

**IN THE MATTER OF AN APPEAL UNDER SECTION 78 OF THE TOWN AND
COUNTRY PLANNING ACT 1990**

APP/U2235/W/24/3351435

LAND AT MOAT ROAD, HEADCORN, TN27 9NT

**POSITION STATEMENT
ON BEHALF OF
THE COUNCIL**

1. An outline planning application for, inter alia, the development of up to 115 no. dwellings (Use Class C3) with 40% affordable housing including demolition of existing buildings, new means of access into the site from Moat Road (not internal roads), provision of shelter to replace curtilage listed building, was refused on 29th April 2024 for 6 reasons.
2. An appeal was lodged on 6th September 2024 and a public inquiry to determine that appeal was fixed to commence on 26th February 2025.
3. The Council has engaged with the appeal process, instructing expert witnesses, preparing written evidence, agreeing statements of common ground and instructing counsel.
4. However, since making its decision to refuse the planning application, there has been a change of circumstances in several respects:
 - i. Maidstone Borough Council has adopted a new Local Plan. Whilst the Local Plan was adopted by the date of the decision, the 6 week challenge period was live and the Council had made a decision not to determine applications against it until that period had expired. By the time the Council submitted its Statement of Case, it had withdrawn one reason for refusal and reformulated other reasons in order to adapt the reasons relative to the new Local Plan.
 - ii. The provision of publicly accessible open space was negotiated and agreed between the parties resulting in withdrawal of reason for refusal 3.
 - iii. The Appellants, via their Heritage Proof of Evidence, provided new information regarding the curtilage listed building, which effectively was no longer proposed to be demolished. This led to a further Heritage statement of common ground and agreement on a revised description of the appeal proposal and wording of appropriate conditions.

This was a significant and unexpected change in circumstances and resulted in withdrawal of reason for refusal 2.

- iv. The Council is satisfied that reason for refusal 5 can be overcome via a suitable s.106 agreement.
5. Given these changes in circumstances, the Council reviewed its position and undertook the planning balance in the context of the new information.
6. The Council has notified the Appellants and the Inspector that it does not defend the refusal of the planning application at appeal. Despite some harm remaining (outweighed by the benefits in the planning balance), it is not now defending any reasons for refusal but has made experts available to assist the Inspector at the Inspector's request.
7. As has been made clear in correspondence and in the supplementary statement of common ground, the Council will not be calling evidence nor cross-examining the Appellants' evidence but will engage in discussions regarding conditions and the s.106 agreement.

EMMALINE LAMBERT

CORNERSTONE BARRISTERS

2-3 GRAY'S INN SQUARE

LONDON

26th February 2025