



## PLANNING COMMITTEE

Notice of a Meeting, to be held in the Council Chamber - Ashford Borough Council on Wednesday, 16th February, 2022 at 7.00 pm.

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The Members of the Planning Committee are:-

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

Cllrs. Anckorn, Bell (ex-Officio non-voting), Chilton, Clokie, Harman, Howard, Howard-Smith, Ovenden, Shorter, Sparks, Anckorn, Iliffe, Mulholland, Bell (ex-Officio) and Meaden

If any member of the public, Councillor or organisation wishes to submit any written, pictorial or diagrammatic material 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](mailto:Planning.help@ashford.gov.uk), **before 3.00 pm on the second working day before the Meeting** so that it can be included or summarised in the Update Report at the Meeting, in the interests of transparency and fairness. Otherwise, the material cannot 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 FOR THE PUBLIC ABOUT THIS MEETING

Subject to Coronavirus risk assessments and procedures, a very small number of members of the Press and public can register to attend and observe the Meeting in person (without speaking at it), on a first-come, first served basis.

To register to attend and observe the Meeting on this basis, please email [membersservices@ashford.gov.uk](mailto:membersservices@ashford.gov.uk). You will be sent details of the procedures established by the Council in order to manage the risk of COVID-19 at the Meeting, which may include requirements such as to wear face coverings, and to not attend the Meeting if you are affected by any relevant circumstances relating to COVID-19. You will be expected to confirm your agreement to these requirements prior to attendance. However, instead of attending and observing in person, **the Council encourages everyone to take advantage of the opportunity to watch and listen to the proceedings at the Meeting via a weblink, which will be publicised on the Council's website at [www.ashford.gov.uk](http://www.ashford.gov.uk) about 24 hours 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 arrangements made for public participation in the Meeting.

### **Summary of Public Participation for Planning Committee Meetings after 6 May 2021**

In line with legal requirements, and subject to Coronavirus risk assessments and procedures:-

- A small number of members of the Press and public can register to attend and **observe** the meeting in person;
- In addition, seats in the meeting room are provided for those who register to **speak** on each item<sup>1</sup>, by following the procedure below:-

1. **Written notice of a wish to speak at the meeting** (by means of the procedure below) **must be given, either to [membersservices@ashford.gov.uk](mailto: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 meeting.**

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

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

2. **Registering to speak at the meeting confers the right to submit (and, if desired, make in person) a speech** as follows:-

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<sup>1</sup> Speakers may be asked to wait elsewhere until the item on which they are to speak is called.

- (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 the Parish Council<sup>2</sup> or Community Forum affected by an item for decision.

3. **All those registered to speak must submit to [membersservices@ashford.gov.uk](mailto:membersservices@ashford.gov.uk), by 10:00 hours on the day of the meeting, a copy of their speech in written, legible English.**

Speeches must be no longer than 400 words, printed in 12-point non-italic sans-serif font (e.g. Arial); any text above 400 words will not be read out. No speech should contain personal data about individuals, other than the speaker's name and (if relevant) postal address.

Any registered speakers who do not submit their speeches as above are not permitted to speak at the meeting (even if present in person).

#### 4. **At the meeting:-**

- ) Speakers who are **present in person** may read their previously-submitted speeches when called to do so, but may not read any other material;
- ) If speakers are **not present in person**, their previously-submitted speeches will be read to the meeting by a competent Officer for and on behalf of the speakers, at the normal times and in the normal order (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 meeting by an Officer, each speaker accepts by submitting the speech to be fully responsible for all consequences thereof and to indemnify the Officer and the Council accordingly.

#### 4. **Officers' Deferral/Withdrawal of Reports**

#### 5. **Minutes**

To approve the Minutes of the Meeting of this Committee held on 19th January 2022:

[\(Public Pack\)Minutes Document for Planning Committee, 19/01/2022](#)

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<sup>2</sup> The term "Parish Council" includes Town Councils and Community Councils.

**6. Schedule of Applications**

- |     |  |         |
|-----|--|---------|
| (a) | <b>21/01970/AS - 15 Hillcrest Close, Kennington, Ashford, Kent, TN24 9QT</b>   | 5 - 14  |
|     | Proposed 2 storey rear and front extensions  |         |
| (b) | <b>21/02093/AS - 23 to 34 Little Chequers, Wye, Ashford, Kent, TN25 5DZ</b>  | 15 - 22 |
|     | Proposed Installation of External Wall Insulation With Brick-Effect Finish.  |         |
| (c) | <b>21/02094/AS - 21 to 34 Newtown Green, Ashford, Kent, TN24 0PE</b>   | 23 - 30 |
|     | Reconfiguration of Entrance Doorways for Disabled Access and Replacement of External Tile Hanging With Cladding.   |         |
| (d) | <b>21/00253/TP - Repton Manor, Repton Avenue, Ashford</b>  | 31 - 52 |
|     | T1 Copper Beech - Dismantle/Fell due to proof of subsidence to nearby building. Treat remaining stump with Eco Plug Max stump treatment. Replant with up to 3no. replacement trees a suitable distance away from building. |         |
| 7.  | <b>TPO/21/00007 - Garage area to the rear of 17 and 18 Glebe Close, Smarden</b>  | 53 - 68 |
|     | Confirmation of Tree Preservation Order No. 7, 2021  |         |

**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

10 February 2022

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

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## 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](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.**



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<sup>2</sup> The term "Parish Council" includes Town Councils and Community Councils.

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<b>Application Number</b>	21/01970/AS	
<b>Location</b>	15 Hillcrest Close, Kennington, Ashford, Kent, TN24 9QT	
<b>Grid Reference</b>	02444 / 44748	
<b>Parish Council</b>	Kennington (Community Council)	
<b>Ward</b>	Kennington Ward	
<b>Application Description</b>	Proposed 2 storey rear and front extensions	
<b>Applicant</b>	Mr Watts, 15 Hillcrest Close, Kennington, Ashford, Kent, TN24 9QT	
<b>Agent</b>	N/A	
<b>Site Area</b>	0.06 ha	
(a) 4/-	(b) X	(c)

## Introduction

1. This application is reported to the Planning Committee because the applicant is a relative of a staff member at the Council.

## Site and Surroundings

2. The application site comprises a two-storey semi-detached dwelling located on Hillcrest Close which lies within the Ashford urban area. The dwelling is set back from the road by approximately 12 metres which is the general arrangement of most of the properties located on Hillcrest Close. The site is not within any designated areas.



Figure 1- Site Location Plan

## Proposal

3. The proposal seeks full planning permission for a two storey front and two storey rear extension. The materials would be brick and tile to match the existing dwelling.

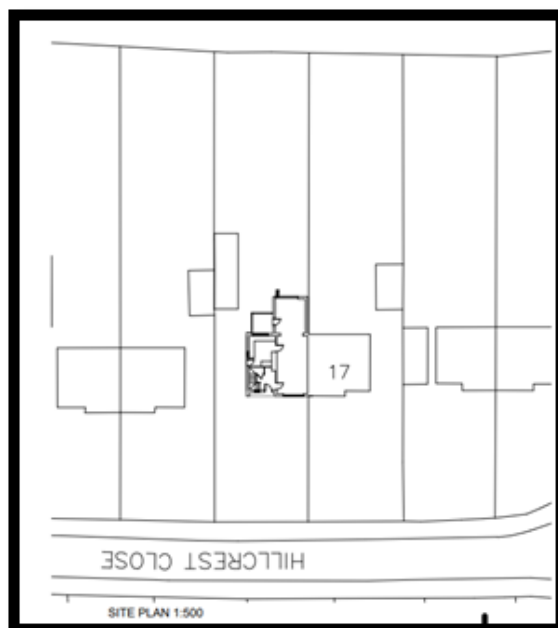


Figure 2- Existing Site Plan

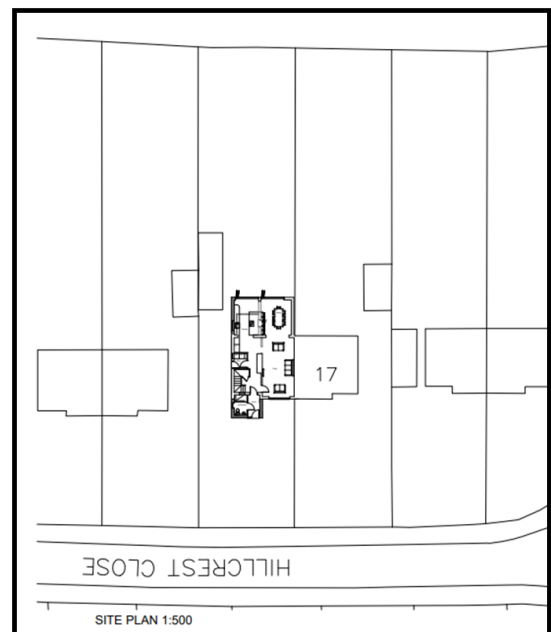


Figure 3- Proposed Site Plan



Figure 4- Existing Rear Elevation



Figure 5- Proposed Rear Elevation

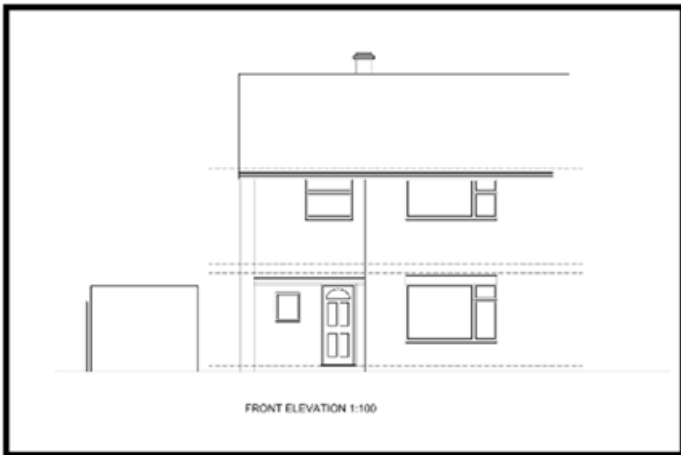


Figure 6- Existing Front Elevation



Figure 7- Proposed Front Elevation



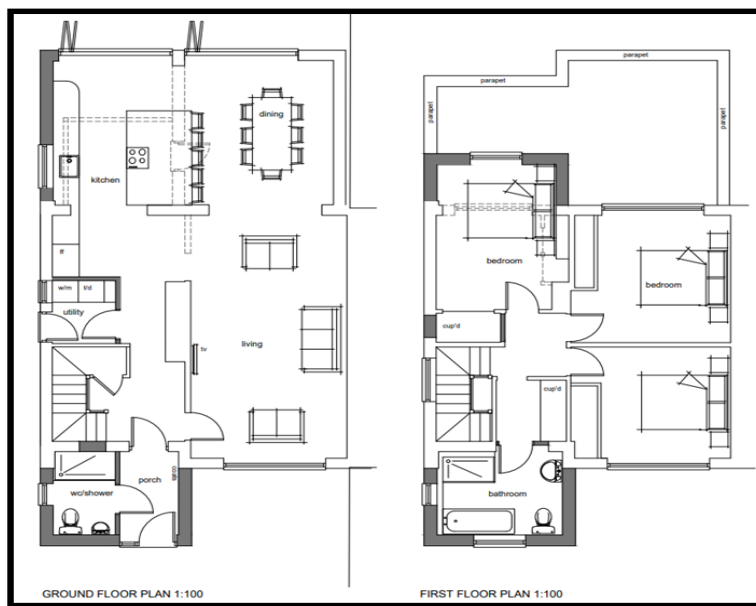
Figure 7- Existing Side Elevation



Figure 8- Proposed Side Elevation



**Figure 9- Existing Ground and first Floor Plan**



**Figure 10- Proposed Ground and first Floor**

## Consultations

**Ward Member:** Is a member of the Planning Committee.

**Kennington Community Council:** Responded raising no comment.

**4 Neighbours:** No representations received.

## Planning Policy

4. The Development Plan for Ashford Borough 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) as well as the Kent Minerals and Waste Early Partial Review (2020).
5. The relevant policies from the Development Plan relating to this application are as follows:-  
  
Ashford Local Plan 2030 (adopted February 2019)  
  
SP1 – Strategic Objectives  
  
SP6 – Promoting High Quality Design  
  
HOU8 – Residential Extensions  
  
TRA3a- Parking Standards for Residential Development
6. The following are also material considerations to the determination of this application.

### **Supplementary Planning Guidance/Documents**

Residential Parking and Design SPD

Supplementary Planning Guidance Note 10 (Domestic Extensions in Urban and Rural Areas)

### **Government Advice**

National Planning Policy Framework (NPPF) 2021

7. 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 NPPF. The NPPF states that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 130, Planning policies and decisions should ensure that developments:

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

## **Assessment**

8. The key issues for consideration are:

- Visual amenity
- Residential amenity
- Highway Safety

### **Visual amenity**

9. The front extension extends by approximately 2 metres and it would sit below the ridge height of the existing dwelling. The roof is hipped on all sides and the materials are to match the existing dwelling and those other properties along Hillcrest Close. The extension is set well back in relation to the road which softens the appearance of the extension and further reduces its impact in the street scene. It is also worth noting that there is an example of an almost identical extension, as well as a large number of single storey front extensions, in the vicinity of the site.
10. The two storey rear extension sits adjacent to the existing single storey rear extension. The first floor part of the extension extends by approximately 1.3 metres and the ground floor part extends by approximately 4 metres. The ridge height would remain lower than the existing dwelling and is an appropriate and visually subordinate addition that is not readily visible from any public vantage points.
11. In light of the above the proposal is acceptable in visual amenity terms.

### **Residential amenity**

12. No neighbour representations have been received in relation to this proposal. The front and rear extensions as a result of their size, design and siting would not give rise to any unacceptable harm in terms of appearing overbearing or resulting in overlooking of neighbouring dwellings.



13. The proposal is acceptable in respect of its impact upon the residential amenity of neighbours.

### **Highway Safety**

14. The proposed development would not generate the need for any additional off-road parking as there would be no increase in the number of bedrooms.

## **Human Rights Issues**

15. 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**

16. 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**

17. The development is acceptable in visual, residential amenity and highway safety terms. The proposed development complies with the Development Plan and does not give rise to any unacceptable harm. As such I recommend that planning permission is granted.

## **Recommendation**

### **Permit**

**Subject to the following Conditions and Notes:**

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

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the details of external materials specified in the application which shall not be varied.

**Reason:** In the interests of visual amenity.

3. 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.

**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.

4. 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.

### **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 was provided the opportunity to submit amendments to the scheme/ address issues.
- 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](http://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 21/01970/AS)

**Contact Officer:** Lewis Berry  
**Email:** lewis.berry@ashford.gov.uk  
**Telephone:** (01233) 330269

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<b>Application Number</b>	21/02093/AS	
<b>Location</b>	23 to 34 Little Chequers, Wye, Ashford, Kent, TN25 5DZ	
<b>Grid Reference</b>	05135/46593	
<b>Parish Council</b>	Wye with Hinxhill	
<b>Ward</b>	Wye with Hinxhill	
<b>Application Description</b>	Proposed Installation of External Wall Insulation With Brick-Effect Finish.	
<b>Applicant</b>	Ashford Borough Council	
<b>Agent</b>	Mr Nicholas Lawn, Goddeen Allen Lawn, The Old Dairy, Cherrybrook Road, Folkestone, CT20 3J0	
<b>Site Area</b>	399.00m <sup>2</sup>	
(a) 52/-	(b) S	(c)

## Introduction

1. This application is reported to the Planning Committee because the applicant is Ashford Borough Council, who also own the site.

## Site and Surroundings

2. The application site consists three blocks of terraced flats located within the parish of Wye with Hinxhill on the road known as Little Chequers. The site falls within the North Downs Area of Outstanding Natural Beauty (AONB).

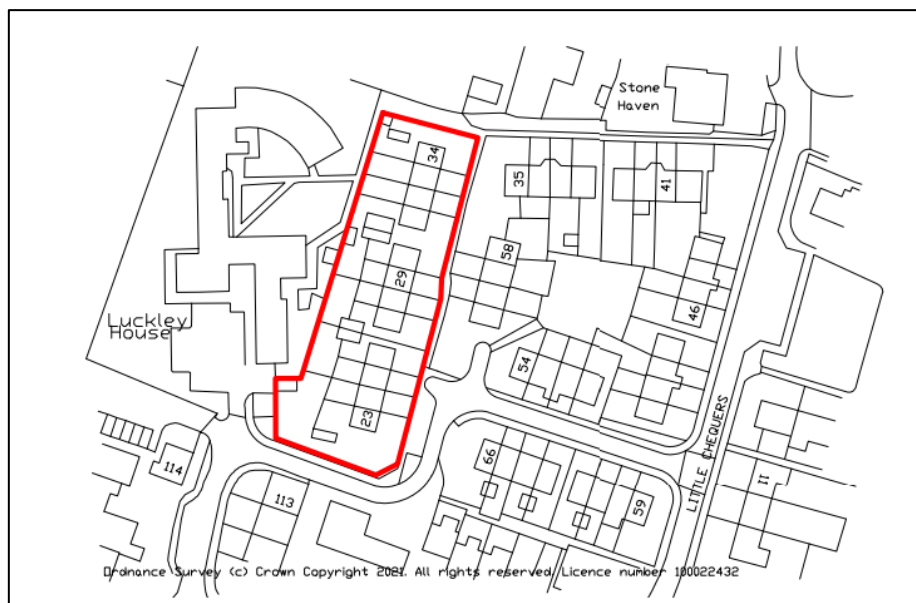


Figure 1 - Site Location Plan (1:1250)

## Proposal

3. The application seeks planning permission for the following:
  - The installation external wall insulation with a yellow stock profile brick-effect finish.



Figure 2 – Proposed similar yellow stock profile brick slip



Figure 3 - Proposed elevations

## Planning History

4. No recent relevant planning history.

## Consultations

**Wye with Hinxhill Parish Council:** Supports this application.

**Neighbours consulted:** 52 consulted; no representations received.

## Planning Policy

5. The Development Plan for Ashford Borough 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) as well as the Kent Minerals and Waste Early Partial Review (2020).

6. The relevant policies from the Development Plan relating to this application are as follows:-
7. SP1 – Strategic Objectives  
SP6 – Promoting High Quality Design  
ENV3b – Landscape Character and Design in the AONB

### **Supplementary Planning Guidance/Documents**

Landscape Character Assessment SPD 2011

Kent Downs AONB Management Plan

### **Wye Neighbourhood Plan (adopted)**

Policies WNP2, WNP8

### **National Planning Policy/Government Advice**

#### National Planning Policy Framework (NPPF) 2021

8. 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 NPPF. The NPPF states 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:-
9. The following sections of the NPPF are relevant to this application:-
  - 2. Achieving Sustainable Development

### **Assessment**

10. The main issues for consideration are:
  - Visual Amenity



- Other considerations

### **Visual Amenity**

11. The proposed changes are to replace the existing interlocking tiles with the installation of external wall insulation with a fair faced brick-effect finish. The existing front porch external materials to the principle elevation of no. 23-34 Little Chequers consist of light faced brickwork of a similar colour and style to that which is proposed. As a result the proposed external materials would be sympathetic to the existing character of the properties.
12. At present, there is visual inconsistency across no. 23-34 Little Chequers in regard to the style and colour of the existing interlocking tiles with no. 27-30 Little Chequers consisting of patches of lighter interlocking tiles in comparison to other properties within the application site. As a result, the proposed fair faced brick-effect finish across the properties, would not only provide elements of visual harmony to no. 23-34 Little Chequers but the external materials would assimilate better into the surrounding built form, given the prevalent brick-effect finish of the properties in the immediate vicinity of the application site.
13. Overall, the proposal would be in keeping with the character and appearance of the existing properties and the surrounding local character of the area. As a result, the proposal would not be of detriment to visual amenity.

### **Other Considerations**

14. The proposed installation of external wall insulation would not only improve the living conditions of the residents residing within no. 23-34 Little Chequers, but the improved insulation and the resultant reduction heat loss would provide clear long-term environmentally sustainable benefits.

### **Human Rights Issues**

15. 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

16. 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

17. The development is acceptable in terms of visual amenity with clear environmental benefits. I therefore consider that the proposed development complies with the requirements of the Development Plan and therefore recommend that planning permission is granted.

## Recommendation

### Permit

#### Subject to the following Conditions and Notes:

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

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the plans listed in 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.

3. The development shall be carried out in accordance with the details of external materials specified in the application which shall not be varied.

**Reason:** In the interests of visual amenity.

4. 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.

### **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 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](http://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 21/02093/AS)

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**Telephone:** (01233) 330470

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<b>Application Number</b>	21/02094/AS	
<b>Location</b>	21 to 34 Newtown Green, Ashford, Kent, TN24 0PE	
<b>Grid Reference</b>		
<b>Parish Council</b>	South Willesborough & Newtown	
<b>Ward</b>	Aylesford & East Stour	
<b>Application Description</b>	Reconfiguration of Entrance Doorways for Disabled Access and Replacement of External Tile Hanging With Cladding.	
<b>Applicant</b>	Ashford Borough Council	
<b>Agent</b>	Godden Allen Lawn, The Old Dairy, Cherrybrook Road, Folkestone, CT20 3JX	
<b>Site Area</b>	0.11ha	
(a) 31/-	(b) -	(c) -

## Introduction

1. This application is reported to the Planning Committee because Ashford Borough Council are the owners of the site.

## Site and Surroundings

2. The application site comprises a terraced row of two storey dwellings set on the south eastern side of Newton Road within the urban area of Ashford.
3. Existing part fair faced brickwork and part clay plain tile hanging, painted timber entrance door and bin store door and a concrete slab hard standing ramp with painted metal handrails.

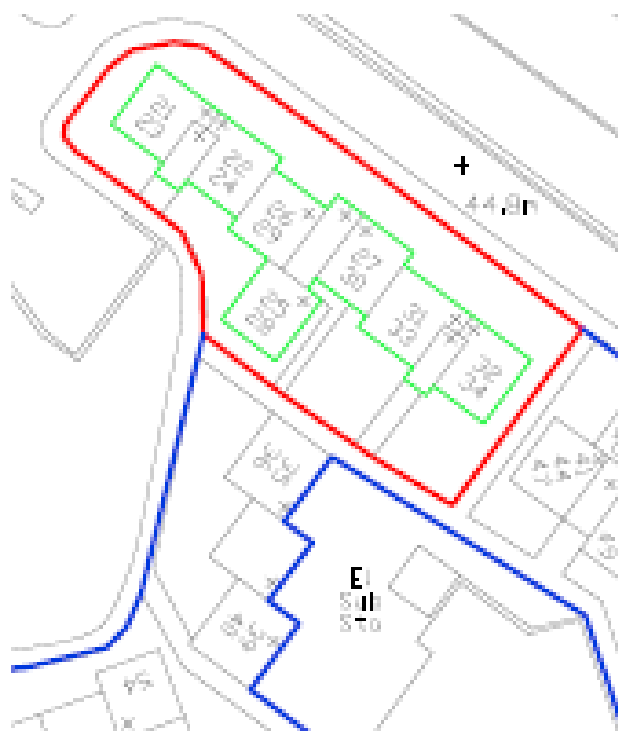


Figure 1 - Site Location Plan



Figure 2 - Existing north east elevation





Figure 3 - Existing north east entrance on Newton Road



Figure 4 - Existing south west elevation

## Proposal

4. Full planning permission is sought to replace the existing clay plain tile hanging with fibre cement weatherboard.
5. Fair faced brickwork retained.
6. Painted timber entrance door and bin store door to be replaced with new painted timber entrance door and side lights fitted with double glazed units on three entrances.
7. Concrete slab hard standing to ramp with painted metal handrails to be replaced with concrete ramp with new painted or powder coated metal

handrails on Newton Road (north east) elevation. New brick upstand to match the existing brickwork.

8. The changes to each elevation are detailed below:



Figure 5 - Proposed north east elevation



Figure 6 - Proposed south west elevation



Figure 7 - Proposed south east elevation



Figure 8 - Proposed north west elevation



## Planning History

9. There is no planning history relevant relating to the application.

## Consultations

10. **31 neighbours consulted:** No comments received to date.

## Planning Policy

11. The Development Plan for Ashford Borough 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) as well as the Kent Minerals and Waste Early Partial Review (2020).
12. The relevant policies from the Development Plan relating to this application are as follows:-
- SP1 – Strategic Objectives**  
**SP6 – Promoting High Quality Design**
13. The following are also material considerations to the determination of this application.

### Government Advice

#### National Planning Policy Framework (NPPF) 2021

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 NPPF. The NPPF states 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:-

2. Achieving sustainable Development
4. Decision Making
12. Achieving Well Designed Places

## **Assessment**

14. The main issue for consideration is:

15. Visual Amenity

### **Visual Amenity**

16. The proposed changes are to modernise the external façade and would result in improved long-term durability of the building to enable it to continue to function. The replacement of clay tiles with fibre cement weatherboarding would provide a robust and long term cladding system that would be easier to maintain.

17. The proposed replacement of timber windows and doors with painted timber double glazed units would enhance the building, which would not result in a significant change visually from the current appearance.

18. The other associated works to improve the ramped access to the building would have a positive impact on the overall appearance of the building and its usability and function.

19. As a whole, the works would accord with the character of the wider locality and the development would not be harmful to visual amenity.

20. The proposal raises no other issues.

## **Human Rights Issues**

21. 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**

22. 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

23. The proposal would ensure the long-term durability of the building to enable it to continue to function as housing to the benefit of the wider community. There would be no harmful visual impact as a result of the proposal and it would have a positive impact on the overall appearance of the building and the character of the wider locality. I therefore recommend that planning permission is granted.

## 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. Implementation within 3 years
2. Approved plans
3. Available for inspection
4. Materials to be approved

### Note to Applicant

1. Working with the Applicant

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- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
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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**

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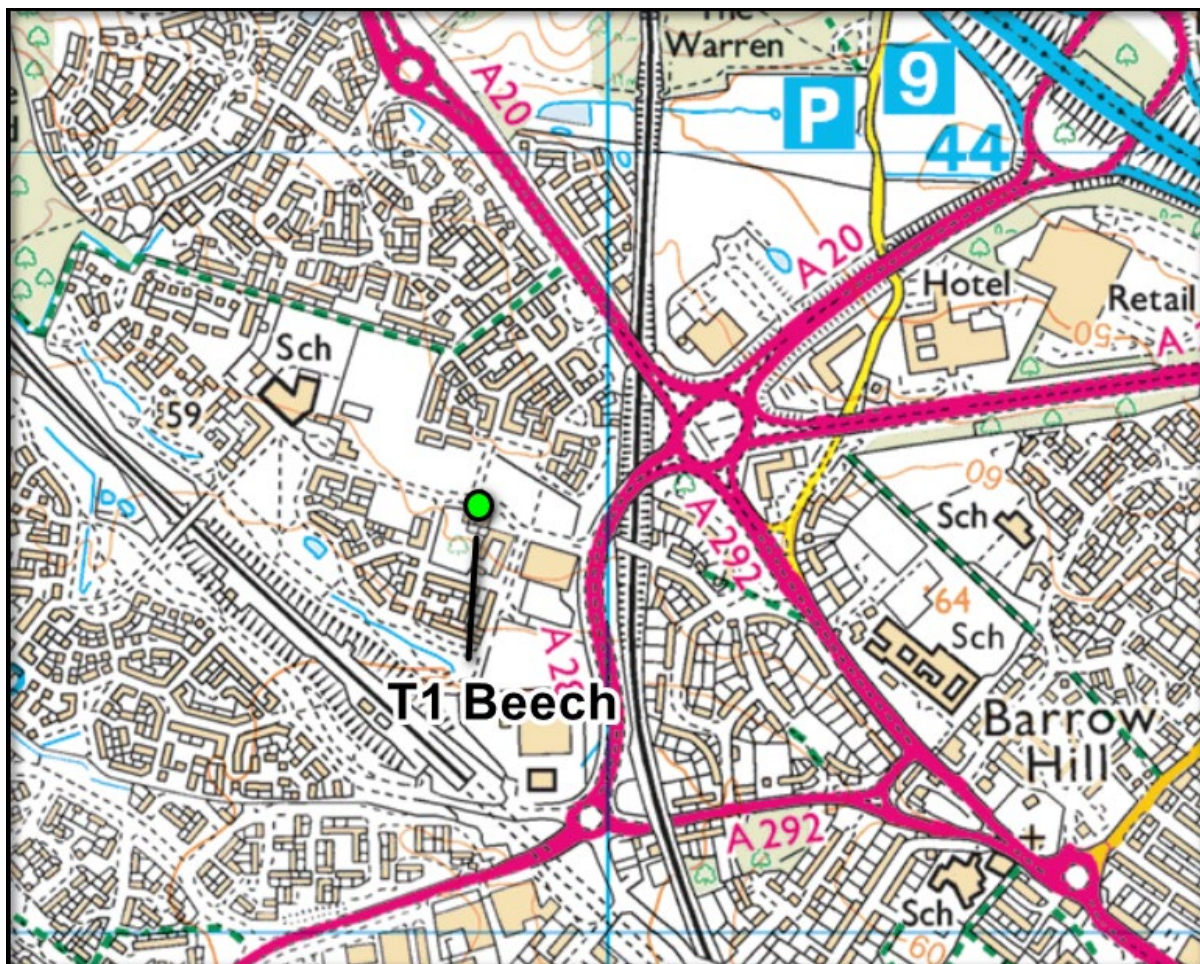
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<b>Application Reference</b>	21/00253/TP
<b>Report Title</b>	TPO tree works application
<b>Location</b>	Repton Manor, Repton Avenue, Ashford
<b>Grid Reference</b>	998435
<b>Parish Council</b>	No Parish
<b>Ward</b>	Repton
<b>Application Description</b>	T1 Copper Beech - Dismantle/Fell due to proof of subsidence to nearby building. Treat remaining stump with Eco Plug Max stump treatment. Replant with up to 3no. replacement trees a suitable distance away from building.
<b>Applicant</b>	Ashford Borough Council – Environment and Land Management
<b>Agent</b>	Aspire Landscape Management

## A. Introduction

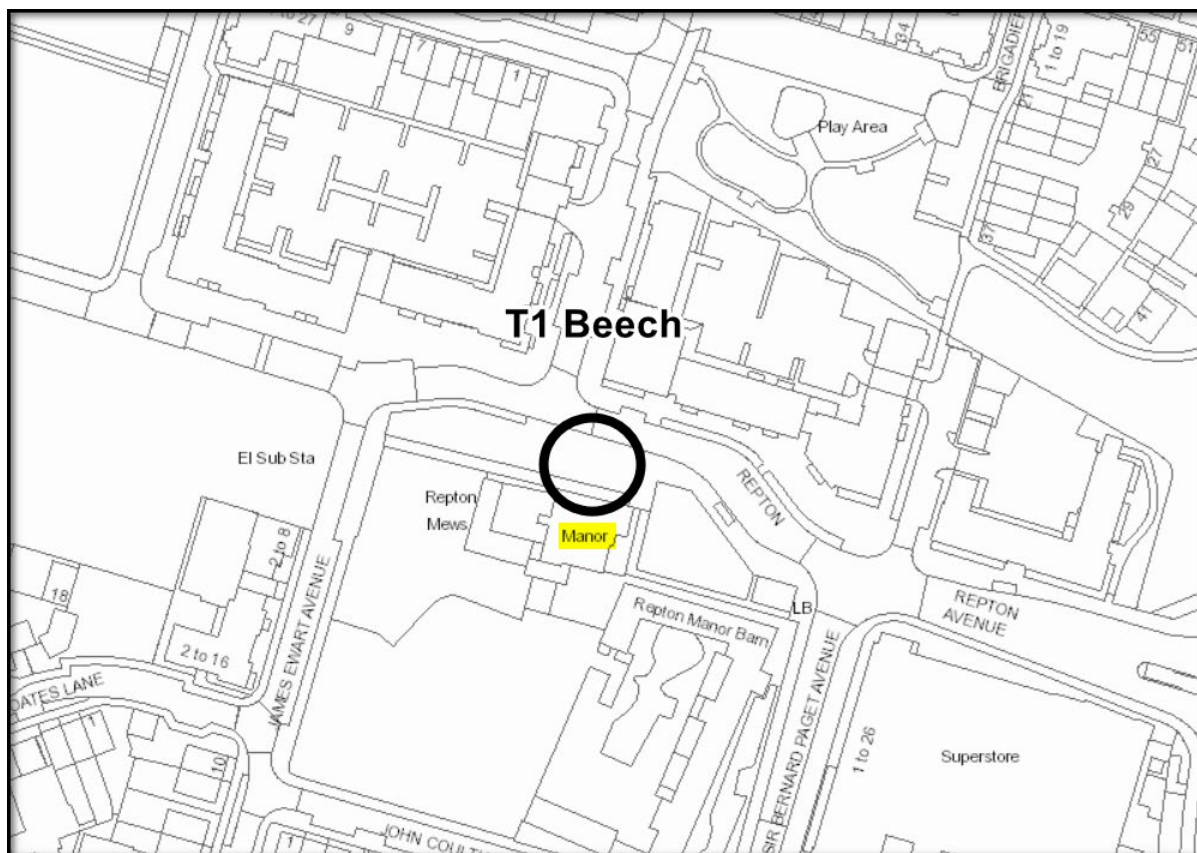
1. The determination of the tree works application 21/00253/TP is set before Planning Committee in line with the scheme of delegation having been requested to be heard by the Portfolio Holder Cllr Neil Bell.
2. The applicants are the Council's Environment and Land Management service who are responsible for the parks and areas of open spaces owned by the Council. Aspire Land Management are a service within Environment and Land Management that undertake the maintenance of the green spaces on behalf of Ashford Borough Council which includes grass mowing, shrub maintenance and the management of trees.

## B. Site Surroundings & Tree Description



Map 1 – Location Map 1:25000





**Map 2 – Location Map 1:1250 scale**

3. The Beech tree is located adjacent to Repton Manor on Repton Avenue on a small area of landscaped public open space owned by Ashford Borough Council that was transferred from the original developer of Repton Park and is now maintained by Aspire Land Management. The Manor itself is a building used for offices that is currently vacant and in need of some remedial building work. The Beech has an attractive copper leaf colour and is a deciduous native tree species. The tree is just over one metre in diameter as measured at 1.5m height on the stem, has a full height of 17 metres and a crown spread of 24 metres. It is likely to be approximately 120 - 150 years of age and it could be expected to live for a further 50-100 years. It is neither an ancient or veteran tree according to the criteria set out in Lonsdale, D. (ed.) (2013). Ancient and other veteran trees: further guidance on management, but 'notable'.
4. It is of significant public amenity value and a local landmark as it is located within the commercial centre of the Repton Park development immediately adjacent to the recently opened retail units. It provides a setting for the adjacent Grade II listed Repton Manor along with the trees in the grounds to the south of the manor.



**Photo 1 – T1 Beech, Google Maps July 2018  
Viewed from the east along Repton Avenue**



**Photo 2 – T1 Beech, Google Maps June 2019  
Viewed from the west along Repton Avenue**





**Photo 3 – View from East Aspect 30/01/2022**



**Photo 4 – View from West Aspect 30/01/2022**

## **C. The Proposed Works and Application Information**

5. The Tree Works Application was submitted by Aspire Landscape Management on 15<sup>th</sup> November 2021. The reason for the application to fell is that a claim has been made against the applicant by the owner of the adjacent Repton Manor, which identifies the tree as the alleged cause of damage to the building through its roots drawing water from the soil. Evidence in support of this claim has been submitted by the agents acting on behalf of the building owner, Repton Manor Associates Ltd.
6. The proposed works are to fell the T1 Copper Beech tree. Also the proposals include treating the remaining stump with Eco Plug Max stump treatment to kill the tree. The intention is to replant with up to 3no. replacement trees a suitable distance away from building.

### ***Summary of Submitted evidence to Support the Application***

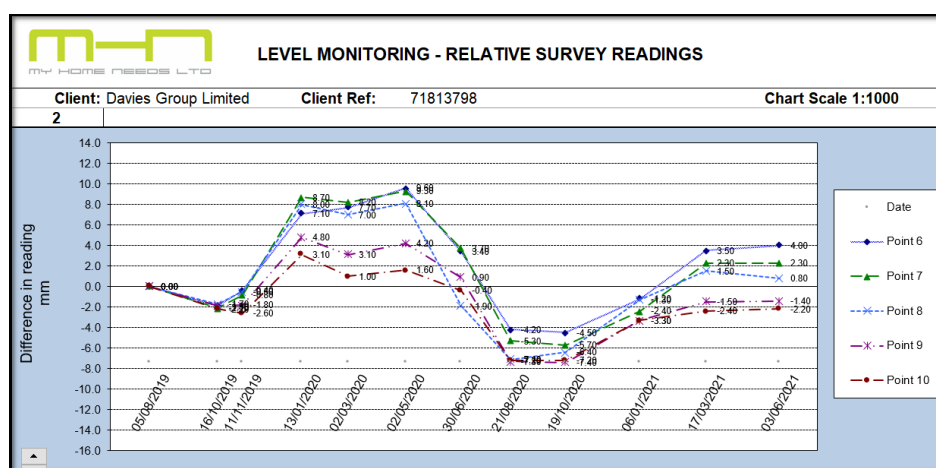
7. The documents submitted by the applicant to support the proposal to remove the tree include the documents listed below, they are all available as public documents on the ABC website using the reference 21/00253/TP:  
[Ashford Borough Council | Tree Applications](#)
  - An Arboricultural Report prepared by MWA Arboriculture (Nov 2018)
  - A Technical Report prepared by Geocore Site Investigations Ltd (Aug 2018)
  - My Home Needs crack and level monitoring data August 2018 – June 2021
8. The MWA Arboricultural Appraisal Report assessed the available evidence and concluded that the tree was having an effect on the soil moisture content and that the management recommendation would be felling and poisoning of the tree, as pruning would not be viable owing to the proximity of the structure.
9. The Geocore Site Investigation Factual Report contained four elements of investigation:
  - Boreholes to establish the substrate adjacent to and below the structure – in summary it was found that clay overlays sandstone found at 1.6m depth;
  - Soil testing which established that the soil was desiccated (likely owing to the abstraction of water by the tree roots);
  - Soil testing which showed that the clay had a high plasticity and ability to hold water (up to 67% of volume) which result in its attributes of shrinking and swelling;



- Richardson Botanical Identifications examined roots found in boreholes and established that they were ...”similar in many ways to Fagus (Beech)”, there is reasonable certainty that T1 has rooted under the structure.

10. My Home Needs undertook monitoring of both cracks within the structure and levels of the property in relation to a control level between August 2018 and June 2021, this is longer than the normal length of time for monitoring to occur and gives a comprehensive picture of the seasonal change in the soil levels as it shrinks as it dries out in summer and swells when recharging in winter. Graph 1 below shows a visual representation using an enhanced vertical scale – this clearly shows the cyclical movement according to the seasons of the levels for monitoring points 6 to 10.

**Graph 1 – Level monitoring for points 6 to 10, August 2018 to June 2021**



11. The submitted data was incorporated by Aspire Landscape Management to inform and support the current application.

**Review of the Technical Evidence by the Loss Adjuster appointed on behalf of the Council by Zurich Insurance**

12. The applicant submitted the neighbouring owner’s claim for damage to the building to its insurer, in line with usual practice. Taking account of the submitted technical evidence the Loss Adjuster from Woodgate & Clark, Mr Cheshier (MRTPI ACILA) appointed by the applicant’s insurer, expressed the following assessment in an email dated 16<sup>th</sup> November to the Council’s Tree Officer:

- “the level monitoring records clear seasonal movement that can only be explained by shrinkage and rehydration of the clay component in the soil induced by the demands of the tree.”

13. This statement appears unequivocal in its assessment, in that the causal link between the tree and the structure movement, in Mr Chesher's view, has been demonstrated by the level monitoring records.
14. Furthermore, Mr Chesher clarifies the distinction between any exacerbation of the cracking and movement to the structure which might have been caused by nearby construction piling works, and the pattern of seasonal movement, with his view that:
- *“Movement from piling operations would not produce the classic cyclical pattern that has been observed.”*
15. With the submitted evidence and the analysis provided by Mr Chesher it is believed that the tree's influence in the seasonal movement of the structure is adequately demonstrated by the applicant for tree works application purposes. I have no reason to disagree with Mr Chesher's view of the evidence.
16. The applicant's insurer has requested that the applicant abate the nuisance of the damage to the building by removing the tree.

## **D. Relevant Site History**

**02/01565/AS Former Rowcroft and Templar Barracks Site, Templar Way, Ashford.** - A mixed use development comprising circa 1,250 dwellings, employment uses (circa 2.5HA), retail uses including a supermarket of 2,323 SQ M, community facilities including a community hall and primary school, restoration of Repton Manor, open space, roads (including means of access), cycleways, footpaths and ancillary uses, demolition and remediation.

**TPO/04/00008 Former Templar and Rowcroft Barracks Site (T13)** The order was served for reasons of public amenity and nature conservation to protect the trees within the Repton Park development area. This includes the Beech that is the subject of the application identified on the annex plan as T13 See map extract in annex A.

**04/01316/AS Former Rowcroft and Templar Barracks Site, Templar Way, Ashford.** Construction of a new road to form the High Street for accessing development on the site generally, from Templar Way to Godinton Park, via the CTRL bridge. Including detail of the road construction adjacent to Beech tree.

## E. Consultation

### Ward Members:

17. The Ward Members, Cllrs Forest and Heyes have been consulted regarding the application and Cllr Heyes has provided the statement below.

*“This tree is in a prime location at the entrance to the Repton Park estate. This magnificent specimen is a significant amenity to the whole area and I feel strongly that every possible measure should be made to save this tree from being felled. With the Chairman’s permission I will speak further at the Planning Committee on this matter.”*

18. Furthermore, both Councillors have requested that the matter is heard by Planning Committee.

### Neighbours/Public

19. Following the standard public consultation requirements, including a displayed site notice, fifty-seven representations have been received.

20. The representations are set out below in four categories and may be viewed in full via the Ashford Borough Council website using reference 21/00253/TP <https://planning.ashford.gov.uk/treeApplications/details.aspx?systemkey=62677&pageindex=0>

21. Some of the representations received cover a range of issues and in these cases they have been categorised according to the primary focus of the objection and are

- Amenity, Community, Environment and Wildlife – 32 objections;
- Subsidence and structural – 16 objections;
- Object (with no material reason stated) – 8 objections;
- Support – 1 comment relating to planting amenity.

These are presented in more detail below:

22. *Amenity, Community, Environment and Wildlife:* - The thirty two objections as received may be summarised by the core points and representations below:

- The tree should not be removed as it provides wildlife and biodiversity value;
- The tree is beautiful and alternatives to removal should be explored;
- The tree has been there for hundreds of years and the building should be demolished instead, many trees were removed to make way for the estate and this tree should be retained for its historic value;
- In the time of thinking about COP26 we should not be removing a mature tree, it is at the heart of Repton and the community;

- An alternative should be found to killing the tree like moving it. There is nothing wrong with the tree itself and replacements won't have the same visual, nature or environmental effects far beyond my lifetime. We need to repair our planet not get rid of trees like this that are doing an amazing job. The building might be listed but there many other ways of dealing with this issue and still protect it, think before you cause an upset in the community;
- This is an ancient tree and should be allowed to remain;
- Please don't chop down this tree, it's a thing of beauty in what is now an overbuilt, overcrowded and densely populated area that has lost too much nature already;
- This large tree provides vital homes for wildlife because of its size. This tree also provides food and shelter to many wildlife. There must be an alternative to just cutting it down and replacing with smaller trees;
- The tree is a symbol of our community, it provides habitat to a variety of wildlife and its removal will be a big loss to not only the fabric of the area but also to the local wildlife habitat. Replacing such an important specimen with 3 *Betula Utilis* is inadequate. The proposal should replace like for like in a new location - IF felling is approved. I hope the council reject this motion and save our Beech tree!
- This tree is an iconic figure for Repton Manor. I'd rather have the building demolished and rebuilt rather than the cheaper option which is the tree;
- When the government are asking people to plant more trees the last thing we want to do is remove healthy ones;
- This is far more important than a building - a building can be built in a month/2months etc but this tree has taken many years to grow and deserves to remain where it is as a symbol of life continuing;

23. *Subsidence and Structure*: - The 16 objections as received may be summarised by the core points as below:

- The cracking experienced by the structure could have been caused by the percussion piling and not the tree;
- A non-arboricultural solution should be explored before felling the tree;
- The construction work in the vicinity of Repton Manor may have caused the damage – not the tree;
- Object to the felling of the tree when the building is falling apart;
- The foundations should be improved rather than the tree being felled;

24. *Objection to principle of removal of tree*: Eight objectors did not state any reason for the objection to the removal of the tree.

25. *Support*: One representation of support for the removal of the tree has been received:

- This tree is not only old but draining the life from a large area of land. It provides too much shade to prevent sun light so the surrounding

ground is dirty mud and not grass. If it was brought down and replaced by grass and bushes they would have a chance to thrive.

**Heritage :**

26. The Council's Conservation Officer has provided a statement on the relationship of the Beech tree and the adjacent Listed Building, Repton Manor:
27. *The tree is a very handsome, mature specimen, which makes a positive contribution to the setting of the Listed manor house and barn grouping. This contribution is valuable not only for its modern aesthetic qualities, but also the survival of a less rural, more managed setting for the house during its later history*
28. *Originally, the house and barn were part of an isolated farm settlement – mentioned in the Domesday Book. The house is said to originate from the C15, with clear evidence of C16/C17 building periods, but the frontage is C19. The barn is C19 and is unusually large for that period – possibly it replaced an earlier mediaeval barn.*
29. *The original manor was of considerable importance in its time and sat within a large park, which diminished over the centuries. Historic images and maps show that by the C19 the farmstead was surrounded by orchards on one side and a small parkland to the other, which was enclosed within a line of trees, which are now protected by a TPO. It is possible that this copper beech tree and the line of trees forming TPO No 8 2004, are what remains of the small C19 parkland. It seems likely that the tree was planted at a time of modernisation to the farmhouse and farmstead in the C19, although its “purpose” in relation to the house is not clear.*
30. *The outline of this small parkland was still evident into the mid C20, but the recent development of the wider site has encroached to all sides of the manor and barn on all sides, isolating it within a small island of land, diminishing the sense of a previous parkland. Whatever its previous role, this tree is now an isolated specimen tree and the sense of parkland setting, which reflected the historic status of the manor, has been irretrievably lost. However, whilst it may have become divorced from its wider setting, the relationship between the tree and the house remains. They both contribute to the setting of the other, with the tree's interest being elevated by this historic connection and providing an additional benefit of offering a degree of separation between the modern development and the historic farmstead grouping.*
31. *There has recently been a catastrophic collapse at the rear of the house, resulting in the loss of the massive chimney, which suggest that there are serious structural issues throughout the property – perhaps due to so many periods of adaptation and not necessarily all due to the proximity of the tree.*

*Whilst the removal of the tree would diminish part of the setting of the house – if the evidence for it damaging the house is undeniable and if all alternative protective measures have been fully considered, then regrettably its loss would need to be considered.*

32. Prior to making the application to remove T1 Beech, a feasibility study was undertaken by the applicant as to the viability of a root barrier as an alternative to felling.
33. This alternative would entail the excavation of a trench up to 4m depth and the installation of a root barrier to prevent the roots reaching the structure. The barrier is a copper sheet encapsulated between geotextiles. The depth of the sandstone bedrock is unknown and owing to the range of depth and unknown volume of the material to be removed the estimated cost as submitted by MWA Arboriculture is between £12,000 and £27,000.
34. The barrier would theoretically allow for the retention of the tree and the cessation of any further damage (save for heave when the ground moisture recovers) owing to the roots not abstracting moisture from the soil.
35. Correspondence from the claimant's loss adjusters (Davies Group) as to this alternative has been received via MWA Arboriculture and is as follows:

*“Without the evidence or an engineering decision to demonstrate that stability will return following the installation of such a barrier, we are unable to confirm whether this option would be considered an acceptable alternative.”*

36. MWA Arboriculture have advised that they

*“Are not responsible for what mitigation measures that the Council adopts or agrees with Davies/insurers”...*

This statement broadly means that they are unable to guarantee the success of the root barrier option.

37. Mr Chesher of Woodgate and Clark advised the applicant that a tree root barrier may be a viable proposition but stated that if the applicant wishes to continue to explore the root barrier as an option ...

*“Zurich would need to see a compelling case that it would provide a satisfactory method of preventing the tree adversely influencing the stability of the third party property before they would consider granting an indemnity for any liability that may attach to the Council because of a failure to adopt a more fail safe method of abatement.”*



38. Whilst the outcome of retaining the tree by installing the root barrier is desirable, there are clearly ongoing risks and uncertainties for this option. Fundamentally, the position seems to be that a root barrier may not succeed in arresting further damage to the building.
39. In conclusion, owing to the risk of the barrier not succeeding in preventing further damage and the potential ongoing liability, this is not a viable option for the applicant.

## **F. Assessment**

40. The main issues for assessment in planning terms are:

- (a) The impact of retaining the tree – potential further damage to the Grade II listed heritage asset (Repton Manor) and a possible future claim against the LPA for such damage.
- (b) The impact of removing the tree - including amenity value of place; heritage asset setting; natural capital; ecosystem goods; climate change resilience; water interception/SUDs and costs of replacement trees..

I will deal with these points in turn;

**(a) The Impact of retaining the tree – potential further damage to the Grade II listed heritage asset (Repton Manor) and a possible future claim against the LPA for such damage.**

41. Retaining the tree would maintain the many qualities it brings to Repton Park including the amenity value it provides as a striking feature within the streetscene and square. It also part of the historic character of the setting of Repton Manor. The tree provides wildlife and biodiversity benefits as well as sustainability and climate change benefits by providing shade, its role in sustainably capturing and holding rainfall and the role it plays in improving local air quality. These are assessed in more detail below where the impact of the loss of the tree is considered but the considerable benefits of the tree are clearly understood and appreciated by the Repton Park community.
42. The retention of the tree will mean that further impact is likely in terms of damage to the adjacent Grade II Listed Heritage asset of Repton Manor. NPPF para 195 (see appendix B) states that the impact of a proposal on a Heritage asset should ensure that any conflict between the asset's conservation is minimised or avoided.
43. Significant weight is given to Heritage assets within the NPPF Section 16 and the balance between conserving the historic environment and preserving the

tree (which is neither an ancient nor veteran specimen) is of importance. Clearly, should the tree be retained and continue to cause damage to the structure, the implications would be contrary to NPPF para 195. As part of the documents submitted to support the application the MWA Arboriculture report describes the damage to the front and right hand elevations as having 'extensive internal and external cracking'. In para 31, the Conservation Officer has described the 'catastrophic collapse' of the chimney and highlighted that there are significant structural issues. In their view, if the causal link is demonstrated of the tree's agency, its removal would need to be considered.

44. Should Planning Committee be minded to refuse the application to fell T1 Beech there are likely financial implications to the LPA.
45. The Town and Country Planning (Tree Preservation) (England) Regulations 2012, Reg. 24 outlines the entitlement to claim compensation if an application is refused and a person establishes that there is loss or damage – this claim would be against the Local Planning Authority.
46. Furthermore, the Loss Adjuster has flagged that any claim for compensation made against the LPA under Reg. 24 of the 2012 Tree Preservation Regulations would not be covered by insurance:

*"Your insurance policy would not respond to deal with a claim from you for the cost of such compensation. A public liability policy covers accidental loss or damage to third party property only, whereas the need to pay such compensation would not be regarded as such accidental in the circumstances described."*

47. In summary, refusal of consent to fell will almost certainly trigger a compensation claim against the LPA from the claimant, this may cover certain remedial works to the structure and will not be covered by the LPA's insurance policy. It is difficult to place a figure on the possible level of compensation owing to the likelihood of detailed discussions needing to be made regarding the scope of the damage.

**b) Impact of removing the tree - including amenity value of place; heritage asset setting; natural capital; ecosystem goods; climate change resilience; water interception/SUDs and costs of replacement trees.**

48. It is widely accepted that T1 Beech has a very high amenity value owing to its stature, quality and position within the Repton Park development. These attributes qualify the extant TPO designation as served with TPO/04/00008 and the retention of the tree as a landscape feature as part of the 2002 Repton Park masterplan.

49. The Conservation Officer has outlined the importance of the relationship between the structure and the tree and that the relationship between the tree and the house remains. They both contribute to the setting of the other, with the tree's interest being elevated by this historic connection and providing an additional benefit of offering a degree of separation between the modern development and the traditional grouping.
50. With a height of 17 metres and a spread of 24 metres, the Beech has a scale that approaches that of Repton Manor and coupled with a likely lifespan of a further 50-100 years the visual qualities of the tree must be considered as having a very significant weighting in any decision. The impact of the tree on the visual amenity of the urban streetscene and the enclosure it provides to the square next to the Manor will be harmed by the loss of the tree.
51. The tree also provides further benefits in the form of ecosystem services, air filtration and carbon capture. Coupled with the amenity presence this cumulatively gives further weight to the overall value of the tree in a planning context.
52. In order that the tree does not start to cause further damage as the soil desiccates owing to the tree abstracting water, the removal of the tree would need to occur as soon as reasonably practicable and preferably before the active growth season commences.
53. Integral to the consideration of the felling of T1 Beech is that a viable replanting proposal is offered to mitigate the loss of the tree.
54. The location for providing any Replacement trees has been thoroughly considered by the applicant including an assessment of the potential service run constraints in the area.
55. KCC Highways have been consulted as to the proximity of replanting to the highway and the species that would be acceptable. It was agreed that a distance of 2.5m to the kerb line is approved as was a range of small deciduous and larger evergreen species.
56. The palette of trees is limited owing to the potential for further subsidence and using available data of distances from structures, the water demand of the tree, the mature size and longevity it is felt that Scots Pine offers the most value in terms of amenity, and furthermore, is a native tree. It is also noted that there is a TPO Pine retained with the Repton Manor sunken garden which would lend a measure of visual continuity. Yew could provide a fall-back position with similar attributes but not quite the scale. An example of a younger mature Scots Pine is provided in Photo 5 below:



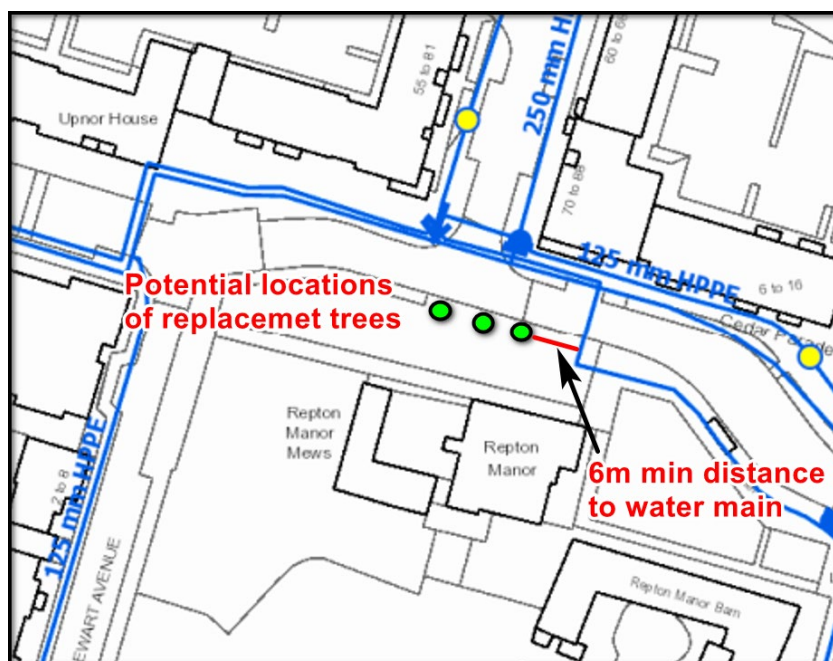
***Photo 5 - A Scots pine of approximately 50-60 years of age***

57. Replacement trees will ultimately provide amenity to the area but it will take ten years to achieve the scale that starts to fully complement the manor house. However, the proposed replant trees would be 4m height and have some amenity presence from the outset – an example of a 4m nursery Scots Pine specimen is provided in Photo 6 below:



***Photo 6. A 4m high young Scots Pine tree***

58. A tree of approximately 20-25cm girth should establish relatively quickly and with up to three replacement trees positioned as in Plan 1 below, the long term amenity could be provided for and have a resilience. The constraint of the water main has been recognised following a detailed examination of any potential service runs by the applicant.



59. Should consent be granted for the removal of the tree, the applicant states that the costs involved are as below and can be regarded as having a reasonable measure of financial certainty:

- £1854.00 to fell, remove and poison;
- £495.00 for the required traffic management and highway permit;
- £4721.00 for replacement planting and subsequent maintenance of three trees (costs based on Scots Pine).
- £7070.00 total

As advised in para 54, an assessment has been made as to the planting constraints which indicates that three trees is likely to be viable quantum of planting. However, sometimes there are unknown factors that arise that may require specialist planting solutions or soil remediation in response to subterranean factors. These factors may be at an additional cost, but I have no reason to think that there would be any prohibitive costs.

## H. Summary

60. The understandable public concern surrounding the proposed removal of the Beech tree and the benefits the tree brings is a matter for serious consideration, this has to be balanced with the damage to the Grade II listed heritage asset, the risk of ongoing and potentially unknown further damage.

61. Refusal of the application to fell T1 Beech has significant risk of causing further damage to the irreplaceable heritage asset of Repton Manor which already displays structural issues which include internal and external cracking in addition to the recent 'catastrophic collapse' of the chimney. Taken as whole, it may be concluded that the fabric of the building has suffered significant damage, and that the tree's impact has played a contributory role in this. NPPF para 195 (see Appendix B) states that impact to a heritage asset's conservation should be minimised or avoided, and on balance, I conclude that retention of the tree would be contrary to the policy to protect the heritage asset.
62. Refusal of the application would most likely trigger a compensation claim against the LPA under Reg. 24 of the 2012 Tree Preservation Regulations.
63. If T1 Beech was to be retained the tree will hopefully continue to provide the benefits that a mature tree gives to the amenity and urban environment for many years to come owing to the fact that it is a healthy tree.
64. The granting of consent to fell the Beech will have a significant local impact on the streetscene and setting of Repton Manor. This would be addressed through a condition requiring replanting of up to 3 semi-mature specimen trees in its place.
65. The replanting will ultimately redress the loss of amenity and with the planting of long-lived and larger scale trees such as Scots Pine or Yew the amenity balance and setting of the manor house would be restored. The replacement planting with more than one semi mature specimen tree will give a robust successional platform as even if one tree dies in the future, there will be at least one other remaining mature tree in place.

## **I. Conclusion**

66. The Tree Officer's recommendation is that consent is granted to the conditioned felling of T1 Beech for the following reasons:
67. The tree is having a deleterious impact on the structure of the irreplaceable Grade II listed Heritage asset of Repton Manor and this is contrary to NPPF para 195.
68. That despite the significant loss of amenity with the removal of the tree, the replanting proposal of up to three trees will ultimately provide a significant amenity presence to mitigate the loss of the tree.

## **J. Officer Recommendation**

69. Grant consent to the felling of T1 Beech subject to the following condition:

Condition 1. Details of replacement trees shall be submitted to the LPA and approved in writing prior to the felling of T1 Beech. Up to three replacement trees of 4m height shall be planted in accordance with the approved details by the end of the planting season (November to March) following felling of T1 Beech.

**Contact Name:** Phillip Cook

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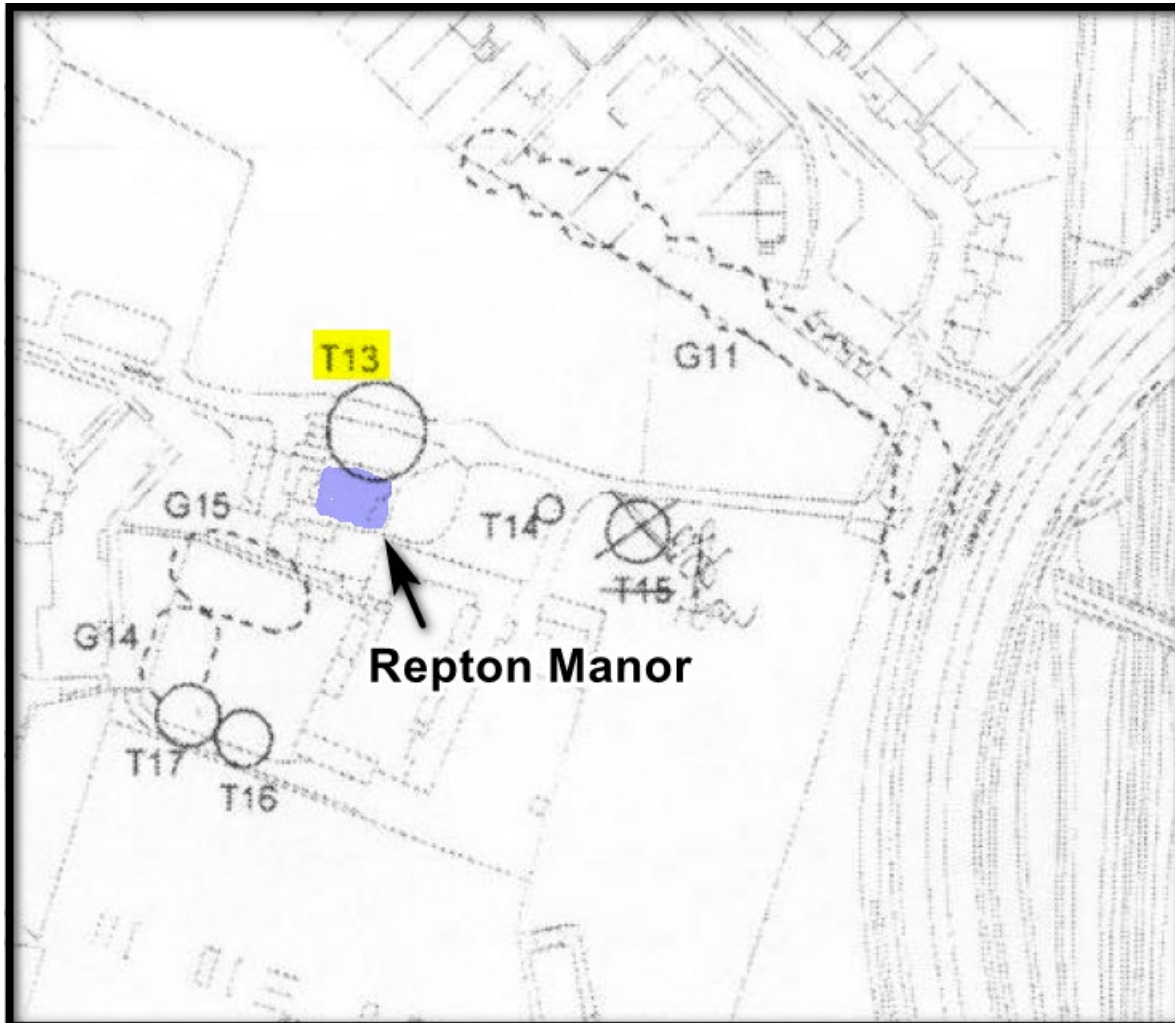


## Annex A

### TPO/04/00008 Former Templar and Rowcroft Barracks Site (T13 Beech)

Annotated extract of TPO map.

The drawing shows T13 Beech in relation to the Manor and the retained TPO trees in the locale, including the sunken garden to the south.





## **Annex B – NPPF Para 195 Proposals Affecting Heritage Assets**

195. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

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<b>Reference</b>	TPO/21/00007
<b>Report Title</b>	Confirmation of Tree Preservation Order No. 7, 2021
<b>Location</b>	Garage area to the rear of 17 and 18 Glebe Close, Smarden
<b>Grid reference</b>	TQ884426
<b>Parish Council</b>	Smarden
<b>Ward</b>	Weald North

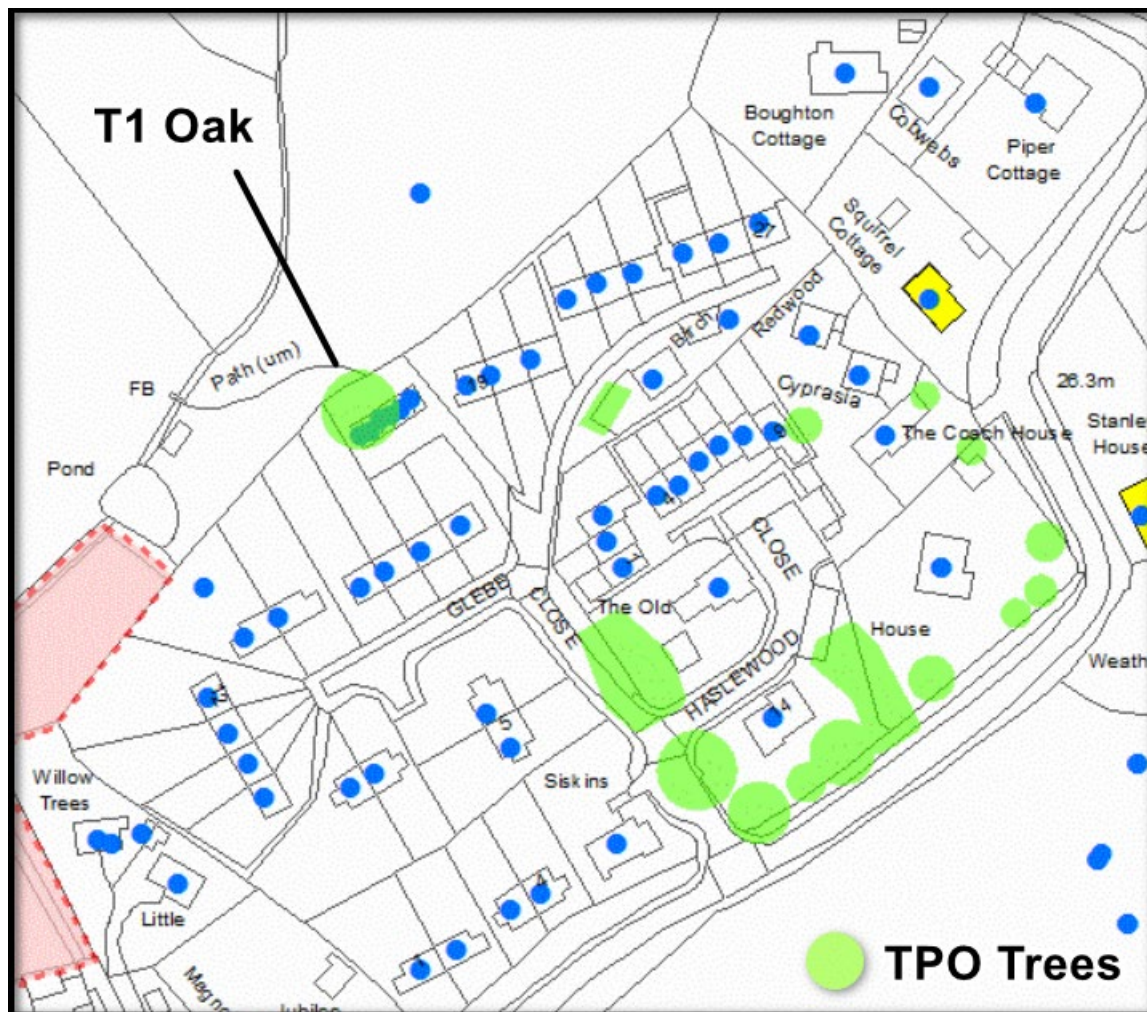
## A. Introduction

1. The Planning Committee have delegated authority to confirm Tree Preservation Orders made by Officers. This report has been prepared for the Planning Committee owing to an objection having been received to the serving of the Order.

## B. Site Location



Map 1 – Location Map Showing site of tree and garage block (1:25,000)



### C. Site Description

The tree subject to Tree Preservation Order No. 7, 2021 is within a site comprising a redundant garage block of six units with hard standing to the south with an access road from Glebe close, and to the northern side of the block unsurfaced land with T1 Oak and some smaller trees on the boundary; it is approximately 0.045 ha in size. The site has a permissive footpath running north to south using the access road.



**Map 3 – The redundant garage block and access road**



**Photo 1 – The Glebe Close garage block with T1 Oak behind**





**Photo 2 – T1 Oak viewed from the eastern end of 18 Glebe Close.**

## **D. The Proposed Order**

2. The TPO was made to protect a large mature specimen Oak that enjoys public amenity value when viewed from within Glebe Close and from without the built confines of the village from the well-established informal footpath that bisects the adjacent field.

As 'amenity' is not defined in law, authorities need to exercise judgment when deciding on the qualities of a tree, to show that protection would bring a reasonable degree of public benefit in the present or future and that removal would have a significant negative impact on the local environment and its enjoyment by the public. Authorities are required to assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria: the size of tree; expected age/duration of visual amenity; form; importance/prominence in the landscape; relation and suitability for its setting; tree cover/presence of other trees. Other special factors which may be considered when evaluating amenity values of trees could include whether it is part of a larger composition; whether the tree screens unpleasant views; whether it has exceptional rarity; if it has any cultural or historical associations; importance to nature conservation; and response to climate

change. These main factors in relation to this tree, have been assessed in this report.

3. The tree is approximately 120-150 years old, and, commensurate with a mature oak tree, offers considerable biodiversity benefit. It is also part of a significant landscape feature comprised of a row of adjacent oaks that defines the built edge of the village of Smarden.
4. The confirmation of the order is expedient owing to an enquiry having been made as to whether the tree could be felled by the new owner of the land. It has been indicated that the tree is to be removed as part of the new owner's redevelopment plans for the site. The new owner has been advised that the correct approach is to retain the tree through the planning process pending a decision on any planning application. BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations, provides an approach whereby trees are retained as site constraints and the development is informed by the extant tree cover. The tree meets the criteria for classification as a Category 'B' tree and would merit consideration for retention as a result of this, as part of any planning decision in due course.
5. The purpose of the TPO is to ensure the retention of T1 Oak owing to its amenity value and for it to be assessed as a material consideration in any future submitted planning application.
6. The provisional Order has been served in accordance with S198 of the Town and Country Planning Act 1990 and the retention of the tree is consistent with Policy ENV3a (b) of the adopted Ashford Local Plan 2030.

## **E. Site History**

7. **TPO no. 7, 2021** Garage area to the rear of 17 and 18 Glebe Close, Smarden, Kent

## **F. Ward Member Consultation**

8. The Ward Member Cllr Ken Mulholland has been appraised of the objection.

## **G. Consultation**

9. As required by the 2012 Tree Preservation Regulations, the owner of the land and any 'Interested Parties' as defined by the Regulations were served with the Order. Representations should be made within 42 days of the serving of the Order.

10. An Objection was received on 1<sup>st</sup> December 2021 from the landowner of the site and Garages at Glebe Close Smarden, this was 98 days from the date that the Order was served.
11. The material objections to the Order are set out below in the Objections section and may be viewed in full via the Ashford Borough Council website using reference TPO/21/00007, the documents also include the letter to Smarden Parish Council of 29<sup>th</sup> January 2022 from Gilmit Property (the owner of the site and the Objector) <https://planning.ashford.gov.uk/>
12. One letter of support was received within the 42 day representation, but subsequently, six further emails of support have been received. The initial letter of support cites the wildlife value of the tree and the supporting ground flora as being of significance. The later support comments include the following points:
  - that the Order will not be Confirmed within the requisite timeframe leaving the tree vulnerable to removal;
  - That trees should be retained within development proposals;
  - its amenity value;
  - The respiration cycle;
  - Carbon sequestration;

## **H. Objections to TPO no. 7, 2021**

13. The Objector, who is also the owner, has set out the following points of objection within his correspondence dated 30<sup>th</sup> November 2021:
  - a) The Objector contacted the council on 8<sup>th</sup> July 2021 enquiring as to whether or not the tree could be removed and a protracted period went by where he could not obtain a response from the Planning Department.
  - b) The Objector contends that Corporate Property sold the site knowing that it was a redundant site with garages that had been severely damaged by the oak tree, that ABC could have imposed a TPO on the Oak tree whilst it was in their ownership and that any potential purchaser would then have been aware of this constraint.
  - c) The Objector has stated that the Council has served the TPO in the full knowledge that the tree would have to be removed in order to properly redevelop the site.
  - d) The Objector advises that the garages may be rebuilt without planning permission and that owing to the proximity of the tree the depth of



foundations required would kill or seriously damage the tree and render it unstable and unsafe.

14. These points are addressed later in this report but it is pertinent to note that none of the objections raised relate to either the legal process of serving the Order or any assessment against the criteria found in the Planning Guidance, in particular, the primary consideration of ‘amenity’, in this respect the Order is not challenged on a material level.

[Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/tree-preservation-orders-and-trees-in-conservation-areas)

## I. Assessment

### Overview of T1 Oak.

15. T1 Oak is approximately 18 metres in height and forms part of a landscape feature that includes mature Oak and Ash trees providing the northern boundary of Glebe Close adjacent to the edge of the built confines of the village. Photo 3. Below demonstrates how T1 Oak sits within the landscape feature and its relationship between Glebe Close and the countryside beyond.



Photo 3 – Google Earth Image showing T1 Oak in relation to surrounding features

16. The amenity value may be appreciated from within Glebe Close to the south as it overtops the terrace of houses in Glebe Close by some eight metres and as such is visible in wider views.
17. In addition to its amenity value, the oak provides biodiversity attributes in wildlife and invertebrate habitat as well as the broader natural capital of carbon capture and rainwater interception.

### **Event and Communication Timeline**

18. Owing to some of the events and communication being cited in the objections lodged by the site owner, for clarity, the salient events are listed below:

- 16<sup>th</sup> June 2021 – the site is purchased at auction by the present owner (for information, the seller at the auction was the Council, although the identity of the previous owner is not relevant to this report or the decision on confirming the Order);
- 8<sup>th</sup> July 2021 – the new owner advises the Tree Officer that the sale is about to complete and enquires as to whether the tree may be removed as part of a redevelopment plan;
- 8<sup>th</sup> July 2021 - the Tree Officer advises the new owner that the tree should not be removed prior to any planning application having been determined and that the new owner should seek advice from a planning agent;
- 8<sup>th</sup> July 2021 - the new owner reiterates the request as to whether the tree may be felled in a forwarded email to Planning Help;
- 14<sup>th</sup> July 2021 – the sale completes;
- 4<sup>th</sup> August 2021 – the owner chases a response from Planning Help regarding his email of 8<sup>th</sup> July 2021;
- 22<sup>nd</sup> August 2021 – the owner advises that a response as to whether or not the tree may be removed has not been received and that the felling of the tree will now be organised;
- 25<sup>th</sup> August 2021 – in response to the direct threat of the tree being removed, the Tree Officer has the TPO served.

### **Assessment of the Objections**

- 19. (a) *The Objector contacted the council on 8<sup>th</sup> July 2021 enquiring as to whether or not the tree could be removed and a protracted period went by where he could not obtain further details from the Planning Department as to whether or not the tree could be removed.***

20. Response to (a): The Objector sent an email asking if the tree could be removed as part of a redevelopment plan as it was not within the Conservation Area or subject to a TPO. The Objector received a response to his email of 8<sup>th</sup> July 2021 within five hours of sending it. The Tree Officer advised that he should not undertake clearance of the site or remove the tree until planning permission had been granted – he was also strongly advised to speak to his planning agent. The response sent by the Tree Officer was unequivocal in that he should not remove the tree. Subsequently, the Objector sent a further email chasing the information requested on 8<sup>th</sup> July 2021 as to whether or not the tree could be felled. On 22<sup>nd</sup> August 2021 the owner stated that the felling of the tree was to be organised owing to no response having been received. The Tree Officer would advise Members that this direct threat to remove the tree was an important factor in the decision that a TPO be served.

**21. (b) *The Objector contends that the Council's Corporate Property service sold the site knowing that it was a redundant site with garages that had been severely damaged by the oak tree, that ABC could have imposed a TPO on the Oak tree whilst it was in their ownership and that any potential purchaser would then have been aware of this constraint.***

22. Response to (b): the lot was entered by Corporate Property for the 16<sup>th</sup> June 2021 Clive Emson auction. Prior to the auction no approach was made to Planning and Development officers as to the suitability of the site for redevelopment and/or the impact of any site constraints on any such proposals. In view of the fact that there was no known threat to the tree from any redevelopment proposals, it would not have been appropriate to serve a TPO at that point. Had the Objector made an approach to Planning and Development officers at that juncture setting out his redevelopment aspirations, an assessment would have been made which would have included outlining the developmental constraint that the Root Protection Area of T1 oak would impose.

**23. (c) *The Objector has stated that the Council has served the TPO in the full knowledge that the tree would have to be removed in order to properly redevelop the site.***

24. Response to (c): Planning decisions in relation to trees are informed by BS5837:2012 Trees in relation to design, demolition and construction – Recommendations. Within section 5 of the document a pathway is shown which sets out the considerations informing the design process. Fundamentally, this does not preclude construction within the RPA of a tree when underpinned by appropriate design (e.g. piling and sensitive building configuration), and furthermore, in the case of a brownfield site there are enhancements to the rooting environment that may make for an improvement

to a tree's general outlook. However, in the absence of any clear development proposal, other than the Objector suggesting in emails that either two houses could be built or the garages rebuilt, the assessment of what is feasible cannot be substantively made.

**25. (d) *The Objector advises that the garages may be rebuilt without planning permission and that owing to the proximity of the tree the depth of foundations required would kill or seriously damage the tree and render it unstable and unsafe.***

26. Response to (d): Foundation depths and design are informed by the NHBC Section 4.2 of the Technical Standards – Building near Trees. There are solutions such as piling that are less intrusive than strip foundations that may be employed to safeguard nearby trees. Any foundation depths need to be calculated following an assessment of the soil type and reference to the relevant NHBC Foundation Depth Tables. Thus, with careful design, an approach may be undertaken that can safeguard the tree and provide a robust structure. It should be noted that there are additional trees within the locale that may be within the zone of influence of the garages and that only a full arboricultural survey can determine any potential impact and methodology.

27. In summary, the matters raised by the Objector relate solely to the process of sale and acquisition of the site by him and the enquiries he made of Planning & Development after he had contracted to purchase the site. It would appear that the new landowner acquired the site on a speculative basis, perhaps with an intention to redevelop it for two dwellings. At no point in the acquisition process was the advice of planning officers sought on the potential acceptability of such a proposal and advice from the Tree Officer was only sought following the auction at which point it was suggested to the new owner that more specific planning advice should be sought from his planning agent.

28. The LPA in exercising its duties under S198 of the Town and Country Planning Act 1990 (Tree Preservation), may make a TPO where it is ... "expedient in the interests of amenity to make provision for the preservation of trees". In this case, it is clear that the Order has been served appropriately with the intention of preserving amenity, and with The knowledge that a 120-150 year old oak tree with public amenity value was subject to a direct threat. The background and process of sale is outside the remit of Planning and Development and is not a material consideration in determining whether to confirm the Order.

29. It is noted that in an email dated 20<sup>th</sup> January 2022 addressed to the Tree Officer, the Objector has asserted that with rebuilding the garages or constructing two dwellings ... "either way the tree has to go". NPPF para 174 (b) (see annex B) recognises the benefits of 'natural capital' and 'ecosystem

services' that trees provide, whilst Ashford Local Plan 2030 Policy ENV 3a (b) (see annex C) provides similar emphasis to that found in the NPPF with regard to the 'pattern and composition' of trees. In this case, it is extremely unlikely that as part of a planning application the removal of a mature oak that is part of a wider landscape feature would be countenanced (although of course all applications must be considered on their merits at the time they come forward). A pre-application request would have given this advice to the Objector.

## **J. Conclusion**

30. TPO/21/00007 has been served in accordance with the Planning Guidance relating to serving an Order in that both amenity and expediency have been demonstrated. The relevance of the order Tree in any future planning decision is supported by the NPPF para 174 (b) and ALP 2030 Policy ENV3a (b).
31. The removal of the tree would cause harm to the amenity of the area – reference to photo 2 demonstrates the significant impact that the removal of the tree would have to the local area.

## **Recommendation**

**To confirm TPO no.7/2021 unmodified, notwithstanding the objection.**

**Contact Name:** Phillip Cook

**Telephone:** (01233) 330206

**Email:** phil.cook@ashford.gov.uk

TPO no.7 2021 Copy of Served Order

TOWN AND COUNTRY PLANNING ACT 1990

ASHFORD BOROUGH COUNCIL  
TREE PRESERVATION ORDER NO. 7,2021  
Garage area to rear of 17 and 18 Glebe Close Smarden, Kent

Ashford Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order:-

Citation

1. This Order may be cited as Ashford Borough Council Tree Preservation Order No 7,2021 - Garage area to rear of 17 and 18 Glebe Close Smarden, Kent

Interpretation

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

Effect

3. (1) Subject to regulation 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall -  
(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or  
(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of  
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

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

Dated this 25<sup>th</sup> August 2021

THE COMMON SEAL OF ASHFORD BOROUGH COUNCIL

was affixed to this Order in the presence of -

Solicitor

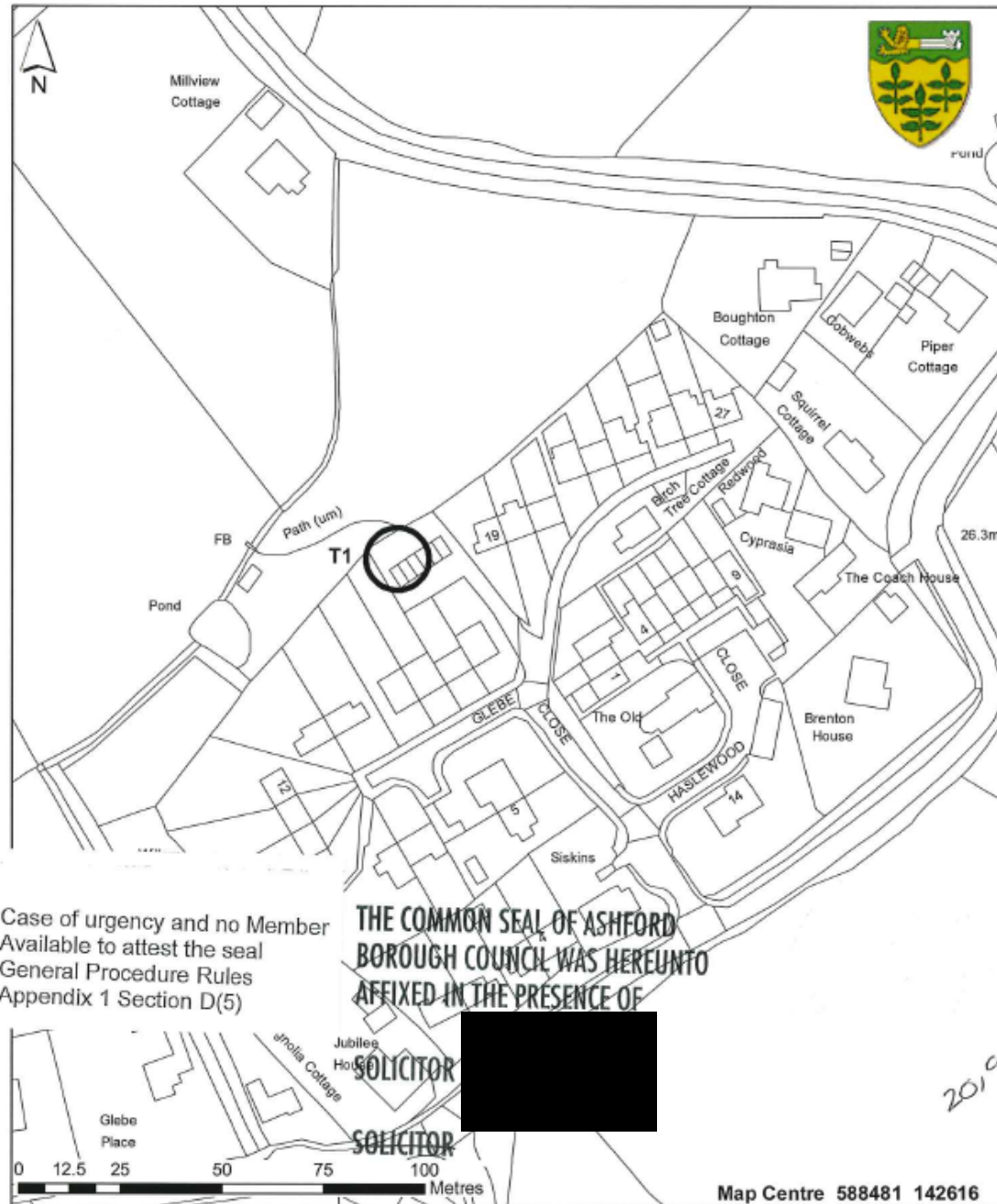
Solicitor

Case of urgency and no Member  
Available to attest the seal  
General Procedure Rules  
Appendix 1 Section D(5)





**Annex A**



Case of urgency and no Member Available to attest the seal  
General Procedure Rules  
Appendix 1 Section D(5)

THE COMMON SEAL OF ASHFORD  
BOROUGH COUNCIL WAS HEREUNTO  
AFFIXED IN THE PRESENCE OF

SOLICITOR  
SOLICITOR

**ASHFORD BOROUGH COUNCIL**  
TREE PRESERVATION ORDER NO 7 2021  
Garage area to rear of 17 and 18 Glebe Close  
Smarden, Kent  
August 2021 Scale: 1:1250

**Planning and Development**  
Civic Centre  
Tannery Lane  
Ashford  
Kent  
TN23 1PL



## **Annex B**

### **NPPF para 174, Extract.**

**174.** Planning policies and decisions should contribute to and enhance the natural and local environment by:

(b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

## **Annex C**

### **ALP 2030 Policy ENV3a (b), Extract.**

#### **Policy ENV3a - Landscape Character and Design**

**All proposals for development in the borough shall demonstrate particular regard to the following landscape characteristics, proportionately, according to the landscape significance of the site:**

- a) Landform, topography and natural patterns of drainage;**
- b) The pattern and composition of trees and woodlands;**

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