 1972.

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**Planning Committee**

**24 March 2021**

## **Date of Next Meeting**

**Procedural Item:**

To note that the date of the next scheduled meeting is Wednesday 14 April 2021.

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