

Application Number	16/01466/AS	
Location	British Volunteer, 56-58 New Street, Ashford, Kent, TN24 8TT	
Grid Reference	00688/43001	
Ward	Victoria (Ashford)	
Application Description	Erection of 2 no. 2-bed dwellings	
Applicant	Mr Phillip Morley Texo Developments c/o Go Planning Ltd, Unit 5 Bolding Hatch Business Centre, Bishops Stortford Road, Chelmsford, UK CM1 4LF	
Agent	Mr Nigel Tedder, Go Planning Ltd, Bishops Stortford Road Roxwell Chelmsford, Essex CM1 4LF	
Site Area	0.04 ha	
(a) 28/9R	(b) -	(c) KCC – R CACF - R

Introduction

1. This application is reported to the Planning Committee because the applicants have appealed against the Council's non-determination of it. Members are advised that they cannot now make a decision on this application. However, they do need to agree a resolution as to whether they would have approved the application or not had they been in a position to do so for the purposes of progressing the appeal.

Site and Surroundings

2. The site lies within the built up area of Ashford to the rear of the former British Volunteer pub and adjacent to residential properties in New Street and Kent Avenue. It forms a back land plot accessed via a driveway between properties in Kent Avenue. The former pub building, which is in the same ownership as the application site, is currently being converted into six residential flats and whilst the site is currently a building site, part of the proposed communal garden area for the flats falls within the boundary of this site.

3. The site lies within a street block formed by the two main streets of New Street to the south and Kent Avenue to the north, with the car park to a retail store to the east and residential gardens to the west. New Street forms one of the main routes into Ashford Town Centre; the C19th properties on its northern side, including the former pub, back onto the application site. Kent Avenue is a narrow street of late C19th housing and is designated conservation area. The grain of development is typical of the era with a back alley extending the full length of the street block from west to east, behind the properties in New Street and Kent Avenue.
4. A site location plan is shown below:

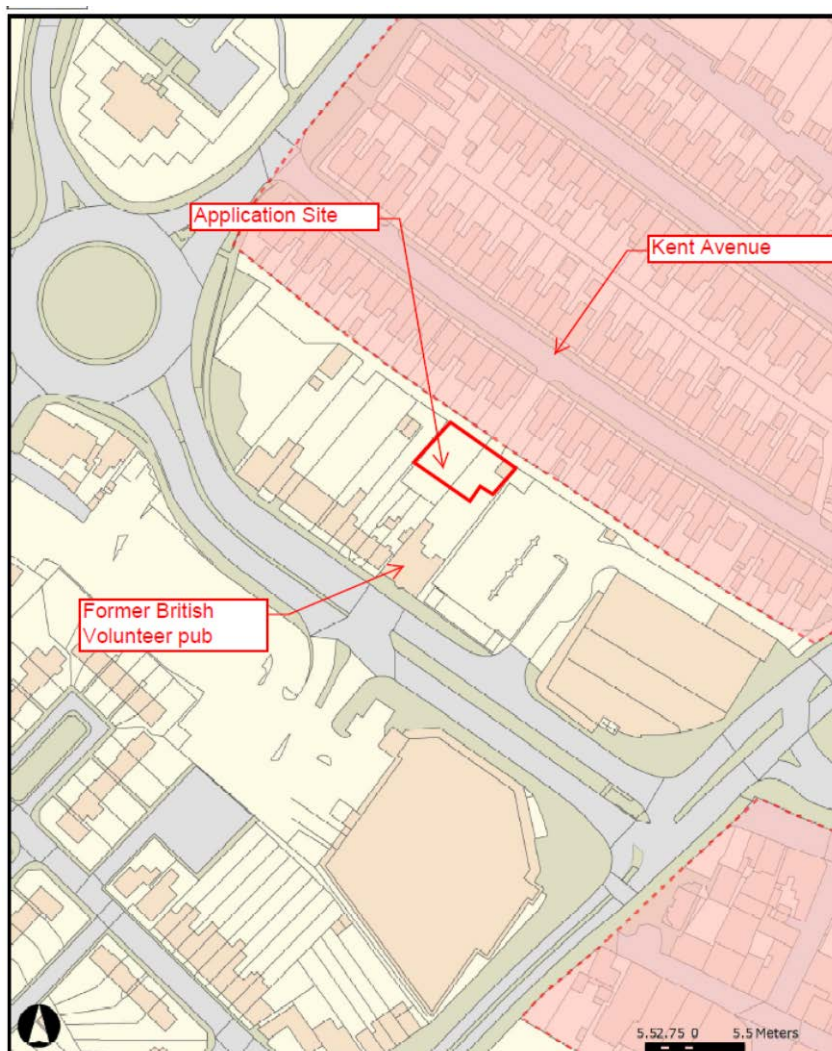


Figure 1: Site Location Plan

Proposal

5. This application is for the erection of two x 2-bed semi-detached dwellings on the land. The properties would face east at right angles to Kent Avenue and New Street. They would have a total width of 12.5m and depth of 6m. The building

would have a ridge height of 7.3m and eaves height of 4.5m with through eaves windows.

6. Private gardens are proposed on the west side of the properties, each with an average depth of 8m.
7. The properties would front onto the access drive, which also serves the flats currently being developed as part of the conversion of the former British Volunteer pub. Beyond this access immediately to the east is the proposed parking: arranged in a single block of 2 x 2 tandem spaces.
8. The proposed site layout and elevations are shown below:



Figure 2: Proposed site layout



Figure 3: Proposed elevations

Planning History

9. 15/01250/AS - Conversion of the pub building to six flats. Approved 3/6/16

16//1460/AS – Variation of conditions 3 and 11 of planning permission reference 15/01250/AS to change windows to the front elevation to be upvc and the door in timber, and to remove chimney stacks on each elevation. Approved.

15/01250/AMND/AS - Revision to the internal layout, further external cladding; increase in size of dormer windows on rear; changes to fenestration on rear on planning permission 15/01250/AS for the conversion of existing pub to 6 no apartments. Approved 3/6/16

Consultations

Ward Members: No formal comments received.

KCC Highways and Transportation: has indicated that the turning space is impractical: the distance behind the parking spaces scales at approximately 4.6m to 5m, rather than the 6m that is required to allow ease of manoeuvring. The parking spaces for plot 2 are not wide enough, being directly adjacent to a boundary fence.

Central Ashford Community Forum – The proposal would result in town cramming. The current development under construction is appropriate and gives adequate parking and outdoor space for the six flats proposed. The access is already choked with parked cars at evenings and weekends. Visitor parking to the new units would add to existing problems in the street. The current construction is already leading to significant

disruption to residents in the area. As Sussex Avenue and Sturges Road lead to Kent Avenue and are all one way only, the potential for serious disruption for access to and from these roads is great.

Neighbours– A total of 28 neighbours were consulted. 9 letters of objection were received raising the following:

- The site is not large enough to accommodate the proposed development and constitutes town cramming and overdevelopment of the site
- No one else has built properties in their back gardens
- Insufficient parking is proposed
- Visitor parking would be a problem due to the lack of parking that already exists in the area
- Further development would add to the parking problems and congestion that already exist in Kent Avenue where people also park to use the town centre. One resident is concerned about increased parking in the access road to the site which will effectively 'block him in'. He has a medical condition that requires medical attention within the home and access to his drive. It is pointed out that parking is already limited with permit controls in place.
- The conversion of the British Volunteer pub is already showing how development of this site is problematic due to the constrained access with construction vehicles struggling to gain access into the site. No vehicles are washed down and workmen continue working after 1pm on Saturday. There is no banksman seeing vehicles out onto the road and people with parking permits are expected to move their cars to make way.
- The level of disruption that would result from this new build development, including vibration to properties, would seriously impact upon residential amenity of existing residents
- There is an existing health and safety issue created by the conversion of the pub buildings arising from forklift trucks unloading materials across the PROW and the lack of signage to inform pedestrians of forklifts in operation
- There would be no access to the site for emergency vehicles
- There would be no access into the site for refuse vehicles
- The proposed dwellings would not be in keeping with the houses in the area

- Highway safety concerns as a result of an increased level of traffic using the access track

Planning Policy

10. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012, the Chilmington Green AAP 2013 and the Wye Neighbourhood Plan 2015-30. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016 and has now closed. At present the policies in this emerging plan can be accorded little or no weight.
11. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Borough Local Plan 2000

TP6 – Cycle Parking

Local Development Framework Core Strategy 2008

CS1 – Guiding Principles

CS2 – The Borough Wide Strategy

CS3 – Ashford Town Centre

CS4 – Ashford Urban Area

CS20 – Sustainable Drainage

CS9 – Design Quality

CS3 – Ashford Town Centre

Town Centre Area Action Plan 2010

TC1 – Guiding Principles

TC18 – The Residential Transition Quarter

TC23 – Residential Parking Standards

TC24 – Cycle Parking Standards

Local Plan to 2030

ENV9 – Sustainable Drainage

HOU10 – Development of Residential Gardens

HOU12 – Residential Space Standards

HOU14 – Accessibility Standards

HOU15 – Private External Space

HOU3 – Residential Development in Ashford Urban Area

SP1 – Strategic Objectives

SP2 – The Strategic Approach to Housing Delivery

SP5 – Ashford Town Centre

SP6 – Promoting High Quality Design

TRA3a – Parking Standards for Residential Development

TRA5 – Planning for pedestrians

TRA6 – Provision for cycling

12. The following are also material to the determination of this application:-

Supplementary Planning Guidance/Documents

Residential Space and Layout SPD 2011 (now external space only)

Residential Parking and Design SPD 2010

Sustainable Drainage SPD 2010

Dark Skies SPD 2014

Informal Design Guidance

Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins

Informal Design Guidance Note 2 (2014): Screening containers at home

Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point

Government Advice

National Planning Policy Framework (NPPF) 2012

13. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 14 sets out a presumption in favour of sustainable development

Paragraph 53 states that “local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area”.

Para 56 states that “good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.

Para 65 states that “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”.

Assessment

14. The main issues for consideration are:

- Principle of development
- Visual Amenity
- Residential Amenity
- Parking
- Refuse Collection
- SUDS

Principle of Development

15. When determining a planning application the Council is required to make the determination in accordance with the Development Plan unless material considerations indicate otherwise (Section 38(6) PCPA 2004 and Section 70(2) TCPA 1990). The National Planning Policy Framework (NPPF) is a key material planning consideration.
16. Following a recent appeal decision which considered five year housing land supply, the Council's adopted development plan policies relating to housing supply are considered to be out of date having regard to the provisions of Paragraph 49 of the National Planning Policy Framework. This does not mean that they should be accorded no weight, but the presumption in favour of sustainable development in the NPPF needs to be balanced against them. Policy TC18 is permissive of small scale residential development in this location.
17. As a consequence, it is necessary to consider whether the proposal constitutes sustainable development in the context of Paragraph 14 of the NPPF.
18. Paragraph 14 of the Framework states that at the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a "golden thread running through decision-taking". For decision-taking this means:
 - approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.
19. The starting point, therefore, for the determination of this application is the fact that the Authority does not have a 5 year housing land supply, and the proposed development would contribute towards meeting the housing needs of present and future generations. This needs to be set against the environmental issues raised by the application, including its relationship to existing property and their occupiers and the quality of the environment that would result.

20. In this particular instance, whilst this proposal would have the benefit of providing two new homes on a brownfield site, the proposal is considered to be unacceptable in principle, being considered to be an unsustainable form of development, where the benefits associated with the scheme fail to outweigh the significant and demonstrable harm it would cause, as detailed within the report below when assessed against the NPPF and the relevant policies of the Council's development plan.

Impact on the Visual Amenity of the area

21. I consider the relevant development plan policies to be Policy CS1 and CS9 of the Core Strategy and Policies TC1 and TC18 of the Town Centre Area Action Plan.
22. Policy CS1 of the Core Strategy supports sustainable development and high quality design. As one of its key objectives it includes the need for buildings and the spaces around them to, amongst other things, “respect the site context and create a positive and distinctive character and a strong sense of place and security”. Policy CS9 supports high quality design requiring proposals to respond positively to a range of design criteria including, amongst other things, “character, distinctiveness and sense of place” and “continuity and enclosure”.
23. Policy TC1 and TC18 of the Ashford Town Centre Area Action Plan also emphasise the importance of design. Policy TC18 requires development within the Residential Transition Quarter (which includes the application site) to be “carefully integrated with the surrounding residential properties and respect the scale of these properties and the quality of life of existing residents”.
24. These policies accord with National Planning Policy set out in the NPPF which describes the importance the government attaches to good design stating:
- “Good design is a key aspect of sustainable development, is indivisible from planning, and should contribute positively to making places better for people”.
25. The emphasis on achieving high quality design is carried forward into the emerging Ashford Local Plan 2030 (Policy HOU3 in particular).
26. Further guidance is also provided by ‘By Design’: Planning should promote the continuity of street frontages: buildings that follow a continuous building line around a street block and contain private space with back gardens are often more successful than individual buildings that stand alone in the middle of the site. Respecting the traditional building lines also helps integrate new development into the street scene and maintain the continuous urban fabric.
27. The proposed development would go against the established grain of development within this area where properties front directly onto streets and

enclose private gardens to the rear. Thus it would introduce a form of development atypical of the area and harmful to its visual amenity.

28. Furthermore, any existing built development currently behind the main building lines (within the street block) is confined to minor development, ancillary to the development on the frontage, such as sheds and garages. This proposal would introduce a building of significant scale behind the main building line, arranged across what are effectively two plots, resulting in a cramped appearance. The proposed development would be dominated by hardstanding for the parking of cars and substandard gardens pointing to an overdevelopment of the site.
29. The form and design of the units with their half hips to the roof and through eaves windows are atypical of the area.
30. I therefore consider that the proposal would cause significant and demonstrable harm to the visual amenity of the area contrary to policies CS1 and CS9 of the Ashford Core Strategy and policies TC1 and TC18 of the Ashford Town Centre Area Action Plan and to the NPPF.

Impact on Residential Amenity

31. Paragraph 17 of the NPPF identifies a set of core land use planning principles that should underpin decision making. One of these principles is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
32. The proposed development would not be unacceptably overbearing or give rise to an unacceptable level of overlooking so in these respects I do not consider there would be any adverse impacts. However, in developing the greater part of the communal garden area to the flats being provided within the former British Volunteer pub there would be a significant loss of amenity to these residents: The flats are small and have no balconies or private outdoor amenity space of their own. The communal garden is therefore important to their residential amenity. I therefore consider that the proposed development would cause significant and demonstrable harm to the residential amenity of those new residents.
33. The proposed dwellings meet the internal spaces standards as set out in National Guidance. They are however substandard in terms of outdoor space: The Council's space standards require gardens to have a minimum length of 10m whereas these units would be only 8m. However, the gardens would not overlook the neighbours by being too short; so in spite of their failure to meet the standard in this respect I do not consider that there would be significant and demonstrable harm.

Parking and Highway Safety

34. Whilst existing residents in Kent Avenue are concerned about the lack of parking in the area, this is an existing problem. The proposal provides an acceptable level of parking in accordance with the SPD to cater for its own needs and future residents would not be entitled to a parking permit to park on surrounding streets. However, KCC Highways has commented that the proposed parking layout is impractical to use: The distance behind the parking spaces is approximately 4.6m to 5m - it should be 6m - to allow for ease of manoeuvring (particularly as spaces for plot 2 are directly adjacent to a boundary fence abutting a 3m wide track meaning the side of the parking spaces is not useful to aid access). Furthermore, the parking spaces for plot 2 are not wide enough – being directly adjacent to a boundary fence, they should be 2.7m wide to enable users to open their car doors.
35. In failing to provide a workable layout, the development would cause significant and demonstrable harm to highway safety, contrary to Policy CS15 of the Core Strategy and the adopted SPD.

Refuse Collection

36. A refuse collection point is shown adjacent to the north elevation of unit 1. This is over 25m from the public highway (approximately 28m) and as such is greater than the required carry distance. The wheelie bins would therefore need to be wheeled to the public highway on bin collection day. Whilst this is not ideal, it is not considered that an objection can be sustained on this ground.

SUDS

37. No information has been provided on sustainable drainage contrary to Policy CS20. However, the site is not in an area prone to flooding so providing the hard surfaced areas are permeable, it is not considered that an objection can be sustained on this ground.

Other Matters

38. The application for planning permission was submitted on 22 September 2015. The applicant (Texo Developments) certified in Certificate A of the application form that “on the day 21 days before the date of this application nobody except... the applicant was the owner... of any part of the land to which the application relates...”
39. It has now come to light that the entire application site, which is part of a larger property registered under Title Number K829156, is owned by Galahad Developments Limited and has been since 9 July 2015 i.e. more than 21 days before the date of the application.

40. Section 327A of the Town and Country Planning Act 1990 makes it clear that a local planning authority **must not** entertain an application which fails to comply with the relevant requirements which are, in this case, those contained in Regulation 13 of the Town and Country Planning (Development Management Procedure)(England) Order 2015.
41. Having been made aware of this failure, the applicant/appellant is now claiming retrospectively that it did not need to comply with the mandatory requisite notice requirements because it (the applicant/appellant company) is owned by the company which is the freehold owner of the land.
42. Officers disagree. Setting aside that the applicant/appellant has provided no evidence (such as case law or government guidance) which supports its assertion that it did not need to comply with the mandatory requisite notice requirements, the test is in any event absolute. It is not placed at the discretion of the Council to decide whether the application complies or not. It is purely a question of law and there is no discretion to disregard even a technical failure.
43. This matter is being drawn to the attention of the Planning Inspectorate. It will be for them to decide whether they can entertain the appeal.

Human Rights Issues

44. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

45. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

Conclusion

46. In the absence of a five year housing land supply, the issue that needs to be assessed here is whether there are any adverse effects of the proposal that would outweigh the benefit of providing two new houses. The proposed development, in going against the established urban grain and providing an unacceptably intensive development of a form, layout and design not found in the

area, would cause significant and demonstrable harm to visual amenity contrary to Policies CS1 and CS9 of the Core Strategy and policies TC1 and TC18 of the Town Centre Area Action Plan. In developing the greater part of the garden area to the approved flats within the pub conversion it would also result in a loss of residential amenity to the residents of the flats contrary to Policies CS1 and CS9 of the Core Strategy and the Council's Residential Space and Layout SPD (external space only). Further, the proposed parking by virtue of the lack of manoeuvring space and undersized parking spaces would be detrimental to highway safety contrary to Policy CS15 of the Core Strategy and the Council's Residential Parking and Design Guidance SPD.

47. In view of the above, I consider that the proposed development would result in a number of adverse effects that would significantly and demonstrably outweigh its benefits. The proposal does not therefore constitute sustainable development in terms of the NPPF and would also be contrary to local and national planning policy.

Recommendation

I recommend that Members resolve that if they had been in a position to determine this application then they would have refused the application on the following grounds:

The proposed development would be contrary to Policies CS1, CS9 and CS15 of the Local Development Framework Core Strategy (July 2008); Policies TC1 and TC18 of the Local Development Framework Ashford Town Centre Area Action Plan, Residential Space and Layout SPD, Residential Parking and Design Guidance SPD and to Central Government guidance contained in the National Planning Policy Framework (2012) and is therefore considered development harmful to the interests of acknowledged planning importance for the following reasons:

1. The proposal would be poorly related to and at odds with the established form and layout of the surrounding built development causing harm to the character and appearance of the area. By reason of its size, siting, form and design, it would result in a cramped and incongruous form of development which would cause significant and demonstrable environmental harm to the character and appearance of the area.
2. In developing the greater part of the communal garden area intended for residents within the adjacent converted pub building, the proposed development would result in a significant loss of residential amenity for those proposed residents.
3. The proposal would provide an unworkable parking layout detrimental to highway safety.

Note to Applicant

1. Working with the Applicant

Working with the Applicant

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance

- the applicant/agent was updated of any issues after the initial site visit,
- was provided with pre-application advice,
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 16/01466/AS.

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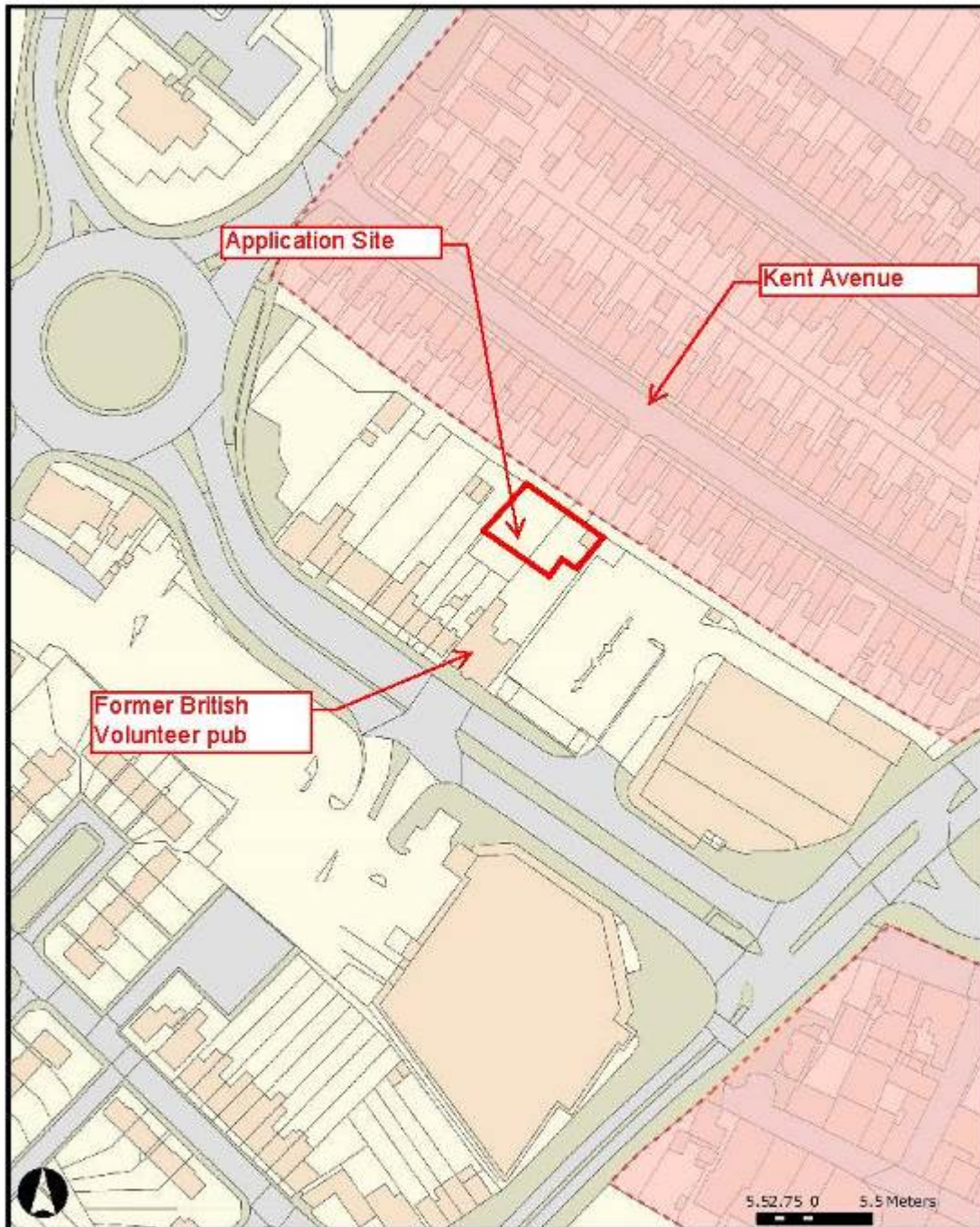
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Annex 1



Ashford Borough Council



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