



PLANNING COMMITTEE

Notice of a Special Meeting, to be held as a **Virtual Meeting - on Microsoft Teams** in accordance with Regulation 5 of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police Crime Panel Meetings) (England and Wales) Regulations 2020 on Wednesday, 3rd June, 2020 at **5.00 pm (PLEASE NOTE EARLIER START TIME)**.

The Members of the Planning Committee are:-

Councillor Burgess (Chairman)
Councillor Blanford (Vice-Chairman)

Cllrs. Chilton, Clarkson (ex officio, non-voting), Clokie, Forest, Harman, Heyes, Howard, Howard-Smith, Krause, Ovenden, Shorter, Smith, Spain, Sparks, Ward and Wright

Please note: New earlier deadline now in operation

If additional written, pictorial or diagrammatic material is to be submitted to the Planning Committee relating to any item on this Agenda, this must be concise and must be received by the Contact Officer specified at the end of the relevant report, and also copied to Planning.help@ashford.gov.uk, before 3.00 pm on the Monday before the Meeting so that it can be included or summarised in the Update Report at the Meeting. Otherwise, the material will not be made available to the Committee. Material should be submitted as above at the earliest opportunity and you should check that it has been received.

IMPORTANT INFORMATION ABOUT THIS VIRTUAL MEETING:-

Please note the public cannot physically "attend" a Virtual Meeting. However any member of the press and public may listen-in to proceedings at this 'virtual' meeting via a weblink which will be publicised on the Council's website at www.ashford.gov.uk at least 24 hours before the meeting. Members of the press and public may tweet, blog etc. during the live broadcast as they would be able to during a regular Committee meeting at the Civic Centre. It is important, however, that Councillors can discuss and take decisions without disruption, so the only participants in this virtual meeting will be the Councillors concerned, the officers advising the Committee, and the officers designated to address the Committee on behalf of any objectors, supporters, and Parish/Town/Community Councils and Community Forums affected who have registered in advance to 'speak' on the applications to be considered. This will take the place of the usual procedure for public speaking at the Committee's regular meetings at the Civic Centre. In order to register for this, written notice must be given on the Council's website at <https://secure.ashford.gov.uk/committeesystem/haveyoursay.aspx> or by email to membersservices@ashford.gov.uk by **3.00 pm on the Monday before the meeting.**

Agenda

Page Nos..

1. **Apologies/Substitutes**

To receive Notification of Substitutes in accordance with Procedure Rule 1.2(c) and Appendix 4

2. **Declarations of Interest**

1 - 2

To declare any interests which fall under the following categories, as explained on the attached document:

- a) Disclosable Pecuniary Interests (DPI)
- b) Other Significant Interests (OSI)
- c) Voluntary Announcements of Other Interests

See Agenda Item 2 for further details

3. **Public Participation**

3 - 4

To be informed of any arrangements made for public participation in the meeting, other than those set out in the Scheme of Public Participation for Virtual Meetings, as summarised below:

Summary of the Scheme of Public Participation for Virtual Meetings (referred to as "VMs")

The public cannot physically "attend" a VM.

H.M. Government has recently changed the public's legal right to attend meetings into a right to hear, by means of technology, the Councillors attending the VM remotely.

Written notice of a wish to speak (by means of the procedure below) **at a VM must be given, either to membersservices@ashford.gov.uk or on the Council's website at <https://secure.ashford.gov.uk/committeesystem/haveyoursay.aspx>, by 15:00 hours on the second working day before the VM.**

Hence, for example, for VMs of the Planning Committee on Wednesdays:-

- (i) If there is no Bank Holiday on the Monday preceding the VM, written notice must be given by 15:00 hours on the Monday.
- (ii) If there is a Bank Holiday on the Monday preceding the VM, written notice must be given by 15:00 hours on the Friday preceding the VM.
- (iii) If the VM immediately follows the Easter Weekend, written notice must be given by 15:00 hours on Maundy Thursday.

Registering to speak at a VM confers **the right to submit a speech** as follows:-

- (i) on a first-come, first-served basis, one speech in support of, and one speech against, an item for decision, or
- (ii) as a duly-authorized representative of a Parish Council¹ or Community Forum affected by an item for decision.

Those registered to speak must submit to membersservices@ashford.gov.uk, by 10:00 hours on the day of the VM, a copy of their speech in written, legible English. It should be no longer than 400 words, on a single side of A4 paper, printed in 12-point non-italic sans-serif font (e.g. Arial). Any text above 400 words will not be read out.

Speeches received as above will be read to the VM by a competent Officer for and on behalf of the speakers, at the normal times and in the normal order during the VM (subject to the Chairman's normal discretion).

IMPORTANT:

An Officer reading any speech on behalf of any speaker shall have discretion to omit/edit out any inappropriate language, information or statements.

If any defamation, insult, personal or confidential information, etc. is contained in any speech received from any speaker, and/or is read to the VM by an Officer, each speaker accepts by submitting their speech to be fully responsible for all consequences thereof and to indemnify the Officer and the Council accordingly.

4. **Requests for Deferral/Withdrawal**

5. **Schedule of Applications**

- (a) **20/00327/AS - Land SE of Plum Trees, Bowerland Lane, Chilham** 5 - 20
Reserved matters application for the approval of details of the layout, scale, landscaping and appearance as set out by condition 1 and 9 on planning application 18/01569/AS (construction of two detached dwellings with associated access)
- (b) **19/01768/AS - Violet Cottage, Stalisfield Church Road, Charing, Ashford, TN27 0HE** 21 - 40
Extension and conversion of garage/outbuilding into residential dwelling and erection of garage and driveway

¹ The term "Parish Council" includes Town Councils and Community Councils

- (c) **20/00200/AS - Lantarna, The Pinnock, Pluckley** 41 - 54
 Variation of condition 5 of planning permission 19/00801/AS (Erection of a 2-storey detached dwelling (retrospective)) to retain existing Yew tree hedge behind dwarf wall along boundary with street and its future maintenance at a height of no lower than 1.5m
- (d) **20/00353/AS - Carlton Business Park, Carlton Road, Ashford, Kent** 55 - 84
 Variation of condition 33 of planning permission 18/01843/AS.
 Condition 33 existing:
 There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0600 hours or after 2200 hours Monday to Friday and on Saturdays before 0600 hours or after 1800 hours and at any time on Sundays, Public and Bank Holidays.
 The proposed variation would increase Saturday opening until 2200 hours and on Sundays, Public and Bank Holidays between 0900 hours and 1600 hours.
 Condition 33 as proposed:
 There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0600 hours or after 2200 hours Monday to Saturday and on Sundays, public or Bank Holidays before 0900 hours or after 1600 hours.
- (e) **20/00473/AS - Unit 5, Elwick Place, Elwick Road, Ashford, TN23 1AX** 85 - 94
 Change of use from a vacant restaurant / cafe / drinking establishment (Class A3 / Class A4) to a flexible planning permission within Class V of the Town and Country Planning (General Permitted Development) Order 2015 for an office (Class B1) or restaurant / cafe/ drinking establishment (Class A3 / Class A4)

Note for each Application:

- (a) Private representations (number of consultation letters sent/number of representations received)
- (b) The Parish/Town/Community Council's views
- (c) The views of Statutory Consultees and Amenity Societies (abbreviation for consultee/society stated)

Supports 'S', objects 'R', no objections/no comments 'X', still awaited '+', not applicable/none received '-'

Note on Votes at Planning Committee Meetings:

At the end of the debate on an item, the Chairman will call for a vote. If more than one motion has been proposed and seconded, the motion that was seconded first will be voted on first. When a motion is carried, the Committee has made its determination in relation to that item of business and will move on to the next item on the agenda. If there are any other motions on the item which have not been voted on, those other motions fall away and will not be voted on.

If a motion to approve an application is lost, the application is not refused as a result. The only way for an application to be refused is for a motion for refusal to be carried in a vote. Equally, if a motion to refuse is lost, the application is not permitted. A motion for approval must be carried in order to permit an application.

DS

26 May 2020

Queries concerning this agenda? Please contact membersservices@ashford.gov.uk
Agendas, Reports and Minutes are available on: www.ashford.gov.uk/committees

This page is intentionally left blank

Declarations of Interest (see also “Advice to Members” below)

- (a) **Disclosable Pecuniary Interests (DPI)** under the Localism Act 2011, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares a DPI in relation to any item will need to leave the meeting for that item (unless a Dispensation has been granted in advance, to speak and/or vote).

- (b) **Other Significant Interests (OSI)** under the Kent Code of Conduct relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares an OSI in relation to any item will need to leave the meeting before the debate and vote on that item (unless a Dispensation has been granted in advance, to participate in discussion and/or vote). However, prior to leaving, the Member may address the Committee in the same way that a member of the public may do so.

- (c) **Voluntary Announcements of Other Interests** not required to be disclosed under (a) and (b), i.e. announcements made for transparency or good governance reasons, such as:

- Membership of amenity societies, Town/Community/Parish Councils, residents’ groups or other outside bodies that have expressed views or made representations, but the Member was not involved in compiling or making those views/representations, or
- Where a Member knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position.

Note: Where an item would be likely to affect the financial position of a Member, relative, close associate, employer, etc.; OR where an item is an application made by a Member, relative, close associate, employer, etc., there is likely to be an OSI or in some cases a DPI. ALSO, holding a committee position/office within an amenity society or other outside body, OR having any involvement in compiling/making views/representations by such a body, may give rise to a perception of bias (similar to that arising when a Member has made his/her views known in advance of the meeting), and require the Member to take no part in any motion or vote.

Advice to Members on Declarations of Interest:

- (a) Government Guidance on DPI is available in DCLG’s Guide for Councillors, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5962/2193362.pdf
- (b) The Kent Code of Conduct was adopted by the Full Council on 19 July 2012, and a copy can be found in the Constitution alongside the Council’s Good Practice Protocol for Councillors dealing with Planning Matters. See <https://www.ashford.gov.uk/media/2098/z-word5-democratic-services-constitution-2019-constitution-of-abc-may-2019-part-5.pdf>
- (c) Where a Member declares a committee position or office within, or membership of, an outside body that has expressed views or made representations, this will be taken as a statement that the Member was not involved in compiling or making them and has retained an open mind on the item(s) in question. If this is not the case, the situation must be explained.

If in doubt about any matters that they may need to declare, Members should seek advice from the Corporate Director (Law and Governance) and Monitoring Officer, the Deputy

Monitoring Officer, or other Solicitors in Legal and Democracy as early as possible, and in advance of the Meeting.

The public cannot physically "attend" a VM.

H.M. Government has recently changed the public's legal right to attend meetings into a right to hear, by means of technology, the Councillors attending the VM remotely.

Written notice of a wish to speak (by means of the procedure below) **at a VM must be given, either to membersservices@ashford.gov.uk or on the Council's website at <https://secure.ashford.gov.uk/committeesystem/haveyoursay.aspx>, by 15:00 hours on the second working day before the VM.**

Hence, for example, for VMs of the Planning Committee on Wednesdays:-

- (i) If there is no Bank Holiday on the Monday preceding the VM, written notice must be given by 15:00 hours on the Monday.
- (ii) If there is a Bank Holiday on the Monday preceding the VM, written notice must be given by 15:00 hours on the Friday preceding the VM.
- (iii) If the VM immediately follows the Easter Weekend, written notice must be given by 15:00 hours on Maundy Thursday.

Registering to speak at a VM confers **the right to submit a speech** as follows:-

- (i) on a first-come, first-served basis, one speech in support of, and one speech against, an item for decision, or
- (ii) as a duly-authorized representative of a Parish Council¹ or Community Forum affected by an item for decision.

Those registered to speak must submit to membersservices@ashford.gov.uk, by 10:00 hours on the day of the VM, a copy of their speech in written, legible English. It should be no longer than 400 words, on a single side of A4 paper, printed in 12-point non-italic sans-serif font (e.g. Arial). Any text above 400 words will not be read out.

Speeches received as above will be read to the VM by a competent Officer for and on behalf of the speakers, at the normal times and in the normal order during the VM (subject to the Chairman's normal discretion).

IMPORTANT:

An Officer reading any speech on behalf of any speaker shall have discretion to omit/edit out any inappropriate language, information or statements.

If any defamation, insult, personal or confidential information, etc. is contained in any speech received from any speaker, and/or is read to the VM by an Officer, each speaker accepts by submitting their speech to be fully responsible for all consequences thereof and to indemnify the Officer and the Council accordingly.

¹ The term "Parish Council" includes Town Councils and Community Councils

This page is intentionally left blank

Application Number	20/00327/AS	
Location	Land SE of Plum Trees, Bowerland Lane, Chilham	
Parish Council	Chilham	
Ward	Downs North	
Application Description	Reserved matters application for the approval of details of the layout, scale, landscaping and appearance as set out by condition 1 and 9 on planning application 18/01569/AS (construction of two detached dwellings with associated access)	
Applicant	Mr and Mrs Russell	
Agent	DHA Planning	
Site Area	0.28 ha	
(a) 35/5S&7R	(b) PC +	(c) KCC Bio X KCC PROWX KCC H&T X

Introduction

1. This application is reported to the Planning Committee at the request of the Ward member, Cllr Dehnel.

Site and Surroundings

2. The site forms the large rear garden of a property known as Jayser. Jayser itself lies within the built confines of Old Wives Lees, however, the garden area to the rear which comprises the application site lies outside of the built confines. This is based on the confines drawn up by the parish council working with ABC and the local community and which has been informally endorsed.
3. Jayser is accessed from Cobbs Hill to the south, whilst the application site has an existing access from the track to the north, known as Bowerland Lane, which is accessed off Lower Lees Road.

4. To the north of the site is a cluster of farmyard buildings which have been converted into residential development. A bungalow on a large plot, known as Plum Tree, is situated to the north west of the application site with the rear gardens of properties fronting Cobbs Hill to the west, south and east. Beyond the site to the north east is open countryside.
5. A narrow public right of way (AE12) extends along the western boundary of the site linking Cobbs Hill to Lower Lees Road and the countryside to the north. The track along the northern boundary of the site is also a public right of way (AE13).
6. The site lies in the Old Wives Lees Orchards Landscape Character Area where the overall guideline is to conserve the landscape, including
 - conserving the rural setting of the Kent Downs AONB;
 - avoiding development on high and visually prominent ground;
 - conserving top fruit production;
 - conserving shelter belts and hedgerows and gap up where they have deteriorated;
 - avoiding the introduction of unnecessary fencing.
7. A site location plan is shown in Figure 1 below:

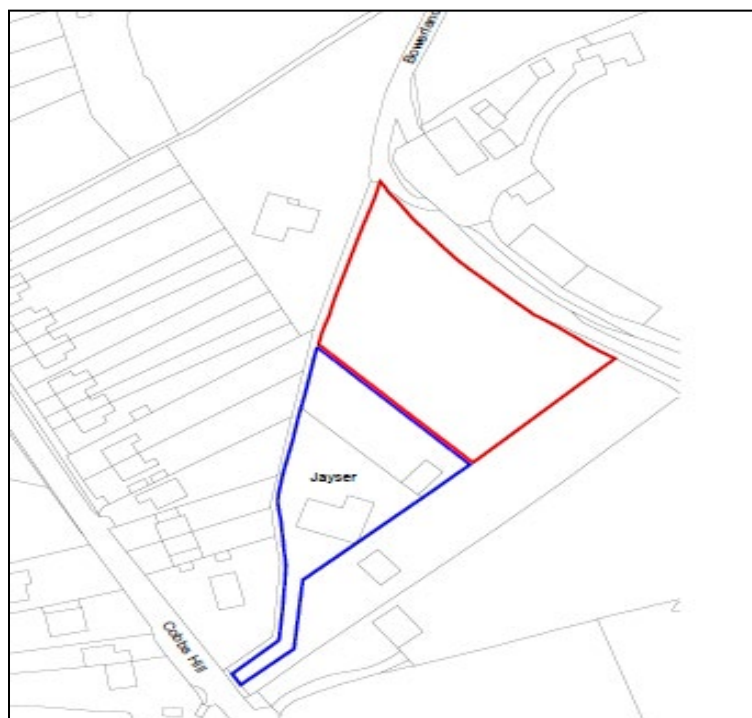


Figure 1: Site Location Plan

Proposal

8. This is a reserved matters application for the approval of details of the layout, scale, landscaping and appearance as set out by condition 1 and 9 on outline planning permission 18/01569/AS for the erection of two dwellings with all matters reserved other than the means of access to the site. . Condition 9 of this permission requires that adequate land is reserved for car parking spaces, in accordance with Policy TRA3a of the Ashford Local Plan 2030. It also requires that secure covered parking facilities in accordance with policy TRA6 of the Ashford Local Plan 2030 are provided. Condition 1 is a standard condition relating to the submission of reserved matters.
9. A previous reserved matters (RM) application (Reference 19/01342/AS) was refused on the grounds of its scale and appearance. This proposal has a 30% smaller footprint than the refused RM scheme. It is also lower in height – the upper floor accommodation being entirely in the roof space (see relevant section below).
10. The units would be mirror images of each other. They would have similar rectangular floorplan and pitched roof, incorporating dormer windows, three on both the front and rear roof slopes. The dwellings would have a maximum ridge height of 7.5m and eaves height of 2.3m. The accommodation would be arranged over two floors with the first floor accommodation – providing four bedrooms - entirely within the roofspace.
11. A two space car port (one space for each unit) would be provided between the units with additional parking provided in tandem to the front of these spaces and also a further two side-by-side spaces to the front of the development. Each unit would have a 4 cycle bike shed within its rear garden.
12. Materials – Plot 1 would be primarily brick with contrasting detailing and plot 2 would be primarily render with contrasting brick and render detailing. Both units would have clay plain roof tiles.
13. A Plan of the proposed layout is shown in Figure 2 below. It shows the tracking for a refuse vehicle to allow it to turn on site.

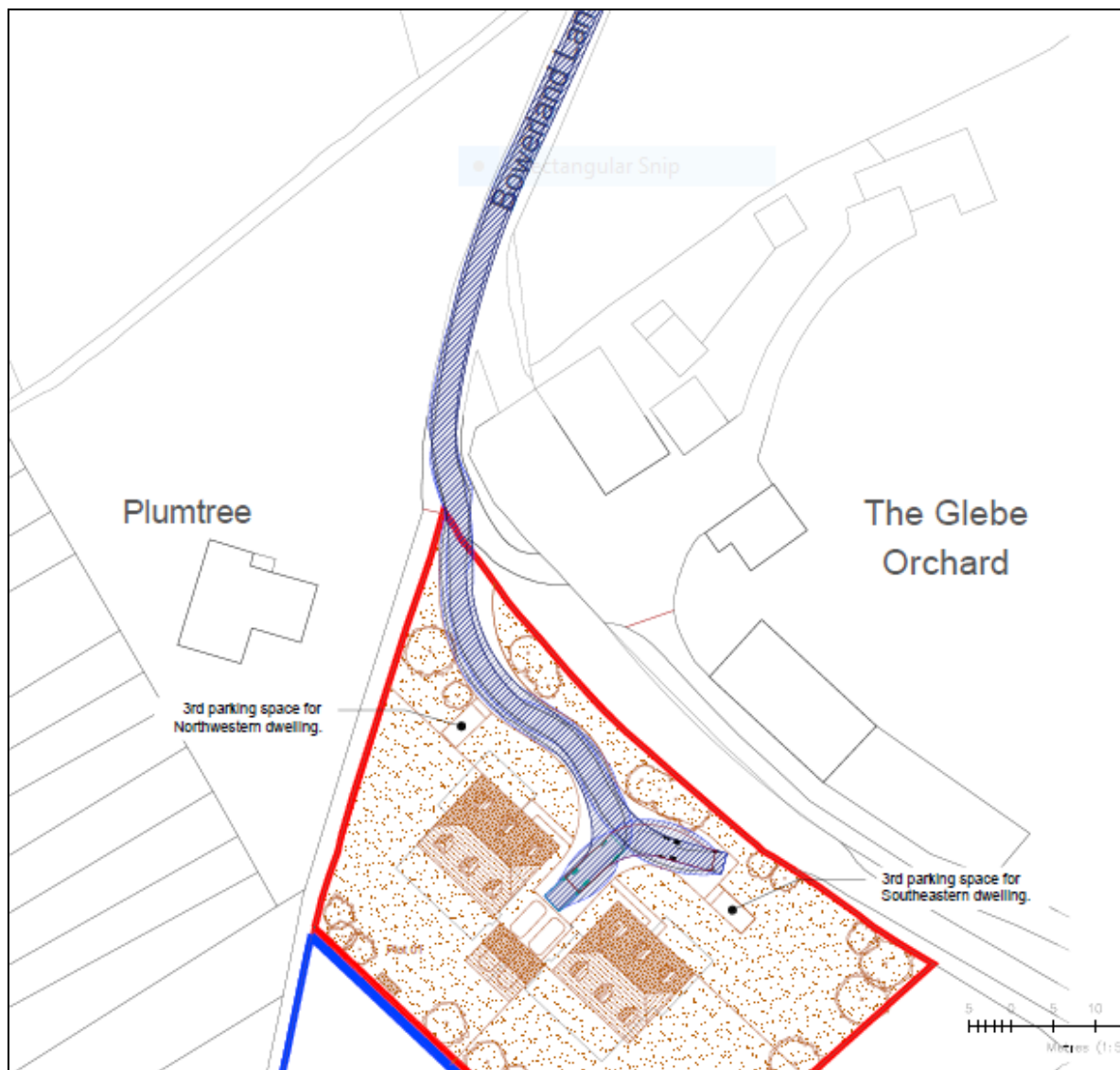


Figure 2: Proposed layout

14. The proposed elevations are shown in Figure 3 (the dotted line denotes the previous RM proposal that was refused). Figure 4 below shows the refused elevations and floor plans – 19/01342/AS.



Figure 3: Proposed elevations

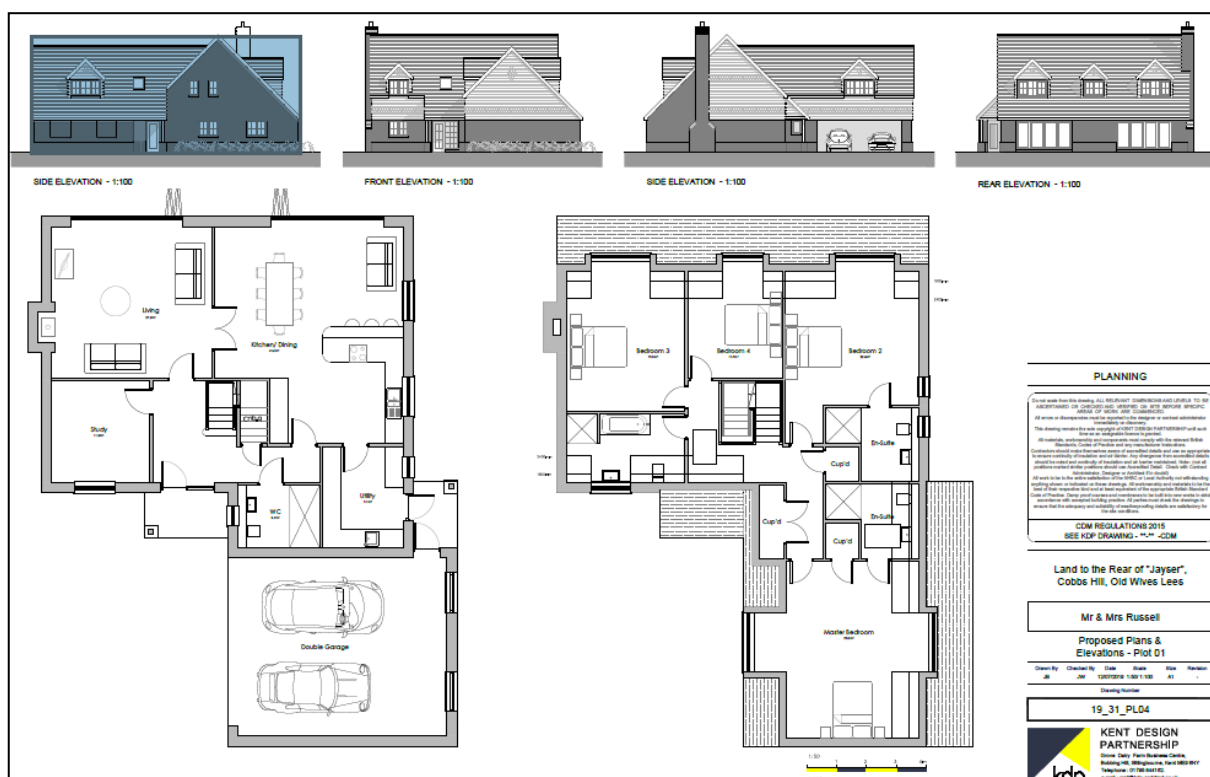


Figure 4 – Refused elevations and floor plans – 19/01342/AS

Planning History

18/01569/AS - Outline application for the construction of two detached dwellings with associated access. APPROVED 10/4/19.

19/01342/AS - Reserved matters application for the approval of details of the layout, scale, landscaping and appearance as set out by condition 1 and 9 on planning application 18/01569/AS. REFUSED – 06/12/19

Consultations

Ward Member: The ward member, has raised concerns relating to the timing of the approval of the outline scheme. Whilst acknowledging that the principle of development has been accepted through the grant out outline planning permission, he has highlighted that this decision took place in April 2019 at the same time as the village confines maps were adopted by the Council. He points out that this site lies outside the boundary shown on the Old Wives Lees settlement boundary plan. He is concerned about the precedent set if this application is approved in terms of the potential for further development outside of the settlement boundary.

On this basis he has asked for the application to be called in to the planning committee for decision.

(DMM Comment: At the time the outline planning permission was granted the site was considered to lie within the built confines of Old Wives lees as defined in policy HOU3a of the adopted Ashford Local Plan 2030. This definition states:

“The limits of continuous and contiguous development forming the existing built up area of the settlement, excluding any curtilage beyond the built footprint of the buildings on the site (e.g. garden areas)”

The village confines maps essentially represent a visual representation of the built confines of each settlement based on the above definition and do not form part of the adopted development plan. Although the site is now deemed outside of the village confines based on the confines map, it was not at the time that outline planning permission was granted. This is an extant permission.

Parish Council – No comment.

KCC Biodiversity – No objections are raised

KCC Public Rights of Way (PROW) – No objection.

KCC Highways and Transportation – No objections

Neighbours - A total of 35 neighbours were consulted; 12 representations have been received, 5 in support of the application and 7 raising objections.

A number of objections have been received which concern the principle of development or relate to access, which was considered at the outline stage. These have already been assessed under the outline application and therefore fall outside the scope of this RM application. I have nevertheless outlined them below:

- The site falls outside the built-up confines of the village and is therefore not suitable for development. The village confines map for Old Wives Lees has been submitted by one objector to highlight this point.
- The site is the unsuitable for development as it is located at the end of a narrow, unlit track with restricted visibility and access and no footway for pedestrians. The development would have an adverse impact on the track and its verges.
- Incorrect procedure was followed at the outline stage; the wrong assessment was made against Policy HOU3a and the decision is therefore unsound. One objector suggests that the decision should be revoked but acknowledges that this would be unfair on the applicant.
- Concern that the refuse turning area will not be secured.
- Concern about the impact of construction on residential amenity and the need for strict operational hours for construction.

(DMM Comment: Condition 8 on the outline permission restricts working hours from 8am – 6pm Monday to Friday; 8am - 1pm on Saturday and no construction on Sunday or Bank holidays.)

The objections relevant to this application are as follows:

- It is pointed out that when considering this application, officers need to be mindful of the impact of decisions on the wider community and landscape, including the rural character of this part of Old Wives Lees.
- Concern about the size of the properties and the disproportionate amount of accommodation within the roof space.
- Impact of this scale of development on the wider community in terms of residential amenity.
- Impact of this scale of development on the landscape.

- Concern that the properties are not in keeping with Plum Trees, which is a single storey bungalow. The units should be of a similar style /materials to Plum Trees to allow them to blend into their rural setting.

The letters in support of the application raise issues of principle and access also and therefore fall outside the scope of this application. I have nevertheless identified these below:

- The proposal will allow two generations of the same family to stay in the village.
- The development brings benefits in terms of on-site turning for refuse vehicles and resurfacing of the lane.

The following points have been made in support of this proposal:

- The scale, appearance and materials are in keeping with the location.
- Good quality of architecture.

Planning Policy

15. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).
16. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
17. The relevant policies from the Local Plan relating to this application are as follows:-
 - SP6 – Promoting high quality design
 - HOU3a – Residential windfall development within settlements
 - HOU10 - Development of residential gardens
 - HOU12 – Residential space standards internal

HOU15 – Private external open space

TRA3a – Parking standards for residential development

TRA6 – Provision for cycling

ENV3a - Landscape character and design

ENV 4 – Light Pollution & Promoting Dark Skies

ENV 9 – Sustainable Drainage

18. The following are also material considerations to the determination of this application.

Supplementary Planning Guidance/Documents

Sustainable drainage

Residential Parking

Residential space & layout (External space standards)

Landscape Character Assessment

Dark Skies SPD

Village Design Statements

Chilham Village Design Statement

Government Advice

National Planning Policy Framework (NPPF) 2019

19. 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).

National Planning Policy Guidance (NPPG)

20. Technical housing standards – nationally described space standards

Assessment

Background

21. Planning permission was refused for a RM application (Reference: 19/01342/AS) for the approval of details of the layout, scale, landscaping and appearance as set out by condition 1 and 9 of planning permission 18/01569/AS on the following grounds:

“The proposed development would be of a scale, mass, bulk and siting that goes against the established grain set by Plum Trees, a smaller scale, single storey, property with simple roof form. The development would appear cramped and an overdevelopment of the site. With its bulky and complicated roof form with numerous large dormers and integrated double car port, it would result in a suburban form of development that would appear visually prominent and incongruous in its context. This would result in demonstrable harm to the character and appearance of this edge of village site and result in a poor transition to the countryside beyond. The proposal in turn would be harmful to visual amenity and detract from the appearance of the countryside. The benefits associated with the development would not outweigh the harm.”

22. The assessment below examines whether these issues have been adequately addressed.

Principle of development

23. The principle of development has already been established by the outline planning permission. This cannot now be revisited. The application for consideration relates solely to the details that are being requested to be considered i.e. the reserved matters.

Visual Impact and Amenity

24. Policy ENV3a requires development in the rural areas to be designed in such a way which protects and enhances the particular landscape character area within which it is located.
25. Policy HOU3a requires infill development to meet a number of requirements which includes that it is of a layout, design and appearance that is appropriate to and compatible with the character and density of the surrounding area.
26. Policy HOU10 is supportive of development proposals involving the complete or partial redevelopment of residential garden land providing a number of criteria are met. These include that the proposals accord with external space standards (Policy HOU15) and that they do not result in significant harm to the character of the area, including the need to respect surrounding grain and built pattern of development; scale and form of surrounding buildings and wider landscape/countryside setting.

27. The applicants demonstrated as part of their outline application that a low density development of two dwellings could be accommodated on the site whilst according with external space standards and without resulting in significant harm to the character of the area. Given the openness of the site in views from the north and the surrounding character of built development set by Plum Trees –low density; single storey – a condition was placed on the outline permission requiring the development to be single storey in form with any first floor accommodation contained entirely within in the roof space.
28. The details submitted as part of this application meet the requirements of this condition with the first floor accommodation provided entirely within the roofspace. The low height of the buildings, combined with the maintenance of and additional native planting to boundaries (see later section of this report) would help reduce the visual impact of the development on this edge of village site avoiding the introduction of unnecessary fencing and conserving the rural setting of the Kent Downs AONB in accordance with the LCA guidelines.
29. The dwellings would be a mirror image of each other. They would have a simple rectangular floor plan and pitched roof with three dormers to both front and rear roof-slope to serve the living accommodation within the roofspace (see section above headed Proposal). Whilst these are still 4-bed units, they are small 4-bed units and the form and scale of development would not be out of keeping in this context. In terms of the materials, the agent has indicated that whilst both units would have clay tiles to the roof (this is supported) they would differ in terms of their facing materials; one mostly brick and the other mostly render. Due to the single storey design of the buildings, I am satisfied that this approach is acceptable.
30. I am satisfied that the details submitted with respect to layout, scale and appearance are acceptable and that the proposed development is acceptable in terms of its visual impact and amenity. I therefore consider that the proposed development has addressed the reason for refusal as set out in the previous RM application.

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 dwellings would be situated some 27m from the closest residential dwelling, known as Plum Trees. I do not consider that it would be significantly overbearing or give rise to problems of overlooking. As such,

there would be no adverse impact upon the neighbouring residents by reason of form, outlook, loss of light/overshadowing or any impacts upon privacy.

33. The proposed development would meet nationally Described Space Standards for internal space whilst providing external amenity space in accordance with the Council's Residential Space Standards. As such, the proposed development would provide a satisfactory level of accommodation for future residents. The proposal satisfies policies HOU12 & HOU15 of the adopted local plan.
34. I am satisfied that the proposed development is acceptable in terms of its residential amenity.

Parking and Refuse Collection

35. Policy TRA3a sets out parking standards for residential development. Policy TRA6 concerns provision for cycling.
36. The proposal would utilise an existing access off the track to the north of the site, which serves the rear garden of Jaysers and provides adequate visibility. This was agreed as part of the outline application. Also agreed at outline stage was that turning for refuse vehicles would be provided on site to facilitate waste collection from the site itself. The plan below shows the approved refuse swept analysis.

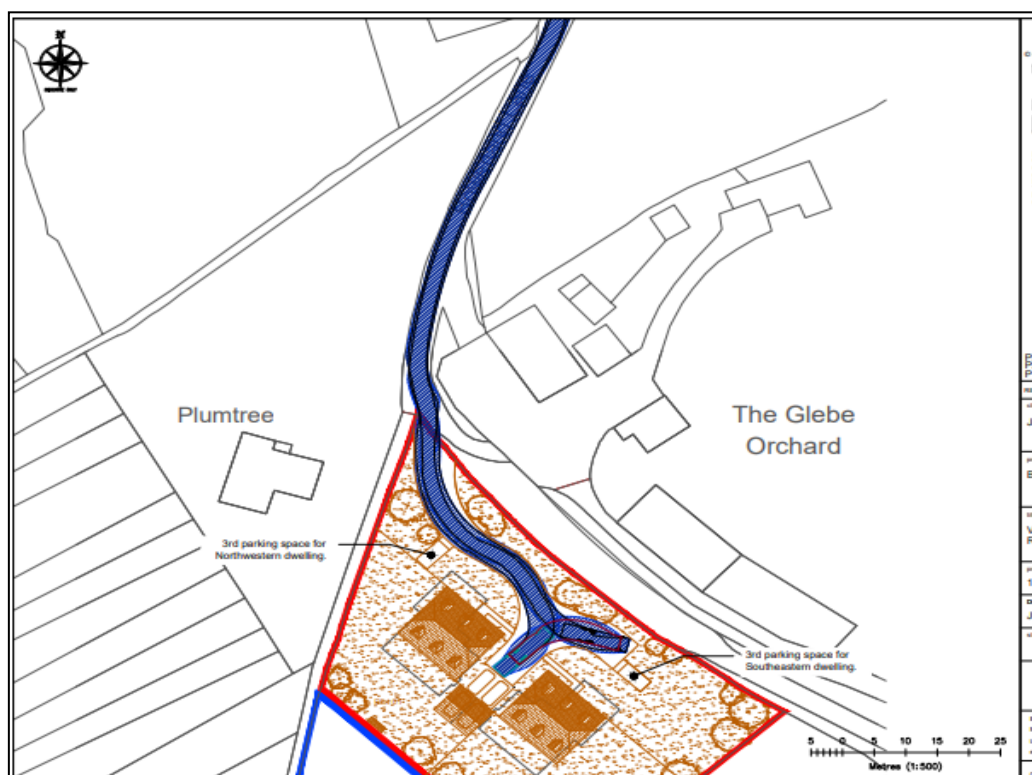


Figure 5: Refuse swept path (approved under outline permission)

37. The proposed layout shows this refuse turning area in accordance with the outline permission. The council's refuse department raised no objections.
38. The proposal provides a minimum of three on-site parking spaces for each property in accordance with Policy TRA3a and cycle storage within the rear garden of each property in accordance with Policy TRA6.
39. I am satisfied that details of the layout are acceptable in this respect and that Condition 9 of the outline permission can be discharged.

Landscaping

40. The site is garden land with well-defined hedgerow boundaries to both public rights of way from which there are clear views into the site. The landscaping proposals preserve the existing boundary vegetation. Along the western boundary of the site with the PROW the existing planting is supplemented with additional native hedge planting to reinforce this boundary.
41. I am satisfied that the landscaping details submitted are acceptable.

Human Rights Issues

42. 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

43. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

44. This is a reserved matters application where the principle of development and access were agreed at the outline stage under application 18/01569/AS and cannot be revisited as part of this reserved matters application.

45. I am satisfied that the details submitted are acceptable in terms of their visual impact and that they would provide an acceptable level of amenity to existing and proposed residents. I am satisfied also that the proposal would provide adequate parking and turning on site, including turning for refuse vehicles in accordance with the outline permission. Finally, I am satisfied that the landscaping proposals are satisfactory.
46. I therefore conclude that the details of layout, scale, appearance and landscaping provided by this application are acceptable and address the reason for refusal of the previous RM application that was refused by the council.

Recommendation

Approve details

Subject to the following Conditions and Notes:

1. Written details including source/ manufacturer, and samples of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the development shall be carried out using the approved external materials.

Reason: In the interests of visual amenity.

Notes

This approval discharges condition 9 attached to outline planning permission reference 18/01569/AS insofar as details of the proposed development are required to be submitted to and approved by the Local Planning Authority. Any variation to the approved details will, however, need to be submitted for further approval before the relevant work is carried out.

The applicant is reminded of the outstanding requirement for details to be submitted and approved under condition 5 (Detailed design of upgrade of track); 7 (CMP); 11 (Biodiversity enhancement); 12 (External lighting); 13 (Drainage); 14 (Foul water) and 17 (Boundary treatment) of outline planning permission reference 18/01569/AS, as well as the continuing obligations imposed by some conditions as the development progresses and is completed.

(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the

planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).

Note to Applicant

1. Working with the Applicant

Working with the Applicant

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative 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

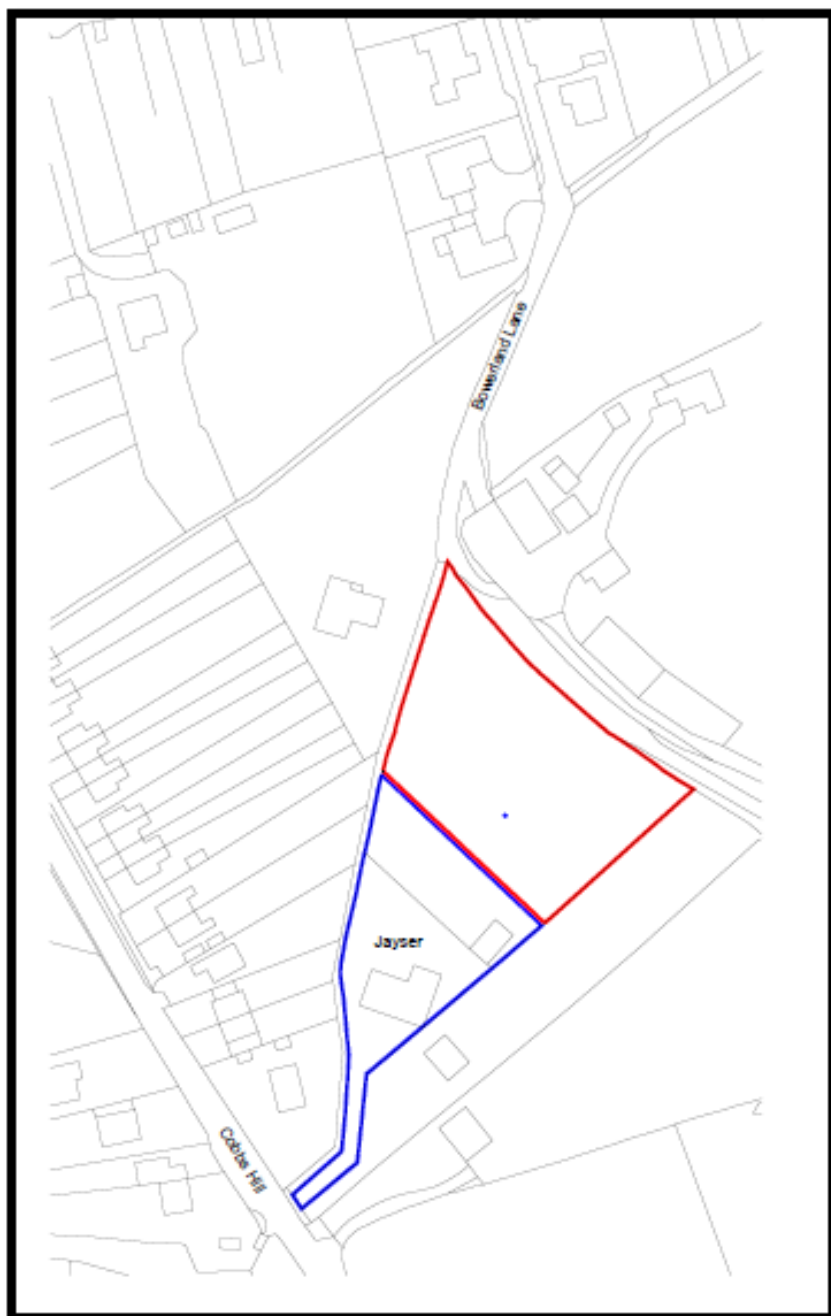
- the applicant/agent was updated of any issues after the initial site visit,
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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 //AS)

Contact Officer: Katy Magnall
Email: katy.magnall@ashford.gov.uk
Telephone: (01233) 330259

Annex 1



Ashford Borough Council - Report of Development Control Managers

Planning Committee 3rd June 2020

Application Number	19/01768/AS
Location	Violet Cottage, Stalisfield Church Road, Charing, Ashford, TN27 0HE
Grid Reference	595573 / 150736
Parish Council	Charing
Ward	Charing Ward
Application Description	Extension and conversion of garage/outbuilding into residential dwelling and erection of garage and driveway
Applicant	Mr B Tate
Agent	Mr D Harman, Building Drawings
Site Area	0.12 hectares

(a) 2/1R (b) Parish Council S (c) KCC H&T X

Introduction

1. This application is reported to the Planning Committee at the request of the ward member Councillor Clarkson.

Site and Surroundings

2. The application site comprises an existing single storey detached garage and lean-to at the rear of Violet Cottage. Violet Cottage is a converted former agricultural building. The site is located on the northwest side of Stalisfield Church Road and is accessed from an existing driveway that runs along the side of Violet Cottage. This driveway also serves the existing property at the rear of Crows Hole Farm, which is the immediate neighbouring property to the northeast of the site. This is also a converted former agricultural building. The site is located in the parish of Charing.
3. Falling outside the built confines of the settlement of Charing (approximately 3km to the centre of the village) the site is located within the countryside. The site is located in the North Downs Area of Outstanding Natural Beauty (AONB) and the Challock – Mid Kent Downs Kent character area.

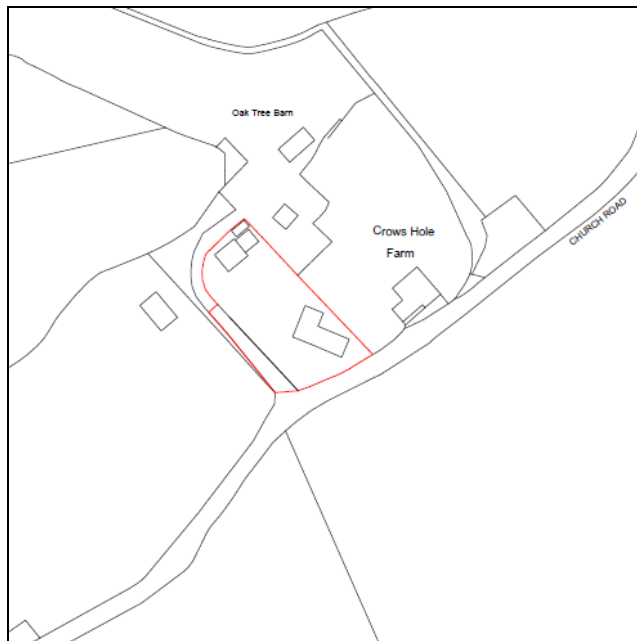


Figure 1 - Site Location Plan

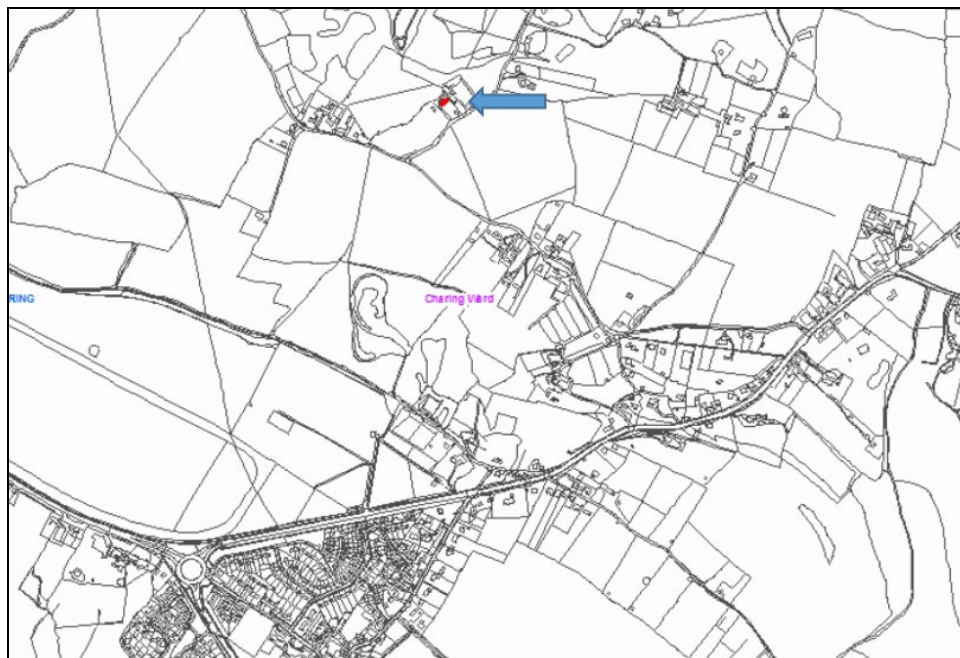
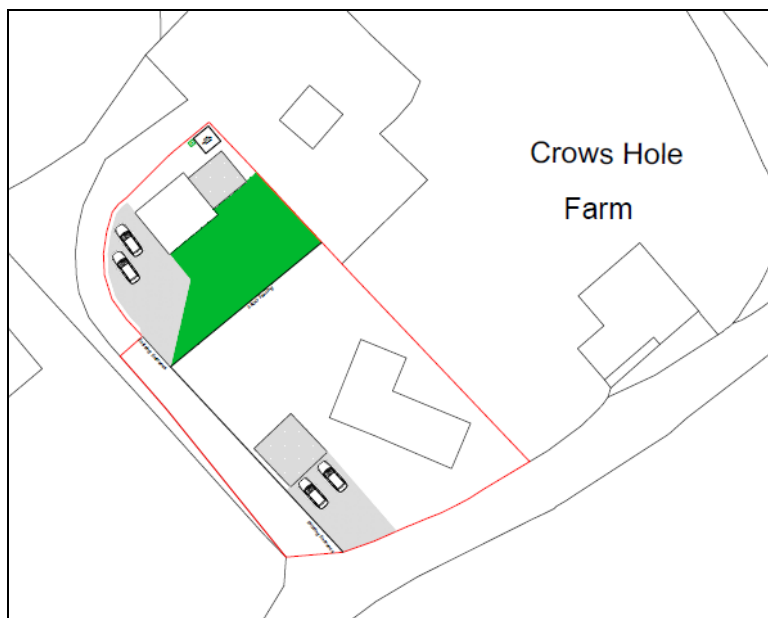


Figure 2 – Site in relation to Charing

Proposal

4. Planning permission is sought for the proposed extension and conversion of the garage/outbuilding to the rear of the main house, to become a residential dwelling, together with the erection of a new garage/driveway for the main dwelling.
5. The description of the proposed development was amended during the course of the application to state 'garage/outbuilding' instead of 'annexe'. This amendment to the description was made following a site visit by officers where it was considered the use of the building as an annexe (granted planning permission in 2015) had not commenced due to the incomplete state of the building and the fact it was being used for garaging and incidental storage. The change in description is important as the building is not currently used as habitable accommodation ancillary to Violet Cottage.
6. A block plan along with existing and proposed floor plans are set out below:

Figure 3 – Proposed block plan



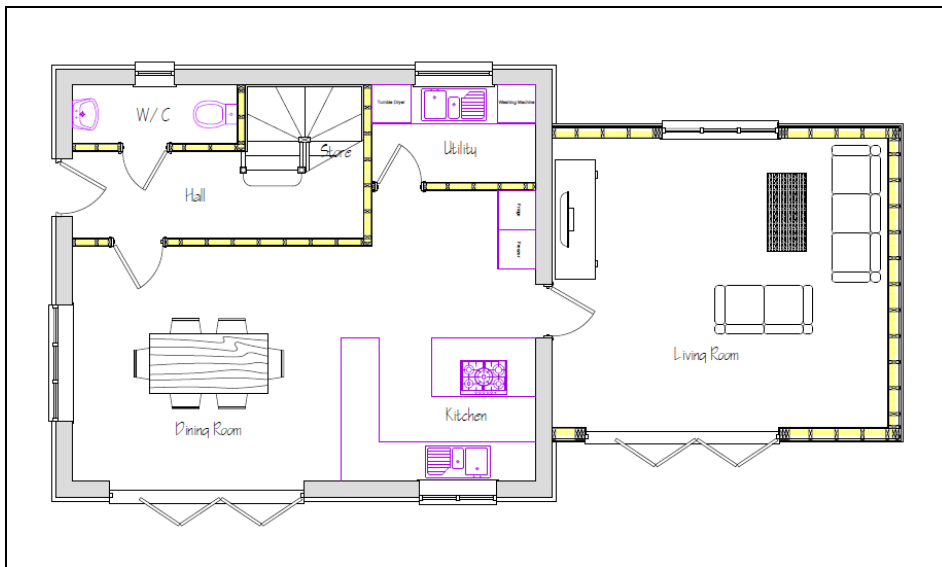


Figure 4 – Proposed ground floor plan (residential dwelling)

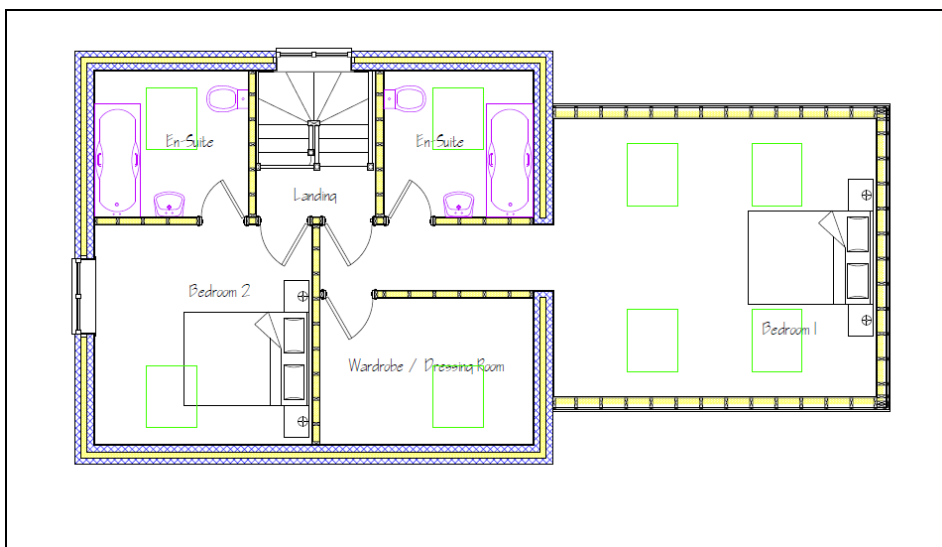


Figure 5 – Proposed first floor plan (residential dwelling)

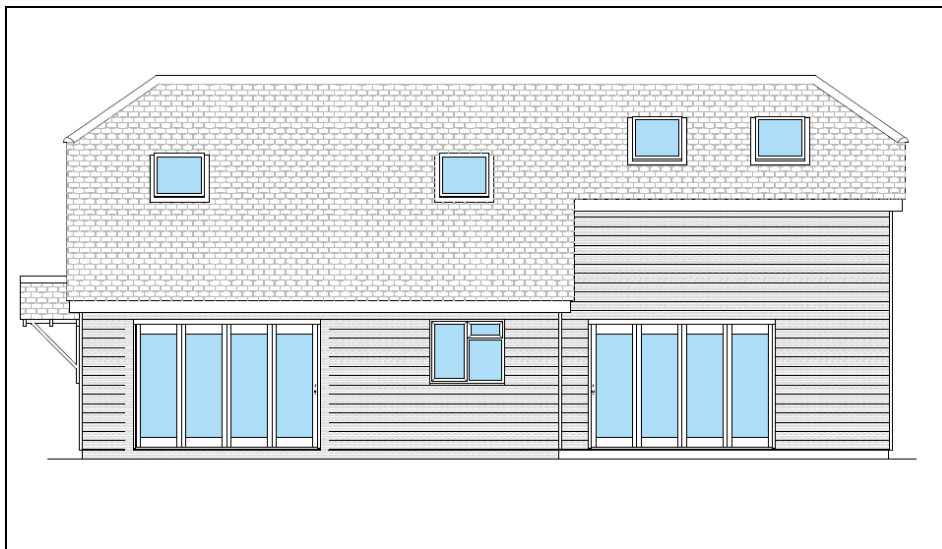


Figure 6 – Proposed south elevation (residential dwelling)

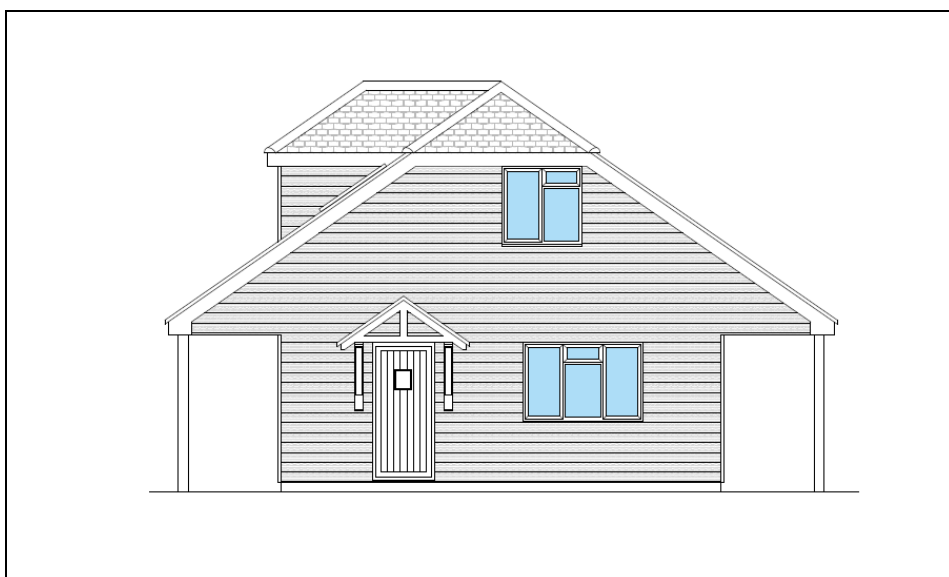


Figure 7 – Proposed west elevation (residential dwelling)

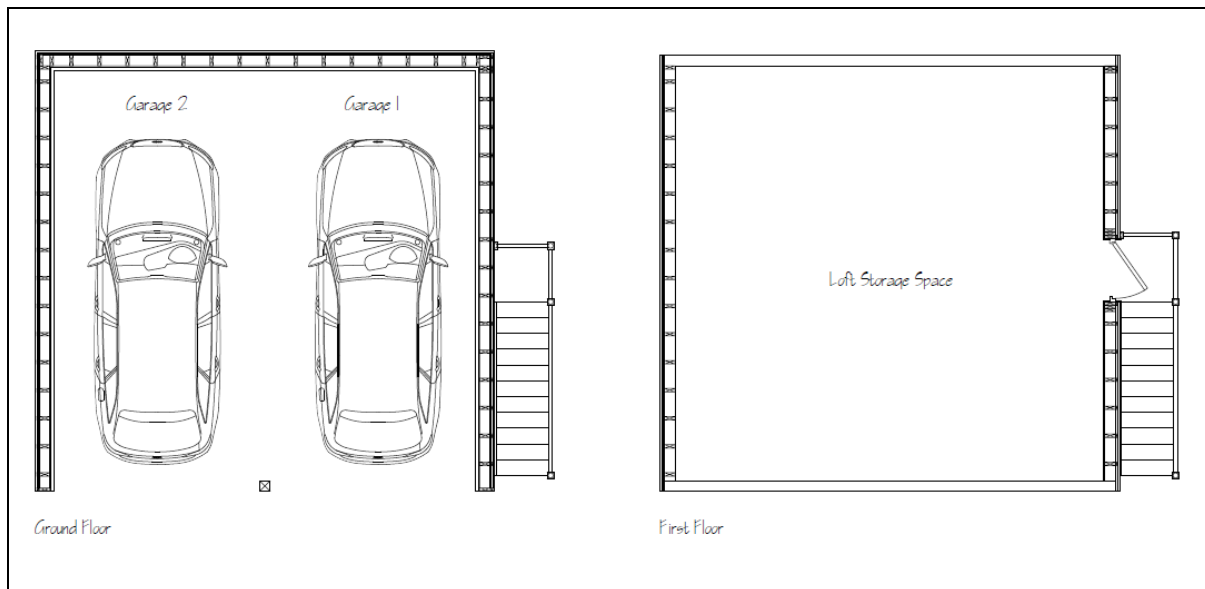


Figure 8 – Proposed floor plan (garage)



Figure 9 – Proposed elevation (garage)

7. The aerial photographs below shows the site and building as existing:



Figure 10 – Aerial photograph of the site as existing



Planning History

Violet Cottage

01/00545/AS - Full planning permission **granted** on 04/06/2001 for conversion of detached barn to residential use. This application relates to the main dwelling, Violet Cottage.

10/01558/AS – Full (retrospective) planning permission **granted** on 12/01/2011 for change of use of land to residential curtilage and proposed new double garage. This application relates to the existing garage under the current proposal. Condition 2 of this planning permission stated the building shall not be used for primary accommodation.

15/00417/AS - Full planning permission **granted** 22 May 2015 for single storey extension to dwelling and conversion of garage to ancillary annexe including the insertion of dormer window to side elevation. Condition 3 of this planning permission stated the annexe shall only be occupied by persons related to Violet Cottage and as ancillary accommodation to Violet Cottage. This planning permission has been part implemented as internal conversion works are currently underway; however the building is still be using as a garage and the dormer window has not been constructed.

Crows Hole Farm

04/01077/AS – Full planning permission **refused** for removal of conditions 5 & 6 of Planning Permission 02/00538/AS to allow tourist accommodation to be used as an independent dwelling therefore a record of occupancy is no longer required. This application was **dismissed** at appeal on 20/05/2005.

15/00192/AS - Full planning permission **refused** on 02/04/2015 for physical works including a new pitched roof to and conversion of barn to dwelling and demolition of outbuilding and it replacement with new garage. This application relates to the existing dwelling to the rear of Crows Hole Farm. This application was **allowed** at appeal on 02/10/2015.

19/00451/AS - Full planning permission **granted** on 13/06/2019 for proposed car barn with accommodation within roof space.

Consultations

Ward member: has requested for the application to be determined by the Planning Committee.

Parish Council: Supports.

Neighbours: 2 neighbours consulted; 1 objection received with the following comments:

- The site lies outside the built confines of Charing or any neighbouring village;

- The buildings to be converted are of no architectural or historic value;
- None of the lean-to additions to the garage have planning permission;
- Permission to convert the garage to an annexe was granted under the pretext it would be used as such while the main house was being worked on. No works to the garage appear to have started;
- Two flint barns were converted at Crows Hole Farm – one of these conversions was Violet Cottage and the other was Oak Tree Barn. Both of the flint barns were of historic and architectural interest. A condition was imposed that required a garage / bike store and this was deemed necessary at the time; therefore it should be retained for the use of parking vehicles only;
- The size of the dwelling exceeds the existing garage;
- The proposal would be detrimental to the surrounding landscape;
- This proposal has no planning gain at all - quite the opposite;
- Visually harmful development in the AONB;
- Sporadic development that would be harmful to the countryside;
- 50% increase to traffic flow along the lane which would be unsustainable;
- The conversion of Oak Tree Barn was a conversion of a flint barn, not a new build.
- The conversion of Oak Tree Barn was not “in garden” but in a plot separated from the garden of the main house of Crows Hole Farm;
- This proposed development lies within the garden of Violet Cottage which would be substantially reduced in size;
- Crows Hole Farm dates back hundreds of years and has reduced in size over the years. The old buildings have been converted or modernised to provide accommodation in a way which is sympathetic to the AONB, this development would not.

Planning Policy

8. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).
9. The Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
10. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Borough Local Plan to 2030

SP1 – Strategic Objectives

SP2 – The Strategic Approach to Housing Delivery

SP6 – Promoting High Quality Design

HOU5 – Residential Windfall Development

HOU10 – Development of Residential Gardens

HOU12 – Residential Space Standards Internal

HOU15 – Private External Space Standards

ENV3b – Landscape Character and Design in AONBs

ENV4 – Light Pollution and Promoting Dark Skies

TRA3a – Parking Standards for Residential Development

TRA6 – Provision for Cycling

11. The following are also material considerations to the determination of this application.

Supplementary Planning Guidance/Documents

Residential Space & Layout SPD

Residential Parking SPD

Landscape Character SPD

Dark Skies SPD

Government Advice

National Planning Policy Framework (NPPF) 2018

12. 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.
13. At the heart of the NPPF is a presumption in favour of sustainable development and the mechanism for applying this is set out at paragraph 11.

14. Paragraph 79 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - d) the development would involve the subdivision of an existing residential dwelling; or
 - e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Assessment

15. The key issues to consider are as follows:
- Appeal decision at Crows Hole Farm (15/00192/AS);
 - Principle;
 - Impact on visual amenity;
 - Residential amenity;
 - Highways safety and parking.

Background - Appeal decision at Crows Hole Farm

16. The appeal decision for application 15/00192/AS at Crows Hole Farm dated 02/10/2015 is a material planning consideration in the determination of this application. This application related to the conversion of the barn to the rear of Crows Hole Farm to a dwelling, together with a new garage (following a refusal and dismissed appeal for essentially the same in 2004). This application was refused planning permission as the site was outside the built confines of Charing and the proposal was considered to represent unacceptable development in the countryside and AONB. This application was allowed at appeal.

17. The Planning Inspector stated at paragraph 6 of the allowed appeal:
18. *“Paragraph 55 of the NPPF says that Local Planning Authorities should avoid isolated new homes in the countryside, unless there are special circumstances. These include, amongst other things, where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting. Paragraph 28 of the NPPF also requires planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development”.*
19. The Planning Inspector also noted at paragraph 7 that the overall thrust of national policy is for a more flexible approach with regards to re-using redundant or disused buildings in the countryside, with encouragement for the approval of planning applications for residential use of empty or redundant buildings.
20. At paragraph 8 the Planning Inspector found that the scheme would comply with Paragraph 55 of the NPPF in that the proposal would re-use a redundant building and lead to an enhancement to the immediate setting. This enhancement resulted from replacing the unattractive corrugated flat roof and restoring the original half hipped pitched roof profile, as well as removing a utilitarian and somewhat dilapidated outbuilding to the south, and replacing it with a much smaller garage building. The Planning Inspector also noted at paragraph 9 that the building would not require complete or substantial reconstruction, and would not have a significant adverse impact on the building or its setting, the character of the surrounding landscape or any nearby settlement or the amenities of local residents.
21. With regards to sustainability, the Planning Inspector stated at paragraph 10:
22. *“I acknowledge the site is within the countryside, and therefore at some distance from local services and facilities, or a town centre, meaning that occupants are likely to be reliant on the private car for journeys. However, I am not convinced that this site can be regarded as a truly isolated rural location, as it is reasonably close to various transport routes, including the A20, A252 and M20 motorway. The built-up confines of Charing and its railway station are not far away”.*
23. The Planning Inspector went on to state at paragraph 11:
24. *“In addition, the NPPF, although seeking to promote sustainable transport and travel patterns, recognises that different policies and measures will be required in different communities, and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. For example, rural areas may have more restricted access to public transport as well as more limited local services and facilities. This requires a realistic approach to the*

general travel method of residents. In any event, I consider that the travel movements associated with a single dwelling are not likely to be significant”.

25. At paragraph 13 the Planning Inspector concluded:
26. *“Therefore, although the site is in a rural location, this should not automatically preclude housing development, as long as it can be adequately assimilated without causing harm to the character and appearance of the locality, and AONB”.* The visual impact of the current proposal will be discussed in more detail under the ‘Visual Amenity’ section of this report.
27. This appeal decision referred to the policies in the Tenterden and Rural Sites Development Plan Document (‘the TRSDPD’) which were adopted in 2010 and have since been superseded by the Local Plan to 2030. The Planning Inspector noted at paragraph 6 of the appeal decision that the TRSDPD policies predated the NPPF. At the time of determining the appeal, the NPPF (dated 27/3/2012) was 3 years old, compared to the TRSDPD, which was 5 years old. The NPPF has since been updated in 2018 and 2019. This is significant as the policies in the TRSDPD were not wholly in accordance with the NPPF and therefore the NPPF carried more weight in these circumstances. Whilst (the most recent version of) the NPPF is still a material consideration for the current proposal, the Council has an up-to-date development plan with policies that reflect the NPPF. The Council can also demonstrate a 5 year housing land supply at the current time.
28. With regards to the current proposal, local plan policies HOU5 and HOU10 are up-to-date and relevant, which refer to windfall residential development in the countryside and development of residential gardens.

Principle

29. At the heart of the NPPF is a presumption in favour of sustainable development and the mechanism for applying the presumption is set out in paragraph 11 of the NPPF. The Council can demonstrate a deliverable 5 year housing land supply in accordance with the NPPF.
30. The application site is located in the rural area and therefore falls to be considered under policy HOU5 of the Local Plan 2030 which covers proposed windfall housing developments located outside the built up confines of settlements, i.e. in the open countryside. Policy HOU5 is set out in two sections:
 - Proposals for residential development adjoining or close to the existing built up confines of specified (sustainable) settlements;
 - Residential development elsewhere in the countryside.

31. The site is located some distance (approximately 3km) from the nearest sustainable settlement at Charing and is therefore contrary to the first section of policy HOU5. The site is not adjoining or close to the nearest sustainable settlement and is therefore not a sustainable location for a new dwelling. Occupants of this dwelling would be almost entirely reliant on private motorised forms of transport in order to meet their day to day needs.
32. As the proposal fails the first part of policy HOU5, it needs to be assessed against the second part of policy HOU5 which allows for isolated new dwellings in the countryside if it is for at least one of the following:
- a) accommodation to cater for an essential need for a rural worker to live permanently at or near their place of work in the countryside;
 - b) development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future heritage assets;
 - c) the reuse of redundant or disused buildings and lead to an enhancement to the immediate setting;
 - d) a dwelling that is of exceptional quality or innovative design which should be truly outstanding and innovative, reflect the highest standards of architecture, significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area;
 - e) a replacement dwelling, in line with emerging policy HOU7 of the Local Plan.
33. The second part of policy HOU5 states that where a proposal is located within or in the setting of an AONB, it will also need to demonstrate that it is justifiable within the context of their national level of protection and conserves and enhances their natural beauty.
34. The proposal would not meet any of the exceptions under the second part of policy HOU5. Ancillary buildings in residential gardens, such as garages, are not the intended beneficiary of this policy / NPPF caveat. The preamble to policy HOU5 states:
- “In considering applications for the re-use of redundant or disused buildings, proposals will need to demonstrate that the existing buildings have been on site for a number of years and are no longer needed for their current or previous use”.*
35. This policy, and support through the NPPF, is to allow genuinely redundant rural buildings to change use where they are no longer required for their original purpose and where the proposal would enhance the immediate setting. This is clearly not the case with the current proposal as the building is

not changing use from a redundant or disused building, and planning permission for conversion to an ancillary annexe is being implemented. It is also currently being used for garaging and incidental storage for Violet cottage.

36. In addition to the above, the current proposal is not a straightforward conversion of an existing building but instead involves substantial new building works including a ground floor extension and significant additions and alterations to the roof area. The extent of the proposed development can be seen at figures 4 to 7 above and result in a considerably larger and entirely different building in respect of its appearance. This would not be the case with a straight conversion as set out in HOU5.
37. With regards to enhancement, it is noted that policy HOU5 does not set a threshold defining the level required to meet this part of the policy and this needs to be assessed on a case by case basis. However residential development in the countryside, where it involves re-use of redundant or disused buildings, should only be an exception to the main part of the policy if there is material visual enhancement to the countryside setting. Given the fact the existing building is not in a poor state of repair, it is considered there would be no visual amenity benefits from the proposal. The overall benefits to the public domain from a visual amenity point of view would not warrant a new dwelling in an unsustainable location and this is discussed in the following section.
38. Allowing this building to be extended and converted into a dwelling in this unsustainable location would be contrary to the aims and objectives of both the Local Plan and NPPF and detrimental in environmental terms.

Visual Amenity

39. The Planning Inspector concluded in paragraph 13 of the appeal decision for application 15/00192/AS:
40. *“Therefore, although the site is in a rural location, this should not automatically preclude housing development, as long as it can be adequately assimilated without causing harm to the character and appearance of the locality, and AONB”.*
41. The proposed extension and conversion of the existing garage would significantly increase the size, scale and bulk of this building in the rear garden of the main dwelling and would no longer appear subordinate to the host dwelling. The current building reads as a subservient incidental building to Violet Cottage, an arrangement not uncommon to see in respect of dwellings whether in urban or rural areas. It sits unassumingly in this context

within the countryside. The proposed dwelling together with the proposed detached side garage, would over-dominate the main dwelling and appear as an incongruous form of development that would detract from the character and appearance of the surrounding countryside, designated as AONB and afforded the highest level of protection in the NPPF and development plan.

42. Figure 10 below compares the permission for the conversion of the building to an annexe to that currently proposed in this application (figure 11) and figure 12 shows the view towards Crows Hole Farm and the application site.

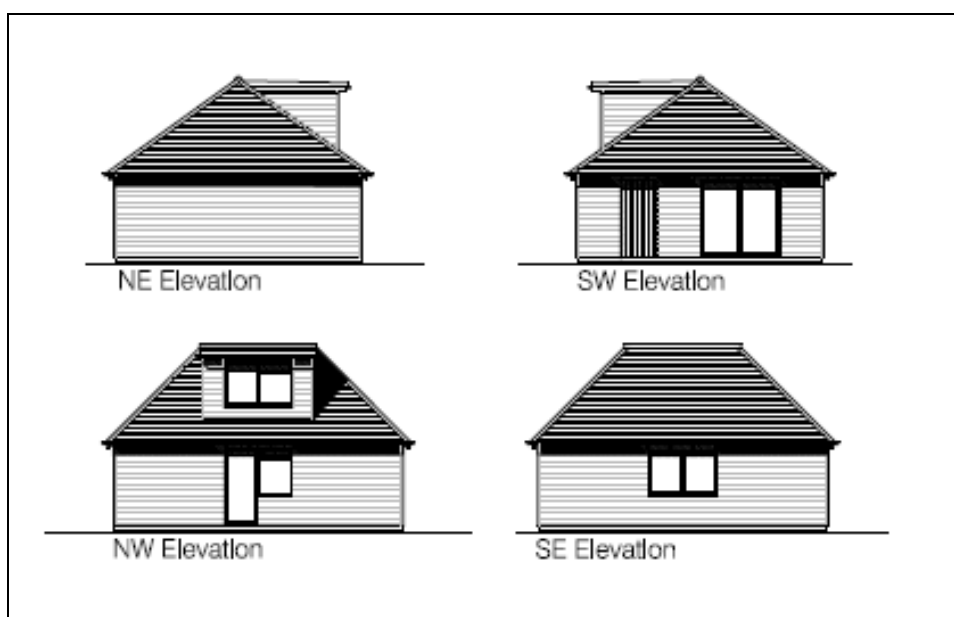


Figure 10 – Proposed annexe approved under application 15/00417/AS

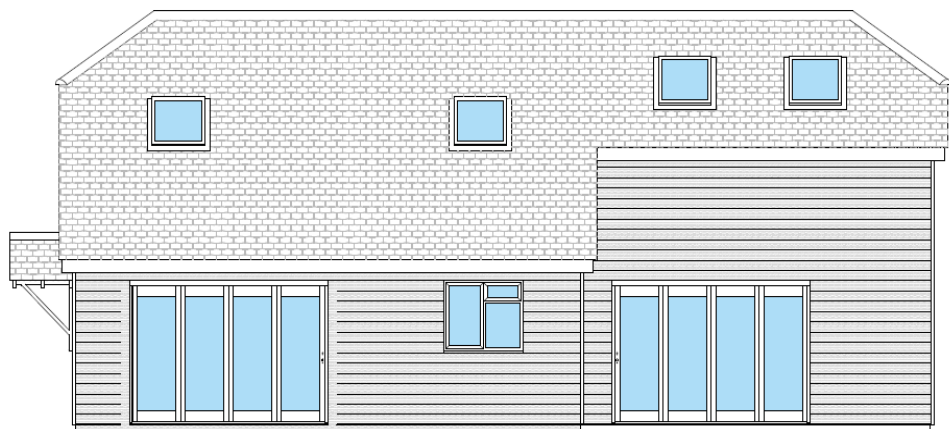


Figure 11 – Proposed south elevation under current application



Figure 12 – View across open countryside towards site (with Crows Hole Farm in view)

43. It is considered the proposal would not be a sympathetic addition to the countryside to justify its presence; and, it would create a visually intrusive form of development which fails to satisfactorily integrate with the surrounding countryside in a sensitive manner. As such, rather than enhancing the immediate setting the proposal would appear out of character and detrimental to the visual amenity of the rural environment and wider AONB landscape.

Residential Amenity

44. The proposed internal living environment would comply with the nationally described space standards for a 2 bedroom / 4 person dwelling, as well as Policy HOU12 and the Council's Residential Space and Layout SPD (in terms of combined eating and living areas).

45. Policy HOU15 and the Council's Residential Space and Layout SPD both seek for external amenity space to be calculated as the width of the dwelling x 10m (depth). A large rear garden has been provided for the future occupants and I am satisfied this part of the proposal would provide an acceptable external living environment.
46. Given the siting of the proposed development in relation to the neighbouring properties, I am satisfied there would be no unacceptable harm caused to the residential amenity of the occupiers in terms of loss of daylight/sunlight, loss of outlook, loss of privacy or noise and disturbance.

Highway Safety and Access

47. There is an established access to the proposed development from Stalisfield Church Road, together with existing vehicular entrance gates to the site itself. The proposal includes a new driveway for the proposed dwelling with space for 2 cars to park in line with the policy requirements for a 2 bedroom dwelling. The proposed new 2 bay garage and driveway for the main dwelling would allow adequate parking provision to continue to be provided for the residents of this house. Overall I am, therefore, satisfied the proposal is acceptable from a highways safety and parking provision point of view and, in my view, any additional impact on the local rural road network would be negligible.

Human Rights Issues

48. 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

49. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

50. Whilst the proposal would be extending and converting an existing building and would result in a modest addition to the Council's delivery of housing, the proposal is considered unacceptable and would fail to comply with the Development Plan and the NPPF. First and foremost, the proposal would be contrary to policy HOU5 due to being an isolated new dwelling in an unsustainable location. It is also not a redundant building but an incidental outbuilding serving Violet cottage with permission to be converted into an annexe. The proposal also comprises significant amounts of new build and goes considerably beyond conversion as envisaged by the NPPF and policy HOU5. In addition, rather than leading to an enhancement to the immediate setting it would fail to integrate sensitively and sympathetically with the wider landscape including the AONB as set out in this report.

51. In light of the above I recommend that planning permission is refused..

Recommendation

Refuse on the following grounds:

The proposal is contrary to Policies SP1, SP2, SP6, HOU5, HOU10 and ENV3b of the Ashford Local Plan to 2030 and Central Government guidance contained in the National Planning Policy Framework and would therefore be contrary to interests of acknowledged planning importance for the following reason:

1. The proposed conversion of this building, from ancillary/incidental accommodation to an independent dwelling, which lies outside of the built confines of Charing or any other identified town or village within the Ashford Local Plan 2030, would give rise to an unsustainable new home in the countryside, without any overriding justification provided to support this form of development. The development fails to meet the core principles of the Ashford Local Plan 2030 and the National Planning Policy Framework 2019 which seeks to avoid isolated homes in the countryside and promote sustainable development in rural areas.
2. The proposed development by virtue of its design, scale, bulk and massing would create a visually intrusive form of development which fails to satisfactorily integrate with the surrounding countryside in a sensitive manner. The proposal would not result in an enhancement to its immediate setting but appear out of character in this sensitive countryside location, which is nationally designated as AONB, and detrimental to the visual amenity of the rural environment and of the wider AONB landscape.

Note to Applicant

1. Working with the Applicant

In accordance with paragraph 38 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 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 19/01768/AS)

Contact Officer: Georgina Galley

Email: georgina.galley@ashford.gov.uk

Telephone: (01233) 330264

Application Number	20/00200/AS	
Location	Lantarna, The Pinnock, Pluckley	
Parish Council	Pluckley	
Ward	Upper Weald Ward	
Application Description	Variation of condition 5 of planning permission 19/00801/AS (Erection of a 2-storey detached dwelling (retrospective)) to retain existing Yew tree hedge behind dwarf wall along boundary with street and its future maintenance at a height of no lower than 1.5m	
Applicant	Mr D Sullivan	
Agent	Westleigh Design	
Site Area	0.05ha	
(a) 7/3R/1S	(b) PC - R	(c) -

Introduction

1. This application is reported to the Planning Committee at the request of the local Ward member, Cllr Clair Bell.

Site and Surroundings

2. The site is situated in Pluckley Thorne, a small hamlet to the south of Pluckley village. It is occupied by a single dwelling of a contemporary design with an irregular corner turning floor plan/design. Along the frontage of the property is a low grey painted rendered wall with the public street and behind this a Yew tree hedge. It is this hedge that forms the subject of this application.
3. A site location plan is shown in Figure 1 below:

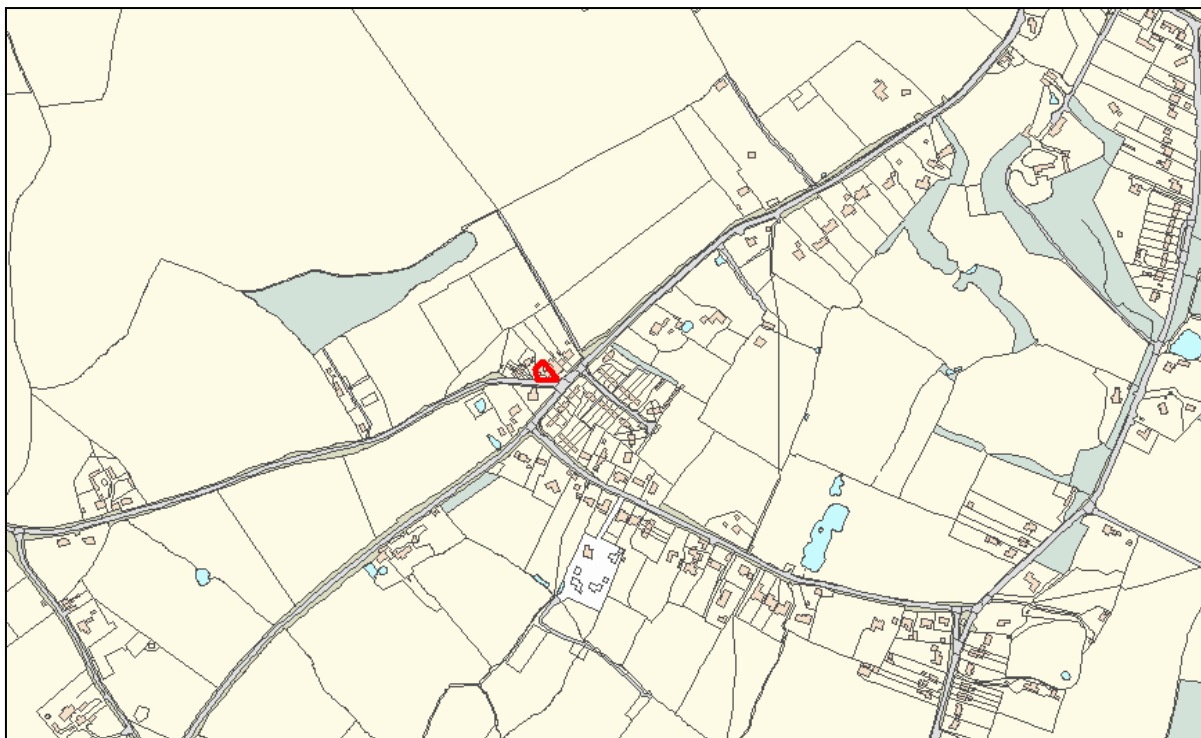


Figure 1: Site Location Plan

Proposal

4. This application is to vary condition 5 of application reference 19/00801/AS (Erection of a 2-storey detached dwelling (retrospective) to retain the existing Yew tree hedge behind dwarf wall along boundary with street and its future maintenance at a height of no lower than 1.5m)

5. Condition 5:

“ A 1.5 m high native hedge shall be planted behind the dwarf wall along the boundary with the street in the next planting season following the date of this decision. It shall be maintained at no lower than 1.5m. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.”

Reason: *In order to protect and enhance the amenity of the area.*

6. The following information is in support of the application:

The justification for our application is that the existing hedge which was planted over a year ago has already reached a height of 1m. The RHS website states that English Yew would be expected to grow a minimum of 300mm per annum and would soon reach the height required by the condition.

The Council's justification for the condition being to protect and enhance the amenity of the area. However, investigation has shown that the hedge on the neighbouring property (Thore Cottage) is only maintained at 1.15m and consequently we feel that the Council's condition to remove and replant the hedge is both excessive and unreasonable. It is our submission that the existing hedge already reflects the character of the area and will some date reach the height of the neighbouring hedge – see accompanying plan and photographic evidence. We would however confirm that the applicant would be prepared to maintain it in the future at a height of no lower than 1.5m

7. This application seeks to amend the wording of the condition to allow for the retention of the existing Yew tree hedge and maintain it at a height no lower than 1.5m.
8. Figure 2 below shows the location of the hedge (at B) – approximately 1m in height - and also, by way of comparison, an adjoining hedge a bit further along the street (at A), which is 1.1m in height. Figure 3 is a photograph of the hedge as it is today.

16/00529/AS - Variation of condition 3 on planning approval 15/01008/AS to revise the approved plans to reduce the footprint and re orientate the rear wing
APPROVED 3/6/16

19/00801/AS – Erection of a two-storey detached dwelling (retrospective)
APPROVED 17/9/19

Consultations

Ward Member: The ward member fully supports the objections made by the Parish Council and has asked that the application be reported to the Planning Committee.

Parish Council – Objects to this proposal. It is considered this is the latest attempt to avoid Conditions imposed. Both the Local and Neighbourhood Plan require that new homes are "of a layout, design and appearance that is appropriate to and is compatible with the character and density of the surrounding area". This dwelling fails on all counts. The Condition of a hedge of at least 1.5m height is to have a quantum of greenery that softens this adverse impact. The bushes the applicant has installed, of notoriously slow-growing yew, are only 0.6m high. Indeed, only 0.4m is visible due the wall in front of it. This is wholly inadequate. Many of the plants look as though they are dying and it would be several years before the required height is met.

(DMM Comment: The wall is 510mm high at one end and 290mm high.at the other. The applicant has confirmed that the Yew tree hedge is approximately 1m in height. As can be seen from the recent photo above it extends well above the wall at all points.)

Neighbours

A total of 7 neighbours were consulted; 4 representations have been received, 3 raising objections and 1 in support.

The objections are as follows:

- The design of the property is widely disliked locally and the loss of the original 2m hedge is considered a huge loss as it would have better screened the property and reduced its visual impact;
- The replacement hedge is wholly inadequate at providing sufficient screening to lessen the visual impact of the house. It fails to provide any softening of the frontage. The condition is a minimal requirement and should be enforced;
- The existing hedge will not survive as it is planted too close to the dwarf wall with inadequate space;

- The applicant is failing to deliver on the negotiated condition agreed under 19/00801/AS to help mitigate for the impact of the development.

The letter of support maintains that the objections 'are petty' (although it is noted that this letter is not from a local resident).

Planning Policy

9. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).
10. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
11. The relevant policies from the Local Plan relating to this application are as follows:-

Ashford Local Plan 2030:

ENV3a - Landscape character and design

Pluckley Neighbourhood Plan:

R1 – Landscape character and design

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

Supplementary Planning Guidance/Documents

Landscape Character Assessment

Village Design Statements

Pluckley Village Design Statement

Government Advice

National Planning Policy Framework (NPPF) 2019

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.
National Planning Policy Guidance (NPPG)

Assessment

Background

13. Planning permission for a detached 4 bed dwelling was approved in September 2014 for a building with a traditional elevational treatment (14/00959/AS). A year later, planning permission was approved for a detached dwelling with a contemporary design (15/01008/AS). The planning conditions in respect of this permission were discharged in September 2015 under 15/01008/CONA/AS. These included approval of a landscaping strategy which showed a 650mm Yew hedge long the frontage with the street.
14. A new planning application was submitted for an amended scheme in 2016 (16/00529/AS) of a similar contemporary design. This was approved subject to the same conditions. The property was built as per the amended scheme but without discharging any of the conditions.
15. In May 2019 a retrospective application was submitted to discharge the conditions but with the three year deadline before the planning permission was due to expire this could not be achieved within time. On the advice of officers the applicant withdrew the application to discharge conditions and made a new retrospective planning application for the dwelling.
16. A retrospective application (19/00801/AS) was subsequently submitted. The application was approved in September 2019 subject to the aforementioned condition 5 (see above). This sought to provide more robust planting with the street by replacing the Yew Tree hedge with more mature specimens (1.5m in height). A condition on this permission also required the dwarf wall to be painted grey – a more recessive colour that would also be more appropriate adjacent to a main road.
17. This variation of condition application seeks to amend the wording of condition 5 to allow for the retention of the Yew Tree hedge and to maintain it at no lower than 1.5m rather than replace it.

Principle of development

18. The principle of development has already been established by the extant permissions on this site.

The Hedge

19. Policy ENV3a requires development in the rural areas to be designed in such a way which protects and enhances the particular landscape character area within which it is located.
20. The existing English Yew tree hedge is considered to be an appropriate boundary treatment in this part of rural Kent. Whilst it is still low in height (approximately 1m), and does not provide the degree of screening of the property from the street that a number of residents would like, a Tree Report submitted with the application has shown it to be generally in good health and establishing well. According to the report, two saplings have died due to mechanical (not environmental) damage and the intention is to replace these with saplings of a similar size. The report indicates that by leaving the vertical leaders unpruned the hedge can be expected to reach a height of 1.5m in a reasonable time (12-18 months approximately).
21. The Council's Tree Officer has confirmed that Yew grows at about 400mm per year and would provide a good screen going forward that is appropriate in this rural context.
22. Whilst I appreciate residents' concerns about the overall loss of vegetation on this boundary and their desire for replacement planting with a similar impact, I am satisfied that the proposed hedge would, within the next 12-18 months provide a robust boundary treatment with the street that is in keeping in this rural setting and compliant with condition 5 of the planning permission.
23. I therefore consider that this proposal to amend the wording of the condition to retain the existing Yew tree hedge and to maintain it at no lower than 1.5m is an acceptable change. Indeed to remove this hedge at this stage and height of growth and replace it with larger specimens could be counterproductive. Plants tend to generate, grow and sustain themselves when planted at a young age and allowed to mature within their environment. To replace this hedge with a new (slightly taller) hedge could result in the new hedge struggling to establish itself, potentially failing and needing to be replaced. The section of hedge in question is relatively short in length, as can be seen in figure 2, and would soften rather than screen the development. As such allowing the existing hedge to mature naturally over the next year or so would seem a reasonable and sensible compromise, following which it would need to be retained and maintained at a minimum height of 1.5m

Residential amenity

24. 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.

25. This proposal would not impact upon residential amenity.

Other issues

26. This application only concerns changes to the wording of condition 5. No other changes are proposed.

Human Rights Issues

27. 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

28. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

29. This application relates solely to the variation of the wording of condition 5 of application 19/00801/AS which requires the removal of the newly planted Yew tree hedge and its replacement with a 1.5 high native hedge. The rewording proposed would allow for the retention of the Yew tree hedge and its maintenance no lower than 1.5m.
30. I am satisfied that the existing Yew hedge would provide an appropriate boundary treatment going forward, and in a reasonable period of time, and may well be the most sustainable option in the medium to long term going forward to soften the development. The length of hedge is relatively short and not intended to screen the development. I therefore conclude that the wording of the condition can be amended in a satisfactory manner to reflect this.

31. Should members grant planning permission this would result in the issuing of a brand new planning permission that sits beside the existing permission. For this reason all relevant conditions from application 19/00801/AS need to be reimposed.

Recommendation

PERMIT

Subject to the following Conditions and Notes:

(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).

1 The development shall be carried out in accordance with the plans listed in the planning approval reference 19/00801/AS under the section of this decision notice headed Plans/Documents Approved by this decision.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

2 The drainage works shall be maintained in accordance with the details approved under application reference 19/00801/AS.

Reason: In order to reduce the impact of the development on flooding, manage run-off flow rates, protect water quality and improve biodiversity and the appearance of the development.

3 The vehicle and cycle parking provided in accordance with Drawing No. PC11 of decision 19/00801/AS shall be retained for ancillary parking of motor vehicles and access to the facility shall not be precluded.

Reason: Development without provision of adequate accommodation for the parking of vehicles and cycles is likely to lead to parking inconvenient to other road users.

4 The electric vehicle charging point shall be retained available, in a working order for the charging of electric vehicles.

Reason: To take into account the cumulative impacts of development on air quality and to encourage the use of sustainable transport modes including incorporation of facilities for charging plug-in vehicles.

5 The existing Yew tree hedge shall be maintained at a height no lower than 1.5m (within 24 months of the date of this decision). Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.

Reason: In order to protect and enhance the amenity of the area.

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no development shall be carried out within Classes A-E of Part 1 and Class A of Part 2 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior approval of the Local Planning Authority.

Reason: In the interests of protecting the character and amenities of the locality.

7 The rendered dwarf wall along the road frontage shall be maintained in a dark grey colour in perpetuity.

Reason: In the interest of visual amenity.

8 The bound surface shall be permanently maintained for the first 5m of the access from the edge of the highway.

Reason: To ensure that no gravel or other material is taken from the site onto the neighbouring highway by wheels of vehicles leaving the site to the detriment of highway safety.

9 The cycle and bin stores shall be retained and kept available for such uses for the duration of this development.

Reason: To promote sustainable transport and in the interests of visual amenity.

10 The development approved shall be made available for inspection, at a reasonable time, by the Local Planning Authority to ascertain whether a breach of planning control may have occurred on the land (as a result of departure from the plans hereby approved and the specific terms of this permission/consent/approval).

Reason: In the interests of ensuring the proper planning of the locality, the protection of amenity and the environment, securing high quality development through adherence to the terms of planning approvals and to ensure community confidence in the operation of the planning system.

Note to Applicant

1. Working with the Applicant

Working with the Applicant

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative 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

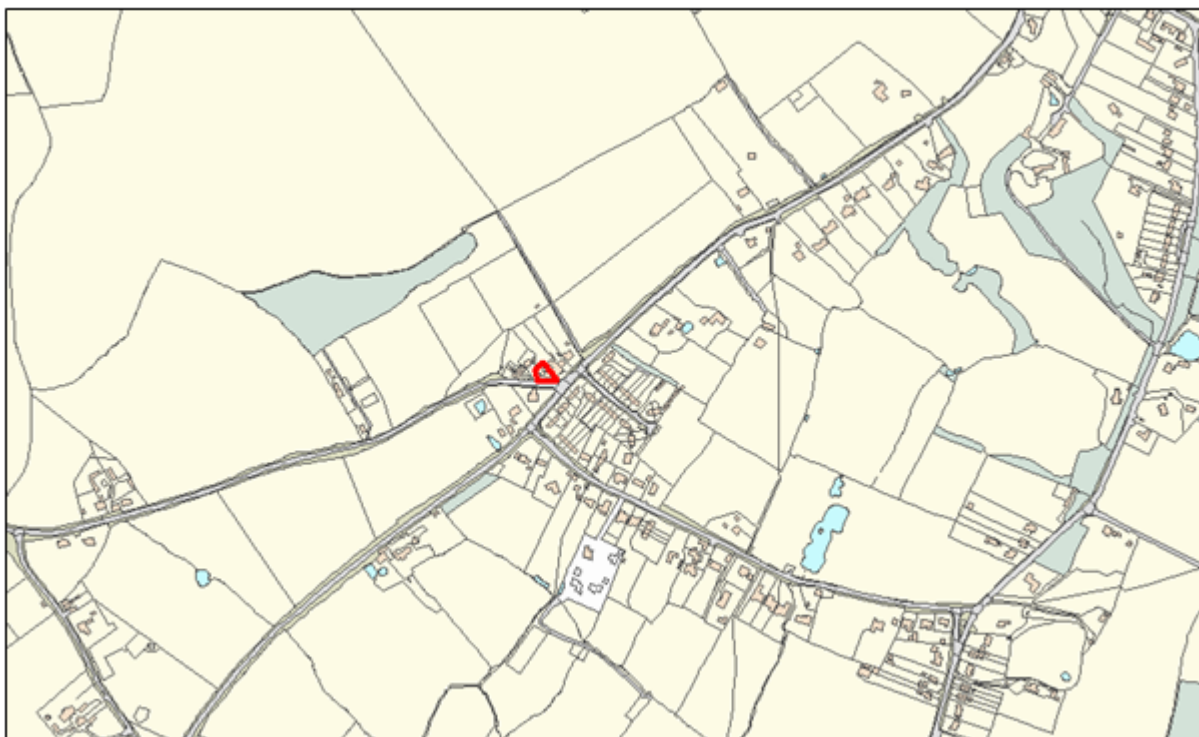
- the application was acceptable as submitted and no further assistance was required.
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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 20/00200/AS)

Contact Officer: Katy Magnall
Email: katy.magnall@ashford.gov.uk
Telephone: (01233) 330259

Annex 1



This page is intentionally left blank

Application Number	20/00353/AS
Location	Carlton Business Park, Carlton Road, Ashford, Kent
Grid Reference	00118/42821
Parish Council	None
Ward	Victoria Ward
Application Description	Variation of condition 33 of planning permission 18/01843/AS.

Condition 33 existing:

There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0600 hours or after 2200 hours Monday to Friday and on Saturdays before 0600 hours or after 1800 hours and at any time on Sundays, Public and Bank Holidays.

The proposed variation would increase Saturday opening until 2200 hours and on Sundays, Public and Bank Holidays between 0900 hours and 1600 hours.

Condition 33 as proposed:

There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0600 hours or after 2200 hours Monday to Saturday and on Sundays, public or Bank Holidays before 0900 hours or after 1600 hours.

Applicant	Ashford Borough Council, Corporate Property and Projects, Civic Centre, Tannery Lane, TN23 1PL		
Agent	None		
Site Area	2.23 hectares		
(a) 21/R	(b) -	(c)	EHM – X, CACF - S

Introduction

1. This application is reported to the Planning Committee because the Council owns part of the site (the industrial units and the Aspire Landscape depot)

Site and Surroundings

2. The site comprises a former factory site recently redeveloped to provide the following:
 - 28 industrial units (B1c/B2/B8) on 1.3ha of land (Plot 3)
 - A grounds maintenance depot occupied by Aspire (Plot 1).
 - A ready mix concrete and satellite aggregate depot (Plot 2).
 - Internal spine road and improved access points off Carlton Road and Brunswick Road.
3. Construction of the industrial units and infrastructure is complete. The grounds maintenance depot is occupied.
4. The site is located along the edge of the Cobbs Wood Industrial estate, at the corner of Carlton Road and Brunswick Road. Cobbs Wood lies to the south west of Ashford Town Centre.
5. The Channel Tunnel Rail link adjoins the north-eastern boundary of the site and, together with the domestic railway line separates it from an established residential neighbourhood further to the north-east.
6. The site location is shown in **Figure 1** below. The location of the industrial units (plot 3) within the context of the overall site is outlined in red in **Figure 2**. **Figure 3** further below shows the completed industrial units at Plot 3. The planning application proposes a variation to the way that Plot 3 units can be used. Plots 2 and 3 shown on Figure 2 are subject of other planning conditions that are not proposed to be varied.



Figure 1: Site Location (plot 3 industrial units)



Figure 2: Location of Plot 3 within the wider site (outlined in red)



Figure 3: Plot 3 industrial units as completed.

Proposal

7. The application is made under section 73 of the Town and Country Planning Act to vary condition 33 of the operative outline planning permission (18/001843/AS). This condition is relevant to plot 3 only (the industrial units).

8. The wording of condition 33 is currently as follows.

There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0600 hours or after 2200 hours Monday to Friday and on Saturdays before 0600 hours or after 1800 hours and at any time on Sundays, Public and Bank Holidays.

9. The proposed change to the wording of condition 33 is as follows:

There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0600 hours or after 2200 hours Monday to Saturday and on Sundays, public or Bank Holidays before 0900 hours or after 1600 hours.

10. The changes proposed would allow the units to operate on Sundays and Bank Holidays within a limited timeframe and would increase the hours of operation on a Saturday by bringing them in line with the already approved operational hours for Monday – Friday.

11. The application description has been amended during the course of this application to make it clearer as to what is being applied for. A full reconsultation with neighbours was carried out and a site notice was displayed outside of the site for a period of 21 days.

12. Further, the application has been amended by the applicant changing the proposed Sunday and Bank/Public Holiday operating hours from 0900 – 1700 hours to 0900 – 1600 hours to bring them in line with Sunday trading hours.

13. In support of the application, the applicant has submitted the following information which has been summarised for this report.

Supporting Letter dated 05 March 2020

SL1. The Carlton Road Business Park (Plot 3) was developed on part of the site of the former Rimmel Factory. The remainder of the factory site became a ready mix concrete plant and satellite aggregate depot for Gallagher Aggregates (Plot 1) and the grounds maintenance depot for Ashford Borough

Council (Plot 2). Plots 1 and 2 are now fully operational and Plot 3, the Business Park, which comprises 28 industrial units, has 1 unit occupied.

SL2. The units have been built and completed to a high specification and provide new, modern industrial accommodation for a variety of industrial tenants. However, after over a year of marketing the units, only one has been let. The main reason for this is that prospective tenants have been put off signing leases because the current planning permission does not allow them to operate from the premises on Sundays and Saturday evenings.

SL3. The businesses who would be taking the premises are local, small and medium sized enterprises and they require the flexibility to run their operations 7 days a week.

SL4. The letting agent, Altus Group, confirm the exiting issues. A letter is submitted with the application to this effect.

SL5. The layout of the units is such that the main terrace of units (no's 23 to 29) sits adjacent to the boundary with the railway line, helping block noise (that might come from the remainder of the estate) to the north-east. In addition, just beyond the fence line, a new tree belt has been planted to help visually screen buildings.

SL6. An acoustic assessment and site survey has been undertaken by Able Acoustics and is submitted with this application. The acoustic report concludes that, even with full occupancy of the units, there would be no noise disturbance.

SL7. It is recognised that the operation that is likely to generate the most noise activity is on the Gallagher Aggregates depot and the hours of operation for this plot will still be limited in accordance with Condition 21 on the outline planning permission (18/001843/AS).

SL8. The Ashford Local Plan 2030 contains a number of policies supporting economic development in the town namely SP3 and EMP2.

SL9. The overall site has been occupied by Ashford Borough Council for the grounds maintenance depot and by Gallagher Aggregates for the concrete batching plant as well as a few of the units on the Business Park for over 12 months (with one occupied currently) and in that period there have been no complaints made to the Environmental Health Officer regarding any noise disturbance from the site overall.

SL10. When the site was occupied by the Rimmel Factory, there were no restrictions imposed on the operation of that business.

Letter from Altus Group dated 26 March 2020

AG1. Altus Group are experiencing difficulty in letting the new units on this Business Park, which has been marketed since June 2018. One of the recurring reasons given by potential occupiers is that there is a planning restriction relating to the hours of operation.

AG2. Altus Group understand that the last planning application for the complete removal of the restriction was refused and, in these circumstances, support this application on the basis of the impact that it will have. Increasing the hours of operation is the next best option and will, without doubt, improve the marketability of the units.

AG3. Evidence of potential lettings that have fallen away are available on request.

Acoustic Assessment October 2019 & Summary Report February 2020

AA1. Summary of findings

The British Standard assessment concludes a **low impact** associated with the proposed variation of the planning condition.

In turn, National Planning Policy Guidance provides a noise exposure hierarchy table, which details what action is appropriate to planning decisions regarding noise. In this case, a low impact translates to a **present and not intrusive** response, and to **no observed adverse effect with no specific measures [being] required to manage the acoustic environment**.

Accordingly, in line with national guidance, noise should not be a ground for refusal of the application in respects to the assessed activities.

AA2. The assessed impact

When considering the result of the assessment, the noise emitted is compared to the background noise level (level exceeded for 90% of the time) at the residential premises, and also considered against the ambient noise level (the overall noise) at the residential premises.

The assessed impact was:

Day-time	-1dB below background
	-12dB below ambient

The noise from the activities, when considered at the residential premises, is below both the background noise levels, and significantly below the ambient noise level.

Indeed, with the impact being more than 10dB below the ambient noise level at residential premises, the noise from the activities assessed would not increase the overall noise levels that would be experienced by residents.

In terms of acoustics, it is worth considering that a difference of 3dB would be considered as just perceptible by the human ear, whilst a change of 10dB would be perceived by humans as halving/doubling of loudness.

AA3. Noise concern

Despite the result, concerns about noise have been raised. This is perhaps not surprising where there are heavy industries in the immediate vicinity that are currently subject to complaint to the relevant authorities. Specifically these include operations that would not be permitted at the Carlton Business Park, for example scrap metal recycling sites, waste transfer stations, waste sorting stations etc.

AA4. The robustness of the assessment

The noise assessment exaggerated the noise emitted from the business park in order to provide a worst-case scenario, this included:

- All smaller units generating internal noise levels of 85dB_(A) all day and night.
- Larger units (№ 23-29) have been broken up into respective areas, with a 85dB_(A) noise level at 25% on-time for night-time and 50% on-time for daytime.
- The buildings being simple steel frames, with 1mm profiled metal cladding, and one layer of internal plasterboard.
- 230 lorry movements between 0600-1900 hours, and, 22 between 1900-0600 hours on the basis few businesses would ordinarily be expected to staff the premises to receive regular deliveries throughout the evening and the night.
- All vehicles would exit the site along Carlton Road heading northwards.
- A forklift working in continual operation in the area at the front of units № 23 to 29.
- All units having at least 1 non-silenced air conditioning unit.

The assessment also took into account existing controls not subject to the request for variation including;

- No external storage
- No external processing

Applying a realistic scenario, and demonstrating the robustness of the assessment, it should be noted that;

- The smaller units would not be subject to continuous internal noise levels of 85dB_(A) 24 hours a day.
- The larger unit noise levels have more realistic on times applied.
- The construction of the buildings (and their ability to contain sound) was underestimated
- A higher than expected level of HGV movements were included.
- HGVs are liable to travel away from the site in both directions, and not all in the direction of residents (northwards along Carlton Road)
- The use of a forklift in continual 24hr operation external to units № 23-29 is not likely to occur.
- It is unlikely all units will be air conditioned, let alone all with non-silenced units.

AA5. Conclusions

The results of the assessment indicate that potential 24 hour operation from the application site as a result of removing the relevant planning condition would result in a low impact when assessed using BS 4142:2014.

It is concluded there are no further reason on noise grounds why the relevant planning condition may not be removed.

[SDDM comment: Notwithstanding that conclusion, 24 hour operation is not being sought through the variation of the planning condition.

Letter of support from the Central Ashford Community Forum dated 14 October 2019

“On 1 October the Ashford Borough Council Commercial Development and Regeneration Manager provided the Forum with a thorough presentation outlining the current situation with regard to the industrial units to include: the operating hours of similar units operating within the Cobb Wood Industrial Estate; the current operating hours restrictions placed upon the units owned by ABC and addressed in the planning application; and the impact those restrictions have on the commercial viability of the units. The presentation was followed by an extensive question and answer session where the Forum’s Trustees were able to clarify all concerns they had regarding the planning application and the possible impact on the surrounding communities.

As Ashford continues to experience residential growth, the forum recognises the need for a commensurate level of commercial growth, job creation and support of local businesses. We believe the flexibility achieved through changing the allowable operating hours of these units, in line with the submitted planning application, would help achieve these aims.

In our capacity of representing the needs of the local community, the forum is also very interested in seeing a return on the £6.5 million investment of local funds ABC made in these industrial units. By lifting the operating hours restrictions, and thusly allowing the ABC owned units to support business operations in line with other units within the Cobb Wood industrial complex, we hope ABC is able to achieve the full commercial potential of the units and see a positive return on investment on behalf of the Ashford residents.

In providing this support we feel the need to highlight two areas of concern and would ask that they are addressed as a condition of our support.

The first area of concern is the potential use of the bus and taxi gate on Carlton Road by the units' tenants, something we are keen to avoid. Therefore, we would ask that tenants are required to submit and adhere to travel plans for accessing the site as part of their tenancy agreement. Additionally, we would like to see additional control measures on this access point to ensure it is not being used by unauthorised vehicles.

Secondly, we are very aware that local residents, especially those in the Sackville Crescent and Kings Avenue area, have concerns about the increased noise levels that might be experienced if the operating hours are extended. We are also concerned about the potential noise impact the change to operating hours might have on the local residents. During our 1 October meeting with ABC we were informed that most, if not all, of the other units operating within the Cobb Wood Industrial estate have no restriction placed on their operating hours. Therefore, it is believed, that extending the operating hours for these 28 units within the larger industrial complex, should not significantly increase noise levels experienced by local residents.

In order to assess the noise impacts on the local residents, we were informed that the council is having an acoustics survey completed to inform the application decision. The second condition of our support for this application is, therefore, the council undertakes any noise mitigation strategies proposed in the survey prior to the units being allowed to operate outside of their current restricted hours.

We want to thank ABC for their time and effort in addressing this planning application and issue surrounding it to the Central Ashford Community Forum. We look forward to working with ABC on this and future endeavours”.

[SDDM comment: This letter was originally submitted in support of the previous planning application (19/01213/AS) which proposed to remove condition 33 rather than vary it as is currently proposed].

Planning History

The most recent and relevant planning history is detailed below:

16/00562/AS - Hybrid application permitted for the following:

1. Outline planning permission for 12 industrial units (B1c/B2/B8) on 1.3ha with all matters except access reserved.
2. Full planning permission for a grounds maintenance depot and a ready mix concrete and satellite aggregate depot, internal spine road and improved access points off Carlton Road and Brunswick Road.

16/00652/AMND/AS – Application to amend the layout of the industrial units to allow for the creation of a greater number of smaller start up units in place of large units together with increased parking provision. The amended masterplan provides a reduced 4,554m² of GEA and 92 marked car parking spaces, including 17 disabled car parking spaces. This amendment was granted.

17/00675/AS - Reserved matters application for details of appearance, layout, scale and landscaping to plot 3 pursuant to outline permission granted under 16/00562/AS.

17/01727/AS – Application to vary condition 25 of application 16/00562/AS permitted to vary BREEAM target rating from 'Very Good' to 'Good'. The decision notice replaces that of 16/00562/AS.

18/01843/AS - Variation of condition 33 on planning permission 17/01727/AS relating to plot 3 (industrial units) amending the hours of operation. The application was approved and the decision notice replaces that of 17/01727/AS and it is condition 33 of this permission that the current application seeks to vary. Condition 33 stated:

'There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0600 hours or after 2200 hours Monday to Friday and on Saturdays before 0600 hours or after 1800 hours and at any time on Sundays, Public and Bank Holidays.'

19/01213/AS - Removal of Condition 33 on planning permission 18/01843/AS relating to plot 3 (industrial units) in relation to hours of operation to allow 24 hour use of the industrial units. **This application was refused on the 09 January 2020.**

Consultations

Ward Members: Neither of the Ward Members, Councillor Suddards and Councillor Farrell, have commented on this application and are not Members of the Planning Committee. Council Farrell has requested that the application is decided by the

Planning Committee however under the Councils scheme of delegation it falls to be determined by the Planning Committee in any event.

Environmental Protection Manager: Raises no objection following a review of the application details.

Central Ashford Community Forum: Support the application stating the following:

“On 1 October 2019 the Ashford Borough Council Commercial Development and Regeneration Manager provided the Forum with a thorough presentation outlining the current situation with regard to the industrial units to include: the operating hours of similar units operating within the Cobb Wood Industrial Estate; the current operating hours restrictions placed upon the units owned by ABC and addressed in the planning application; and the impact those restrictions have on the commercial viability of the units. The presentation was followed by an extensive question and answer session where the Forum’s Trustees were able to clarify all concerns they had regarding the planning application and the possible impact on the surrounding communities.

As Ashford continues to experience residential growth, the forum recognises the need for a commensurate level of commercial growth, job creation and support of local businesses. We believe the flexibility achieved through changing the allowable operating hours of these units, in line with the submitted planning application, would help achieve these aims. We note the requested hours in this application is a reduction from the request of 24 hour operations which was previously requested and denied. We feel these newly requested operating hours strikes the right balance between promoting commerce and industry in Ashford, while still protecting the residential interests.

In our capacity of representing the needs of the local community, the forum is also very interested in seeing a return on the £6.5 million investment of local funds ABC made in these industrial units. With the current and projected economic conditions derived from the COVID-19 crisis, we feel recuperation of this investment is of even greater importance to the residents of Ashford than was previously the case. By lifting the operating hours restrictions, and thusly allowing the ABC owned units to support business operations in line with other units within the Cobb Wood industrial complex, we hope ABC is able to achieve the full commercial potential of the units and see a positive return on investment on behalf of the Ashford residents.

We understand the concerns the local residents have regarding the potential increase in noise associated with the expanded hours of operations. However, we would note the results of the October 2019 Acoustic Assessment of Carlton Road industrial estate which address these concerns. The assessment notes that the worst case potential sound levels for both daytime and nighttime operations is well below the current residual levels of noise for the residential area. The conclusions from the assessment were “that potential 24 hour

operation from the application site as a result of removing the relevant planning condition would result in a low impact when assessed using BS 4142:2014””.

Neighbours consulted, **21** letters of objection received. Issues summarised below:

1. There is constant noise everyday audible from homes, as well as the beeping of reversing vehicles.
2. It should have been good business practice that the proprietors of Carlton Business Park were aware of the current conditions. They accepted them and chose to go ahead with their project.
3. It is completely unacceptable, insensitive, unprofessional and un-neighbourly to now wish residents no respite at all from the noise generated from the Business Park.
4. It is unrealistic to say there will be no noise from a group of units the size of Carlton Business Park, taking into account the extra vehicular traffic alone.
5. It is the Council’s job to protect residents.
6. The area is noisy enough and the only relief residents get is at the weekends when it is quieter.
7. This application to change the hours of operation to 7 days a week in these business units is totally unacceptable.

[SDDM comment: 24/7 use is not being proposed under the current proposals].

8. These units are very close to a densely populated residential area of Sackville Crescent, Kings Avenue, the Western end of Godinton Road and the lower part of Western Avenue.
9. If the original condition was placed on the permission to protect the residential amenity of the locality, what has changed?
10. Allowing this proposal would be detrimental to residential amenity and result in additional noise and disruption.
11. All the existing industries on Cobbs Wood are closed on Sundays so why should an exception be made for these Business units which are adjacent and located in the closest part of the Industrial Estate to the residential area?

[SDDM comment: the units located on the Cobbs Wood industrial estate beyond the application site are not subject to hours of use conditions and can lawfully operate on Sundays should the occupiers so wish].

12. It is unbelievable that a typical user of these units would want to operate outside of the existing approved hours of operation.

[SDDM comment: It is likely that occupiers would not operate within the full scope of the hours of operation as now is being proposed. The change, however, is requested by the applicant to provide flexibility for occupiers if that is required]

13. A similar application (for 24/7 operation) was refused by the Planning Committee previously.
14. This application is a stage towards the ultimate aim of introducing 24/7 working.
15. Since Carlton Road was constructed, KCC have allowed three waste recycling sites to start up in Brunswick Road. These are now becoming a constant source of complaints from residents across a wide area of adjacent housing.

[SDDM comment: These noise complaints are not generated by the occupation of the Carlton Road units given that they are largely unoccupied. A waste recycling plant could not operate from the Carlton Business units without the need for planning permission for such a use].

16. Many residents are shift workers in NHS and care activities plus families with young children.
17. Noise from the site is already a nuisance and extending the hours of operation will make this worse. Pollution is also unacceptable.

[SDDM comment: Existing noise complaints are not related to the Carlton Road units which are largely unoccupied. This application does not seek to extend the operating hours of any of the other sites within the Cobbs Wood Industrial Estate].

18. The planned additional units will make the current situation worse.

[SDDM comment: There are no planned additional units. The units already exist].

19. On the 30th April the noise pollution from the site was extensive.

[SDDM comment: It is not clear which site is referred too given that the application site is largely unoccupied and there is no record of noisy activities taking place on that day]

20. Currently, the noise made by units on the Cobbs Wood industrial estate can be heard through closed windows and doors; these extended working hours for Cobbs Wood will impact on residents ability to have uninterrupted rest.

[SDDM comment: This application does not seek to extend the hours of operation for the Cobbs Wood Estate. This application seeks to extend the operating hours of the newly constructed Carlton Road Business Units at Plot 3 only.]

Planning Policy

14. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).
15. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
16. The relevant policies from the Local Plan relating to this application are as follows:-
 - SP1** – Strategic objectives
 - SP3** – Strategic approach to economic development
 - SP6** – Promoting high quality design
 - EMP1** – New employment uses
 - EMP2** – Loss of redevelopment of employment site and premises
 - TRS3(b)** – Parking standards for non-residential development
 - ENV1** – Biodiversity
 - ENV4** – Light pollution and promoting dark skies
 - ENV6** – Flood risk
 - ENV9** – Sustainable drainage
17. The following are also material considerations to the determination of this application.
 - Government Advice**
 - National Planning Policy Framework (NPPF) 2019
18. 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:-

19. Paragraph 80 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
20. Paragraph 180 states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
 - a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
 - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
 - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Assessment

21. An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission.
22. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. In this instance a decision notice describing the new permission would be issued, setting out all of the conditions related to it. To assist with clarity, a decision notice for the grant of planning permission pursuant to an application made under section 73 also repeat the relevant planning conditions from the original planning permission, unless they have already been discharged.

23. Members should note that a section 73 application is not an opportunity to reconsider the planning merits of the original application. The local planning authority can only consider the question of the conditions subject to which planning permission should be granted. If Members decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, then they should grant planning permission accordingly. If Members decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, then they should refuse the s.73 application.
24. Policy SP3 of the Local Plan states that job growth and economic prosperity will be supported within the Borough by taking a positive approach to economic development.
25. The proposed change would allow future and existing tenants of the small industrial units at Plot 3 flexibility to accommodate their needs and working practices. This accords with the broad economic aims of the NPPF which seeks to ensure that the planning system helps to build a strong, responsive and competitive economy by supporting growth, improved productivity and innovation.
26. Although it is anticipated that the majority of tenants would operate under 'normal' working hours there might, however, be some that would wish to work up to 2200 hours Monday to Saturday (they already can Monday to Friday) and for a limited time on Sundays/Bank Holidays should the need arise. The applicant's proposed revised condition would allow this to happen to provide greater flexibility for prospective tenants.
27. The industrial units at Plot 3 are located a comparable distance from existing residential properties as other established units within the Cobbs Wood estate.
28. I note the comments of objectors. The applicant has commissioned an independent acoustic assessment in response to these concerns. The results of the assessment indicates that an increase in operating hours from the application site as a result of varying the planning condition concerned would result in a low impact when assessed using BS 4142:2014. As such, the acoustic assessment concludes that there are no noise reasons why the condition should not be amended.
29. Although I recognise that the original planning condition was imposed with the objective of protecting residential amenity, the reasons behind that need to be understood.
30. Condition 33 was attached to the grant of permission following an agreement with the then applicant, rather than objective assessment of the acoustic impacts, because at that time an acoustic assessment had not been

submitted with the application. There has now been an objective acoustic assessment conducted in accordance with the relevant British Standards to determine the actual impacts of this part of the development. This assessment has clearly demonstrated that the variation that is sought could be approved without being detrimental to the amenity of local residents. The Council's Environmental Protection Officer has considered the assessment and agrees with its findings. If this type of assessment had been provided at the time of original application by the then applicant, then it is unlikely that such a condition would have been recommended (or, if not recommended but attached at the request of the Planning Committee, have been able to be justified as being a reasonable restriction).

31. Turning to the comments made by some objectors to the proposal it is clear that there is a misunderstanding as to which site this application relates. Several comments refer to increasing the hours of operation within the Cobbs Wood Estate: this is incorrect as this application only seeks to amend the hours of operation within the Carlton Business Park Plot 3 units which are identified at the beginning of this report.
32. In addition, a number of objectors have referred to existing noise complaints and noise and pollution currently being generated by this site. Given that at the time of submission there was one tenant and no recorded noise complaints associated with the operation of the Carlton Business Plot 3 units it appears that this may be a reference to industrial units elsewhere within the Cobbs Wood estate. Noise generated from units outside of this application is not material to the determination of the current application.
33. In the light of the above and taking into account the additional conditions that were imposed under the outline planning permission that seek to limit noise disturbance (such as the use restrictions and the fact that industrial processing can only take place within buildings), I am satisfied that the proposal is acceptable and would not cause unacceptable harm through noise and disturbance to residents of the nearest residential properties. The Council's Environmental Protection officer raises no objection to the application.
34. Furthermore, noise and other environmental matters that may give rise to a statutory nuisance should be reported to the Council's Environmental Health department for investigation and can be dealt with under the provisions of the Environmental Protection Act 1990 as is appropriate.
35. Accordingly, I conclude that the new employment premises already constructed at Plot 3 would not have an unacceptable impact on neighbouring residential occupiers if operated in accordance with the proposed amended condition. The proposal would therefore comply with the objectives of Policy EMP1 of the Local Plan. I therefore recommend that the application is granted.

Human Rights Issues

36. 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

37. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

38. The development would comply with the requirements of the Development Plan as a whole and would not represent a departure from it.
39. The impact of the proposal upon residential amenity is acceptable. The new employment premises already constructed at this part of the site would not have an unacceptable impact on neighbouring residential occupiers operated in accordance with the proposed amended condition and the proposal would therefore comply with the objectives of Policy EMP1 of the Local Plan.
40. The proposal would improve the potential for generating employment opportunities, which is in line with the aims and objectives of the NPPF and policy SP3 of the Local Plan, which seeks to promote economic growth and support businesses.

Recommendation

Permit

Subject to the following Conditions and Notes (re-imposed from 18/01843/AS where still relevant):

(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the

planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).

1 Condition number not used.

2 Condition number not used.

3 Condition number not used.

Site wide conditions (plots 1, 2 & 3)

Drainage

4. The approved drainage system (16/00526/CONB/AS and 17/01727/CONB/AS) shall be maintained in accordance with the approved details and shall be retained in working order until such time as the development ceases to be in use.

Reason: In order to reduce the impact of the development on flooding, manage run-off flow rates, protect water quality and improve biodiversity and the appearance of the development pursuant to Core Strategy Policy CS20 Sustainable Drainage.

Construction Management Plan

5 All details of the approved construction management plan dated 28 June 2016 shall be adhered to during the construction period.

Reason: To ensure provision of adequate off-street parking for vehicles and in the interests of highway safety and to protect the local amenity.

Landscaping

6 The approved landscaping/tree planting scheme (16/00562/COND/AS) shall be carried out fully within 12 months of the completion of the development. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.⁷

Reason: In order to protect and enhance the amenity of the area.

Ecology

7 Development shall be carried out in accordance with the recommendations of the Reptile Survey Report carried out by Ecology Solutions dated September 2015 unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance existing species and habitat on the site in the future.

Parking

8 The area shown on the approved drawings as vehicle parking space and turning shall be provided before the uses are commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users.

9 Condition number not used.

10 Condition number not used.

Plot 1 (grounds maintenance)

Lighting

11 No further external lighting shall be installed without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual and residential amenity and Dark Skies SPD

12 All external lighting shall be extinguished outside of the hours of 06.00 - 18.00 Mondays to Saturdays.

Reason: In the interests of visual and residential amenity and the Dark skies SPD

Use

13 The premises/site shall be used for the purposes of a grounds maintenance depot and not for any other purpose whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 2005 or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order.

Reason: In order to preserve the amenity of the locality.

Hours of use

14 There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded, within the grounds maintenance depot before 0600 hours or after 1800 hours

Mondays to Saturdays: or at any time on Sundays, Public and Bank Holidays.

Reason: To protect the residential amenity of the locality.

Bicycle storage

15 The approved bicycle storage facilities shall be retained and made available for use.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety.

16 Condition number not used.

Plot 2 (concrete batching depot)

Lighting

17 The approved external lighting shall be retained and maintained as approved and no further lighting installed without the written permission of the Local Planning Authority.

Reason: In the interests of residential amenity.

18 All external lighting shall be extinguished outside of the hours of 07.00 -17.30 Monday to Friday and 07.00 - 13.00 on Saturdays.

Reason: In the interests of visual and residential amenity and the Dark skies SPD

Bicycle parking

19 The approved bicycle storage (16/00562/AS) shall be retained in perpetuity.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety.

Use

20 The premises/site shall be used for the purposes of the use approved and not for any other purpose whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 2005 or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order.

Reason: In order to preserve the amenity of the locality.

21 With the exception of no more than 12 occasions in each calendar year, there shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0700 hours or after 1730 hours Mondays to Friday, 0700 hours or after 1300 hours on Saturdays: or at any time on Sundays, Public and Bank Holidays.

Reason: To protect the residential amenity of the locality.

Plot 3 (industrial units)

22 Condition not used

Lighting

23 The approved lighting shall be retained and maintained as approved and no further lighting installed without the written permission of the Local Planning Authority.

Reason: In the interests of residential amenity.

24 All external lighting shall be extinguished outside of the hours of 0600 hours-1800 hours Monday to Saturdays.

Reason: In the interests of visual and residential amenity and the Dark skies SPD

25 BREEAM

a) part a) discharged under 17/01727/CONA/AS

b) Unless otherwise agreed in writing by the Local Planning Authority, the following shall be submitted to and approved in writing by the Local Planning Authority within 6 months of work commencing on a given phase:-

i) A feasibility study to establish the most appropriate local low and zero carbon ("LZC") technologies to install and which shall be in accordance with the feasibility study requirements set out within

BREEAM 2011 New Construction (or subsequent equivalent requirements),

ii) Simplified Building Energy Model ("SBEM") calculations from a competent person stating the estimated amount of carbon emissions from energy demand with and without LZC technologies installed,

iii) A BREEAM 'Design Stage' report and related certification produced by a registered assessor, and

Details of the measures, LZC and other technologies to be used to achieve the BREEAM standard and credit requirements specified above.

c) Thereafter, the development shall be carried out in accordance with the approved report and details and the approved measures and LZC and other technologies for achieving the BREEAM standard and credit requirements specified above shall thereafter be retained in working order in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

d) Unless otherwise agreed in writing by the Local Planning Authority, within three months of occupation of the new buildings hereby approved the applicant shall have submitted to and approved in writing, parts 0 and 0 below by the Local Planning Authority for that building:

i) SBEM calculations from a competent person stating (i) the actual amount of carbon emissions from energy demand with the LZC technologies that have been installed and what the emissions would have been without them and (ii) the actual amount of residual carbon emissions, and a BREEAM 'Post Construction Stage' report and related certification produced by a registered assessor confirming the BREEAM standard that has been achieved and the credits awarded under Ene4.

Reason: In order to (a) achieve zero carbon growth and ensure the construction of sustainable buildings and a reduction in the consumption of natural resources, (b) seek to achieve a carbon neutral development through sustainable design features and on-site low and/or zero carbon technologies and (c) confirm the sustainability of the development and a reduction in the consumption of natural resources and to calculate any amount payable into the Ashford Carbon Fund, thereby making the development carbon neutral, all pursuant to Core Strategy policy CS10, the Sustainable Design and Construction SPD and NPPF.

Landscaping/trees

26 The approved tree planting scheme and maintenance schedule (to include the planting of trees as shown on either approved drawing numbers GMDT005 or GMDT006) as approved under 16/00562/COND/AS, shall be carried out fully within 12 months of the completion of the development. Any trees which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.

Reason: In order to protect and enhance the amenity of the area.

Highways

27 Prior to the commencement of the development the proposed new access gate and crossover for HS1 and gas board maintenance shown on drawing GH-102-TP-01 shall be provided in accordance with the approved plans and maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the protection of the HS1 asset.

Bicycle parking

28 The approved bicycle storage shall be completed prior to occupation of the development and shall thereafter be retained.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety.

Use

29 The premises/site shall be used for the purposes of B1(c), B2 and B8 and not for any other purpose whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 2005 or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order.

Reason: In order to preserve the amenity of the locality.

30 No mezzanine floor space shall operate independently from the ground floor of the unit in which it is located.

Reason: In order to preserve the amenity of the locality.

31 Industrial processing shall only take place in the buildings identified on the approved plans.

Reason: In order to preserve the visual character of the site and the amenity of the surrounding area.

32 There shall be no storage on the site other than within a building.

Reason: In order to preserve the visual character of the site and the amenity of the surrounding area.

33 There shall be no servicing of the buildings, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded before 0600 hours or after 2200 hours Monday to Saturday and on Sundays, Public or Bank Holidays before 0900 hours or after 1600 hours.

Reason: In order to balance enhanced flexibility for intended occupiers of the units at Plot 3 with the context of the site and nearby uses.

HS1

34 The works bulleted below shall be carried out only in accordance with the approved details (16/00562/CONF/AS):

- Hard and Soft landscaping arrangements for HS1 maintenance strip
- Adjustments to errant vehicle protection barrier and access gates to be compliant to standards and approved by KCC highways and evidence provided.

- Impact assessment for loads on tunnels.

Reason: The planning application does not contain the detail needed to identify potential effects upon the integrity, safety, security, operation, maintenance and liabilities of HS1 and HS1 Property.

35 The foundations and other works proposed below existing ground level shall be carried out in compliance with the approved details (16/00562/CONF/AS) unless previously agreed in writing by the Local Planning Authority in consultation with HS1.

Reason: To ensure that loads on, and settlement of, HighSpeed1 tunnels, structures, track and other infrastructure do not prejudice the safety or operation of HighSpeed1.

36 The approved special measures (16/00562/CONF/AS), to identify and protect HighSpeed1 or UK Power Networks buried services shall be shall only take place in compliance with approved measures unless the Local Planning Authority in consultation with HS1 has previously agreed in writing to any change.

Reason: No such details have been provided. These services are crucial to the operation of HighSpeed1

37 Works relating to size, loading and proximity to HighSpeed1 of additional ground loads such as stockpiles shall be shall be carried out in conformity with the approved details (16/00562/CONF/AS) unless the Local Planning Authority in consultation with HS1 has previously agreed in writing to any change.

Reason: To ensure that the stability of HighSpeed1 tunnels, structures, track and other infrastructure is not prejudiced.

38 Activities likely to cause vibration in the vicinity of HighSpeed1 infrastructure such that a peak particle velocity (PPV) of 5mm/s may be exceeded at the railway boundary will be subject to agreement in advance in accordance with the approved details (16/00562/CONG/AS) in consultation with HS1.

Where activities could give rise to PPV of 5mm/s or greater, a vibration and settlement monitoring regime shall be submitted in writing to for approval by the Local Planning Authority in consultation with HS1. It shall be put in place prior to the start of works. HS1 shall be provided reasonable access to the results of monitoring

Reason: No details of vibration have been provided. To ensure that vibration does not prejudice safety, operation and structural integrity of HighSpeed1.

Other (plots 1, 2 & 3)

39 The development shall be carried out in accordance with the plans listed in the section of this decision notice headed Plans/Documents Approved by this decision, unless otherwise agreed by the Local Planning Authority.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

40 The development shall be made available for inspection, at a reasonable time, by the local planning authority to ascertain whether a breach of planning control may have occurred on the site (e.g. as a result of departure from the plans hereby approved and/or the terms of this permission).

Reason: In the interests of ensuring the proper planning of the locality and the protection of amenity and the environment, securing high-quality development through adherence to the terms of planning approvals, and ensuring community confidence in the planning system

Note to Applicant

1. Working with the Applicant

Working with the Applicant

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative 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 acceptable as submitted and no further assistance was required.
- The application was dealt with/approved without delay.

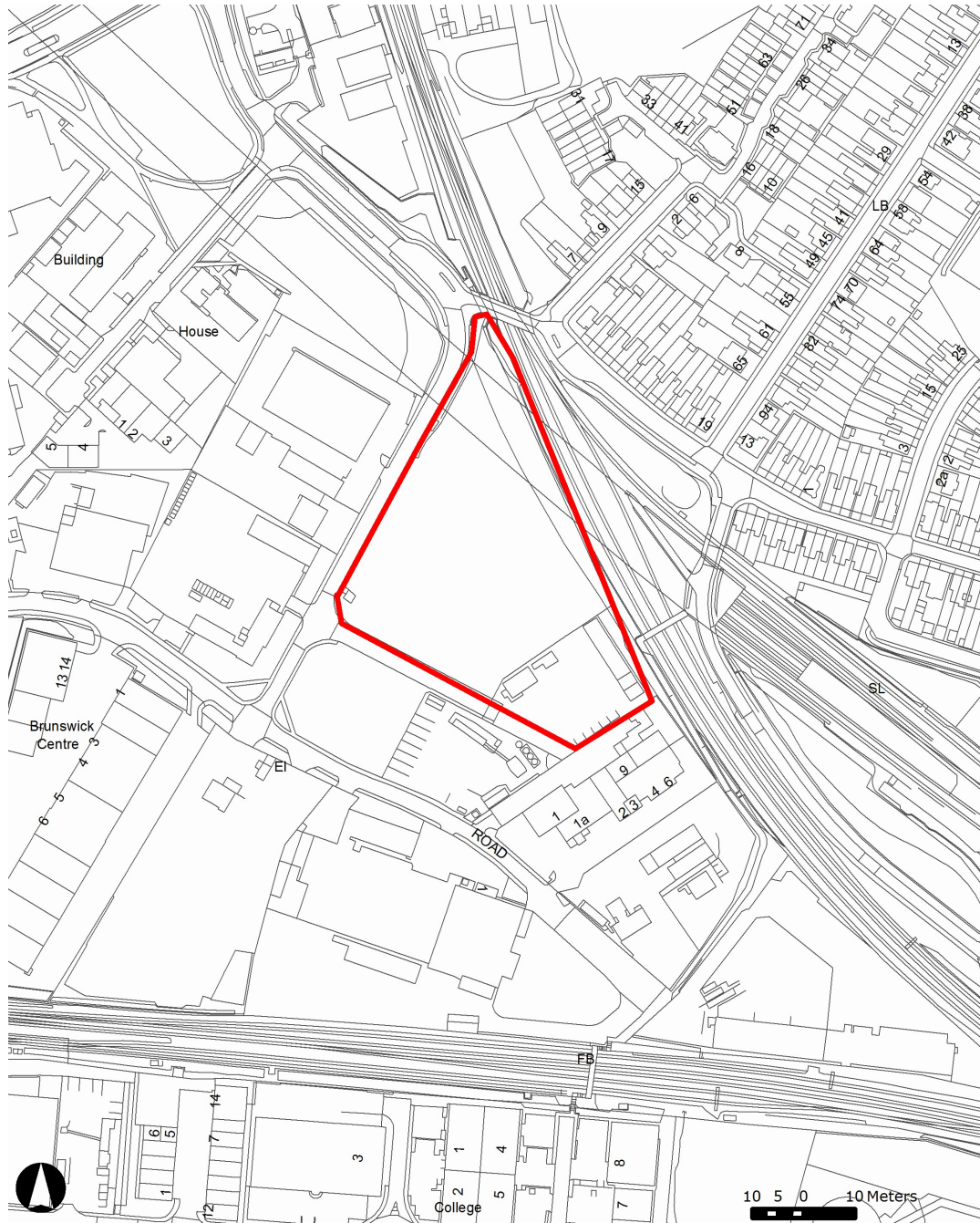
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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 20/00353/AS)

Contact Officer: Alex Stafford
Email: alex.stafford@ashford.gov.uk
Telephone: (01233) 330248

Annex 1



This page is intentionally left blank

Application Number	20/00473/AS	
Location	Unit 5, Elwick Place, Elwick Road, Ashford, TN23 1AX	
Grid Reference	00793/42500	
Ward	Victoria	
Application Description	Change of use from a vacant restaurant / cafe / drinking establishment (Class A3 / Class A4) to a flexible planning permission within Class V of the Town and Country Planning (General Permitted Development) Order 2015 for an office (Class B1) or restaurant / cafe/ drinking establishment (Class A3 / Class A4)	
Applicant	Mr Bourne, Stanhope PLC, c/o Agent	
Agent	Mrs C Clarke, Savills, Embassy House, Queens Avenue, Bristol, BS8 1SB	
Site Area	0.04 ha	
(a) 7/0	(b) -	(c) AAG/R

Introduction

1. This application is reported to the Planning Committee because the Council owns the retail unit subject to this change of use application.

Site and Surroundings

2. The application site is located at the Elwick Place development on Elwick Road in Ashford town centre. Elwick Place is a recent mixed use development comprising, among other facilities, a cinema, hotel, gymnasium, and food and beverage units.
3. The proposal involves a vacant ground floor unit of 436 sq. metres with permission for an A3/A4 (restaurant or café/drinking establishment) use. The location of unit 5 is located on the site location plan (see **figure 1**).

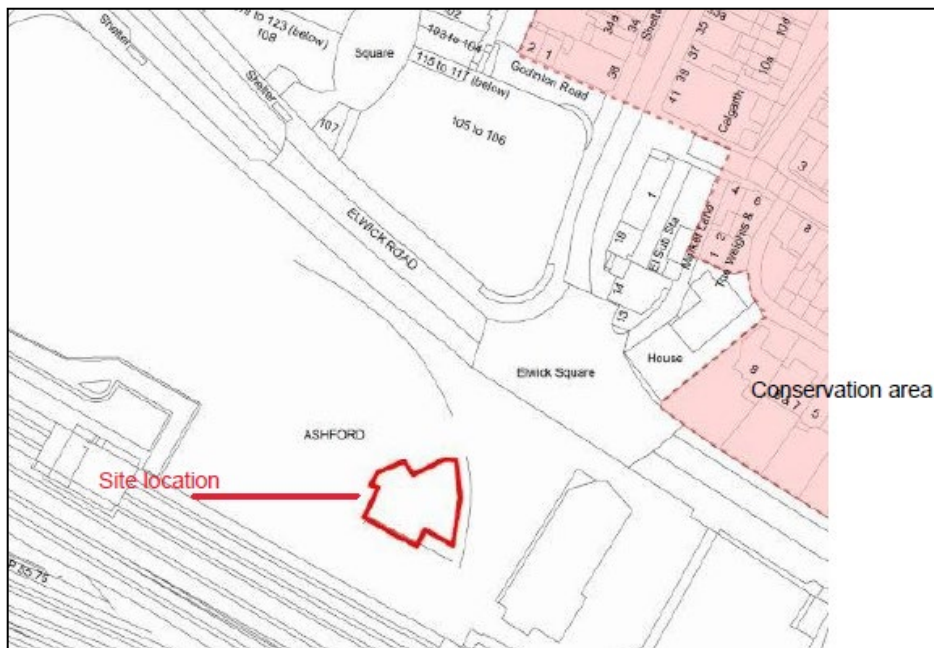


Figure 1 – Site location

4. **Figure 2** below locates the unit in relation to part of the wider Elwick Place development. Current development at Elwick Place represents Phase 1. Development of Phase 2, granted outline planning permission, would comprise residential development located to the south east of Phase 1 on Elwick Road. Unit 5 adjoins the ground floor circulation areas of both the cinema entrance and gymnasium. The unit is accessed from the public open space that adjoins Elwick Square and the hotel site.

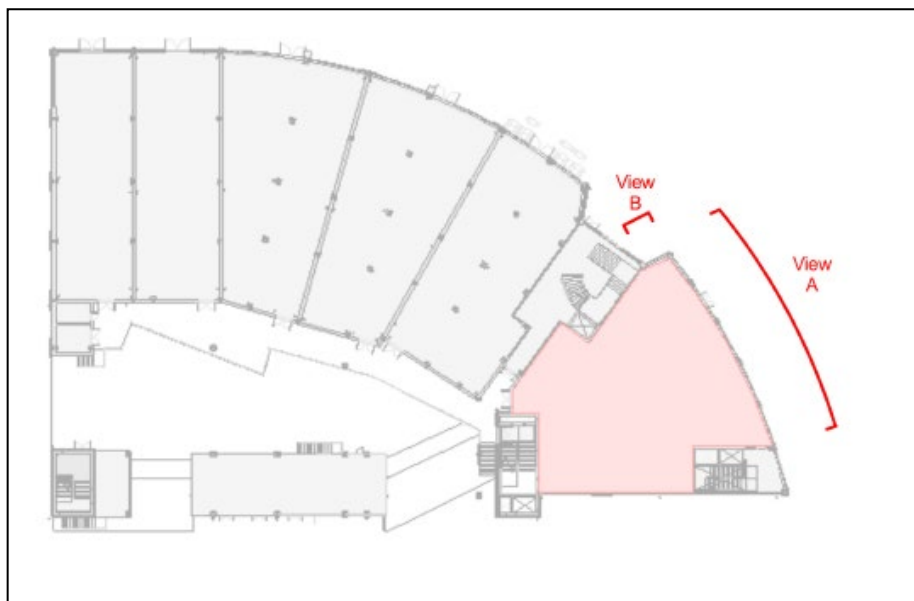


Figure 2 – Location within Elwick Place development

5. The Ashford town centre conservation area is located on the opposite side of Elwick Road approximately 60 metres distant (see **figure 1**).

Proposal

6. The proposal is for the use of unit 5 as an office (under Class B1 of the Town and Country Planning (Use Classes) Order 1987) or a restaurant/café or drinking establishment (under Classes A3/A4 of the Order), as previously approved (see planning history).
7. The applicant has emphasised that a flexible planning permission is proposed in accordance with the provisions of Class V of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) (England) (as amended) ('GPDO'), whereby uses granted permission can alternate during a ten year period. At the end of this ten year period, whichever use is in operation would become the lawful use.
8. The proposal only seeks to establish the change of use of the unit, and any future external or visual changes or alternations, including advertisements, would be sought separately through applications by future occupiers.

Planning History

15/01195/AS – Planning permission was granted in December 2015 for a mixed use development comprising restaurants and cafes (Class A3), a hotel (Class C1), leisure and assembly, including a cinema (Class D2), a car park, associated highway works, vehicle access, infrastructure, plant, car and cycle parking and landscaping (Phase 1).

15/01195/AM01/AS – A non-material minor amendment application was approved in November 2018. This application increased the number of ground floor units and established unit 5 to be either an A3 or A4 use.

Consultations

Ward Members: Cllr Farrell and Cllr Suddards have not commented in relation to this application. Neither councillor is a Member of the Planning Committee.

Neighbours: 7 consulted. 0 comments received.

Ashford Access Group comment:-

'Though the red line indicating Site seems to exclude entrance area, it will be necessary for this entrance to be flush from the pavement to allow w'chair access.'

Will the ABC supervise the construction of steps and ramp? the drg merely states 'potential' This also will need to comply with regs., and to have suitable handrails, each side. with 390mm return to assist the poorly sighted. steps should be suitably marked. There is no WC provision shown. It will be necessary to provide Accessible WC. If it is to be an eating/drinking establishment there are certain requirements as to the arrangement and style of seating.'

[SDDM comment: The principle of a change of use of the unit is the sole matter under consideration. If external / internal changes prove to be needed in respect of the accessibility issues that the Group raise then these would either require a further application for planning permission or, if purely internal, would be considered pursuant to the building regulations.]

Planning Policy

9. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).
10. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
11. The relevant policies from the Local Plan relating to this application are as follows:-
 - SP1 – Strategic Objectives
 - SP3 – Strategic Approach to Economic Development
 - SP5 – Ashford Town Centre
 - SP6 – Promoting High Quality Design
 - EMP1 – New Employment Uses
 - EMP6 – Promotion of Fibre to the Premises (FTTP)
 - EMP7 – Primary and Secondary Shopping Frontage in Ashford Town Centre
 - TRA3b – Parking Standards for Non-residential Development

TRA6 – Provision for Cycling

12. The following are also material considerations to the determination of this application:
- Transport issues
 - Residential and visual amenities
 - Provision of fibre broadband and waste services

Government Advice

National Planning Policy Framework (NPPF) 2019

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:-
14. Paragraph 48 states in relation to the stages of preparing a Local Plan that:
- “Local planning authorities may give weight to relevant policies in emerging plans according to:
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”
15. Paragraph 80 states that “planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.”

16. Similarly, paragraph 85 states that planning decisions should “support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation”.

Assessment

Principle

17. The Ashford Local Plan 2030 highlights the important role that Ashford town centre provides for the local economy and emphasises the desire of a thriving town centre that benefits from an ‘all-day economy’. As part of this wider vision, job creation would bring spending power during the day and evening, helping to drive opportunities for leisure uses.
18. The unit benefits from planning permission for Class A3 or A4 (café/restaurant or drinking establishment) uses and so the principle of that element of the applicant’s proposal has already been accepted.
19. Construction at the site was completed in late-2018 and unit 5 has so far remained unoccupied. Paragraph 80 of the NPPF identifies that planning decisions should help create the conditions where businesses can invest or adapt in order to build on the economic strengths of an area. This particular application would accommodate an additional use option for Unit 5 and would therefore allow adaptation of the unit to suit a wider range of potential occupiers than was originally envisaged.
20. Class V of Part 3 of Schedule of 2 of the GPDO aims to promote flexibility between approved uses. The planning permission applied for would allow for future occupiers to carry out Class A3/A4 or B1 office uses throughout the course of a ten year period. The uses could alternate between the 3 elements during this period and whichever use is in operation at the end of the ten year period would then become the lawful use of the Unit from that point on.
21. The Ashford Local Plan 2030 policy EMP1 allows the reconfiguration of new employment premises in the town centre providing that the character of the development would be acceptable without causing harm to residential occupiers, and that any related transport considerations are carefully considered. These criteria are considered further below.
22. Additionally, it should be noted that the application site is located within the primary shopping area, but not primary or secondary shopping ‘frontage’ in the town centre (wherein the focus is maintain Class A (retail) uses). The preamble to policy EMP7 of the Ashford Local Plan 2030 states that the role of Ashford town centre;-

“cannot solely rely on its function as a shopping destination. The town centre should be a place that residents and visitors want to visit ... for other purposes such as business...”.

23. With this in mind, an office use would be acceptable as a matter of principle by broadening the town centre’s role. Moreover, office uses in the town centre would contribute towards maintaining footfall which can further enhance the viability of retail and food & drink uses. If planning permission is granted, future A3 or A4 uses would not be precluded and remain an option at the site along with the flexibility for B1 office use.

Transport issues

24. Parking provision has previously been addressed in relation to the A3 and A4 approved use classes of the previous scheme (see the planning history section). The previous scheme resulted in the development of a large car parking facility adjacent to Elwick Place phase 1. There are also various other vehicular parking facilities nearby.
25. Notwithstanding the above, the unit is located in a highly sustainable location within a short walking distance of the railway station and town centre bus stops. The location of the site would encourage visits by public transport and active travel modes.

Residential amenity

26. The application site is located within Elwick Place and is surrounded by other business uses. The nature of the proposed use would not lend itself to creating a significant level of noise or other disturbance. In the light of this, there would be no adverse impact caused to the residential amenity of the locality.

Other considerations

27. All applications for new employment premises in the Ashford urban area require the delivery of a fibre to the premises broadband connection, in accordance with local plan policy EMP6. As such, a relevant planning condition will be attached to the decision ensuring that a FTTP broadband connection has been provided prior to the occupation of the unit.
28. In terms of waste collection, a central bin store is located in the service yard to the rear of the site. Waste collection would be arranged by the occupier.
29. There are no external changes proposed in the application to the existing building and therefore no adverse impact caused to the locality or the

character of the nearby conservation area. Proposals for external changes or advertisements would be considered at a later stage through the appropriate processes. Proposals that would have an adverse impact on the design quality of the building would be unlikely to be acceptable.

Human Rights Issues

30. 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

31. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

32. I am satisfied that the proposal would comply with the requirements of local policy and relevant paragraphs of the NPPF in respect of promoting vibrant town centres. No material considerations outweigh the principle of the development in policy terms which is one that I consider would be acceptable. I recommend that planning permission is granted subject to conditions.

Recommendation

Permit

(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).

Subject to the following Conditions and Notes:

Proposed conditions:

1. Standard time condition
2. Carry out development in accordance with the approved plans
3. Restrict Use Class
4. Make premises available for inspection
5. Fibre to the premises condition

Working with the Applicant

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative 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 application was acceptable as submitted and no further assistance was required.
- 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 online](#) pages under planning application reference 20/00473/AS)

Contact Officer: Will McKane
Email: William.McKane@ashford.gov.uk
Telephone: (01233) 330249

Annex 1

