

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
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13 January 2016

To: MEMBERS OF THE AREA 1 PLANNING COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 1 Planning Committee to be held in the Riverside Lounge, Angel Centre, Tonbridge on Thursday, 21st January, 2016 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

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To confirm as a correct record the Minutes of the meeting of Area 1 Planning Committee held on 29 October 2015

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Introduction and Glossary

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8. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

Matters for consideration in Private

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The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

PART 2 - PRIVATE

10. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr R D Lancaster (Chairman)
Cllr V M C Branson (Vice-Chairman)

Cllr Mrs J A Anderson
Cllr Ms J A Atkinson
Cllr O C Baldock
Cllr Mrs P A Bates
Cllr P F Bolt
Cllr J L Botten
Cllr D J Cure
Cllr M O Davis
Cllr T Edmondston-Low

Cllr B T M Elks
Cllr Mrs M F Heslop
Cllr N J Heslop
Cllr M R Rhodes
Cllr H S Rogers
Cllr Miss J L Sergison
Cllr C P Smith
Cllr Ms S V Spence
Cllr F G Tombolis

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TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 1 PLANNING COMMITTEE

Thursday, 29th October, 2015

Present: Cllr R D Lancaster (Chairman), Cllr V M C Branson (Vice-Chairman), Cllr Mrs J A Anderson, Cllr Mrs P A Bates, Cllr P F Bolt, Cllr J L Botten, Cllr D J Cure, Cllr M O Davis, Cllr B T M Elks, Cllr Mrs M F Heslop, Cllr N J Heslop, Cllr M R Rhodes, Cllr H S Rogers, Cllr Miss J L Sergison, Cllr C P Smith, Cllr Ms S V Spence and Cllr F G Tombolis

Apologies for absence were received from Councillors Ms J A Atkinson, O C Baldock and T Edmondston-Low

PART 1 - PUBLIC

AP1 15/40 DECLARATIONS OF INTEREST

Councillor Botten declared an Other Significant Interest on the grounds that a close family relation, who lived close to the site, had expressed their opposition to the application. To avoid any appearance of bias and predetermination he withdrew from the meeting during the discussion of this item.

AP1 15/41 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 1 Planning Committee held on 17 September 2015 be approved as a correct record and signed by the Chairman.

DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

AP1 15/42 DEVELOPMENT CONTROL

Decisions were taken on the following applications subject to the pre-requisites, informatives, conditions or reasons for refusal set out in the report of the Director of Planning, Housing and Environmental Health or in the variations indicated below. Any supplementary reports were tabled at the meeting.

Members of the public addressed the meeting where the required notice had been given and their comments were taken into account by the Committee when determining the application. Speakers are listed under the relevant planning application shown below.

AP1 15/43 TM/15/01266/FL - REAR OF 105, 107 AND 109 ST MARYS ROAD, TONBRIDGE

Demolition of existing buildings and the erection of a residential unit to provide a one bed bungalow and two bed semi-detached property with parking and landscaping at rear of 105, 107 And 109 St Marys Road Tonbridge

RESOLVED: That the application be APPROVED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health; subject to

(1) Amendment of Condition:

4. No building shall be occupied until the areas shown on the submitted plan as turning area and vehicular access serving the development has been provided, surfaced and drained. Thereafter those areas shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

(2) Addition of Condition:

9. Prior to the commencement of the development hereby approved, arrangements for the management of demolition and construction traffic to and from the site (including hours of operation and deliveries and storage of materials to the site) shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme unless any variation has been agreed by the Local Planning Authority in writing beforehand.

Reason: In the interests of residential amenities and highway safety.

[Speaker: Mr J Collins – agent]

AP1 15/44 TM/15/02641/FL - LAND ADJACENT TO 49 GARDEN ROAD, TONBRIDGE

Demolition of existing detached double garage and erection of a detached dwelling house with associated access and parking facilities at land adjacent to 49 Garden Road Tonbridge

RESOLVED: That the application be APPROVED in accordance with the submitted details, conditions, reasons and informatives set out in the

report of the Director of Planning, Housing and Environmental Health; subject to

(1) Additional Condition:

15. No development shall take until details of measures to protect the trees within the frontage of 49 Garden Road have been submitted to and approved by the Local Planning Authority. The details shall include a plan which indicates the positions, design, materials and type of fencing to be erected. The protective measures shall be implemented before the use of the parking area serving 49 Garden Road is commenced and shall be retained at all times thereafter.

Reason: In the interests of the amenities of the area.

[Speaker: Ms J Smith and Mr R Caveille – members of the public and Mr Palmer - applicant]

AP1 15/45 TM/15/02254/FL - LAND AT CANNON LANE, TONBRIDGE

Demolition of existing buildings and construction of new freestanding single storey McDonald's restaurant with associated drive thru lane, car parking, landscaping, customer order displays and canopies at land at Cannon Lane Tonbridge

RESOLVED: That the application be APPROVED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health; subject to

(1) Amendment to Condition:

8. The use of the restaurant/drive-thru building hereby approved shall not commence until full details of a ventilation scheme for the removal and treatment of cooking odours has been submitted to and approved in writing by the Local Planning Authority. The scheme shall draw reference to the requirements and recommendations of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The acoustic details shall include full spectrum octave analysis for the proposed ventilation equipment. This must demonstrate that the noise from the equipment will not exceed NR35 at the nearest noise sensitive premises. The odour details shall include a risk assessment for odour as detailed in Annex C of the DEFRA guidance. The approved scheme shall be fully installed before use of the kitchen commences and shall thereafter be maintained in strict accordance with the approved details. No cooking of food shall take place unless the approved extraction system is being operated.

Reason: To mitigate the impact of the any associated emissions in accordance with paragraph 122 of the National Planning Policy Framework 2012.

(2) Addition of Condition:

17. No external lighting shall be installed in connection with the development hereby approved until such details have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details. Details to be submitted shall include a layout plan with luminaire orientation and a schedule of equipment in the external lighting design (including luminaire type, mounting height, luminaire orientation and lux lighting levels). The lighting shall be installed, maintained and operated in accordance with the approved details unless agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and or visual amenity of the locality and in the interests of residential amenity.

(3) Addition of Informative:

8. The applicant's attention is strongly encouraged to consider the representations made by local residents insofar as its future operations and management of the site is concerned.

[In accordance with Council Procedure Rule No. 8.6 (Part 4 of the Constitution) Councillors Lancaster and Ms Spence asked that their vote against the motion be recorded.]

[Speaker: Mr Fahmy – member of the public]

AP1 15/46 TM/14/02816/FL - ALANS HECTARE, CEMETERY LANE, HADLOW

Change of use of land to a private gypsy and traveller caravan site consisting of 2no. pitches at Alans Hectare Cemetery Lane Hadlow

It was reported that this application was subject to an appeal to the Planning Inspectorate against non-determination within the target date of November 2014. Accordingly, Members considered what the Borough Council's decision would have been if they were still in a position to determine the application. The resolution would be used as the basis for the Borough Council's case in connection with the appeal. The nature of the development proposals now subject of the appeal was detailed in the report of the Director of Planning, Housing and Environmental Health.

RESOLVED: That the Planning Inspectorate and the applicant be advised that, had the Local Planning Authority, been in a position to

determine the application, it would have REFUSED planning permission for the following reasons:

- (1) The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in paragraphs 89-91 of the National Planning Policy Framework 2012 and paragraph 16 of the Planning Policy for Traveller Sites 2015 and Policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007. The development constitutes inappropriate development which is harmful to the Green Belt by definition. Furthermore, the development by virtue of its specific nature, siting and scale causes material harm to the open function and character of the Metropolitan Green Belt and gives rise to an encroachment of built development into the countryside, contrary to the requirements of paragraph 79 of the National Planning Policy Framework 2012. There are no very special circumstances which outweigh the degree of harm caused to the Green Belt by inappropriateness and harm to openness. The development is therefore contrary to the requirements set out in Section 9 of the National Planning Policy Framework 2012, the Planning Policy for Travellers Sites 2012 and policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007.
- (2) The development, by virtue of its nature, siting and scale, detracts from the character of the rural locality and causes harm to the rural amenity of the countryside and is therefore contrary to Policies CP14 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007.

[Speaker: Mrs Massey – Hadlow Parish Council and Mr Thomas – member of the public]

AP1 15/47 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 9.05 pm

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TONBRIDGE & MALLING BOROUGH COUNCIL

AREA PLANNING COMMITTEES

Report of the Director of Planning, Housing & Environmental Health

Part I – Public

Section A – For Decision

DEVELOPMENT CONTROL

In accordance with the Local Government Access to Information Act 1985 and the Local Government Act 1972 (as amended), copies of background papers, including representations in respect of applications to be determined at the meeting, are available for inspection at Planning Services, Gibson Building, Gibson Drive, Kings Hill from 08.30 hrs until 17.00 hrs on the five working days which precede the date of this meeting.

Members are invited to inspect the full text of representations received prior to the commencement of the meeting.

Local residents' consultations and responses are set out in an abbreviated format meaning: *(number of letters despatched/number raising no objection (X)/raising objection (R)/in support (S))*.

All applications may be determined by this Committee unless (a) the decision would be in fundamental conflict with the plans and strategies which together comprise the Development Plan; or (b) in order to comply with Rule 15.24 of the Council and Committee Procedure Rules.

GLOSSARY of Abbreviations and Application types

used in reports to Area Planning Committees as at 23 September 2015

AAP	Area of Archaeological Potential
AODN	Above Ordnance Datum, Newlyn
AONB	Area of Outstanding Natural Beauty
APC1	Area 1 Planning Committee
APC2	Area 2 Planning Committee
APC3	Area 3 Planning Committee
ASC	Area of Special Character
BPN	Building Preservation Notice
BRE	Building Research Establishment
CA	Conservation Area
CPRE	Council for the Protection of Rural England
DEFRA	Department for the Environment, Food and Rural Affairs

DETR	Department of the Environment, Transport & the Regions
DCLG	Department for Communities and Local Government
DCMS	Department for Culture, the Media and Sport
DLADPD	Development Land Allocations Development Plan Document
DMPO	Development Management Procedure Order
DPD	Development Plan Document
DPHEH	Director of Planning, Housing & Environmental Health
DSSL	Director of Street Scene & Leisure
EA	Environment Agency
EH	English Heritage
EMCG	East Malling Conservation Group
FRA	Flood Risk Assessment
GDPO	Town & Country Planning (General Development Procedure) Order 2015
GPDO	Town & Country Planning (General Permitted Development) Order 2015
HA	Highways Agency
HSE	Health and Safety Executive
HMU	Highways Management Unit
KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards
KDD	Kent Design (KCC) (a document dealing with housing/road design)
KWT	Kent Wildlife Trust
LB	Listed Building (Grade I, II* or II)
LDF	Local Development Framework
LLFA	Lead Local Flood Authority
LMIDB	Lower Medway Internal Drainage Board
LPA	Local Planning Authority
LWS	Local Wildlife Site
MAFF	Ministry of Agriculture, Fisheries and Food
MBC	Maidstone Borough Council
MC	Medway Council (Medway Towns Unitary Authority)
MCA	Mineral Consultation Area
MDEDPD	Managing Development and the Environment Development Plan Document
MGB	Metropolitan Green Belt
MKWC	Mid Kent Water Company
MWLP	Minerals & Waste Local Plan
NE	Natural England
NPPF	National Planning Policy Framework
PC	Parish Council
PD	Permitted Development
POS	Public Open Space
PPG	Planning Policy Guidance
PROW	Public Right Of Way

SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (prepared as background to the LDF)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document (a statutory policy document supplementary to the LDF)
SPN	Form of Statutory Public Notice
SSSI	Site of Special Scientific Interest
SWS	Southern Water Services
TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan
TCS	Tonbridge Civic Society
TMBC	Tonbridge & Malling Borough Council
TMBCS	Tonbridge & Malling Borough Core Strategy (part of the Local Development Framework)
TMBLP	Tonbridge & Malling Borough Local Plan
TWBC	Tunbridge Wells Borough Council
UCO	Town and Country Planning Use Classes Order 1987 (as amended)
UMIDB	Upper Medway Internal Drainage Board
WLP	Waste Local Plan (KCC)
AGPN/AGN	Prior Notification: Agriculture
AT	Advertisement
CA	Conservation Area Consent (determined by Secretary of State if made by KCC or TMBC)
CAX	Conservation Area Consent: Extension of Time
CNA	Consultation by Neighbouring Authority
CR3	County Regulation 3 (KCC determined)
CR4	County Regulation 4
DEPN	Prior Notification: Demolition
DR3	District Regulation 3
DR4	District Regulation 4
EL	Electricity
ELB	Ecclesiastical Exemption Consultation (Listed Building)
ELEX	Overhead Lines (Exemptions)
FC	Felling Licence
FL	Full Application
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Assessment
FOPN	Prior Notification: Forestry
GOV	Consultation on Government Development
HN	Hedgerow Removal Notice
HSC	Hazardous Substances Consent

LB	Listed Building Consent (determined by Secretary of State if made by KCC or TMBC)
LBX	Listed Building Consent: Extension of Time
LCA	Land Compensation Act - Certificate of Appropriate Alternative Development
LDE	Lawful Development Certificate: Existing Use or Development
LDP	Lawful Development Certificate: Proposed Use or Development
LRD	Listed Building Consent Reserved Details
MIN	Mineral Planning Application (KCC determined)
NMA	Non Material Amendment
OA	Outline Application
OAEA	Outline Application with Environment Assessment
OAX	Outline Application: Extension of Time
RD	Reserved Details
RM	Reserved Matters (redefined by Regulation from August 2006)
TEPN56/TEN	Prior Notification: Telecoms
TNCA	Notification: Trees in Conservation Areas
TPOC	Trees subject to TPO
TRD	Tree Consent Reserved Details
TWA	Transport & Works Act 1992 (determined by Secretary of State)
WAS	Waste Disposal Planning Application (KCC determined)
WG	Woodland Grant Scheme Application

Tonbridge Castle **559203 147145** **12 October 2015** **TM/15/03172/FL**

Proposal: Demolition of existing buildings and redevelopment to form up to 31 one and two bed retirement apartments for the elderly including communal facilities, access, car parking, landscaping and additional parking for the George and Dragon Public House

Location: Land Adjoining 15 Shipbourne Road Tonbridge Kent

Applicant: Churchill Retirement Living

1. Description:

- 1.1 The proposed development consists of replacing the existing building and structures within the site with two buildings containing 31 apartments in total. The building referred to by the applicant as Block B would be located towards the front of the site facing Shipbourne Road. It would be broadly aligned with nos. 4 and 15 Shipbourne Road that are located to the northern and southern ends of the site. This building would contain 4 no. 1-bed and 1 no. 2-bed apartments and the building would stand between 9.3m and 10.4m high at ridge level. It would measure 13m in length and width and has been designed with a forward projecting gable feature facing the Shipbourne Road. It would be finished externally with red multi stock brickwork, plain hanging tiles, rendered walls and the roof would be clad with plain clay tiles.
- 1.2 The larger Block A building would be located further back within the wider part of the site. It would measure 50m in length and a maximum of 20m in width. It has been designed with the appearance of a terrace of buildings along its north and south elevations. The different components of this building vary in height between 8m and 10.5m. The taller sections of the building contain three storeys of accommodation with the third storey being accommodated within the roof space. This building would be finished externally with a mixture of red stock brickwork, rendered walls and plain tile hanging, and the various roofs would be clad with either brown or grey coloured plain tiles. Materials such as contrasting dark red bricks and reconstituted stone would be used to define window heads and cills on both buildings.
- 1.3 Access to the site would be provided by a reconfigured junction with the Shipbourne Road. Thirty three car parking spaces would be provided in total, 17 of which would be used by residents of the proposed development. The remaining 16 would be used for the patrons of the George and Dragon public house.
- 1.4 Illustrative landscaping details have been provided that shows the retention of the existing trees located along the north and south boundaries of the site. Additional planting would take place along the east boundary of the site. The existing boundary walls and close boarded fences are also to be retained. An existing

chain link fence located along the southern boundary is to be replaced with a 1.8m high close boarded fence and the same fencing would also be installed along the east boundary of the site as well in front of the proposed additional planting.

2. Reason for reporting to Committee:

2.1 In light of the significant local interest generated by this planning application.

3. The Site:

3.1 The site is located within the urban confines of Tonbridge close to the town centre, on the east side of Shipbourne Road. The front section of the site is currently used as a private car park for patrons of the George and Dragon public house and a local business. The rear section of the site (which is fenced and gated off from the car park) was formerly used as a dairy depot and more recently for retail purposes (World of Pots). A single building remains on site which is to be demolished under this proposal.

3.2 The front portion of the site (including the existing building) is located within the Tonbridge Conservation Area (Sub Area E2), the boundary of which runs in a north-south orientation across the site immediately to the rear of the existing building within the site (marked as a depot building within the Conservation Area appraisal). Listed Buildings are located immediately to the south of the site (4 and 7 Shipbourne Road), as well as to its north (Dry Hill Farmhouse and Dairy Cottage).

4. Planning History (relevant):

TM/14/01407/CR4 Application Withdrawn 15 January 2015
D

Proposed demolition of existing building and open-sided structure on site and replacement with 14 new residential dwellings together with access, parking, garaging, landscaping and ancillary works

5. Consultees:

5.1 LLFA: No objection to the development. We recommend that the applicant has a discussion with Southern water to ensure that the proposed discharge rates to the public surface water sewer are acceptable.

5.2 KCC (H+T): I note that the applicant has undertaken first hand surveys of similar retirement living developments to establish trip generation and parking accumulation rates. I also note that the trip generation estimates of the existing potential use is comparable to this assessment undertaken with the previous application and that the traffic generation estimated for this proposal is lower than that for the 14 residential units previously proposed.

- 5.2.1 Subject to the applicant entering into a S.278 agreement with the highway authority, I have no objections to the proposed development.
- 5.3 KCC (Heritage): The site of the application lies on a spur of River Terrace Gravels. These have potential for early prehistoric remains including stone artefacts. The site also lies towards the northern extent of the historic market town of Tonbridge although it is within the post medieval expansion towards Dryhill rather than the medieval core. Within and either side of the application site are historic buildings including an inn, farm complex and smithy. Some of these are designated heritage assets and the site is within the Conservation Area.
- 5.3.1 The application is supported by a desk based Archaeological Assessment by CgMs and by a Heritage Statement by ECUS. Although both mention the smithy building within the application site, neither provides sufficient assessment of the historic significance of this building. In view of the application to demolish this building within a Conservation Area, I recommend the need for a full assessment and statement of significance of the smithy building. In view of the surrounding historic buildings, this smithy may be considered to be a key part of this group of later post medieval buildings and part of the historic character of this area.
- 5.3.2 The DBA by CgMs is rather dismissive of the archaeological potential of the site and as such may be mis-leading. Gravels are identified in the geotechnical data and as such there is potential for early prehistoric remains. There is a post medieval industrial building on the site and there is a post medieval farm complex and inn adjacent to the site. Neither the farm complex nor the inn have been thoroughly assessed. Archaeological remains associated with these distinctive complexes may survive on the site. The DBA does not seem to have consulted the English Heritage and KCC Urban Town Survey data and as such the element of early post medieval tenement plots has not been assessed. The DBA has also not consulted the Historic England Farmstead Survey which does identify Dry Hill Farm as a "loose courtyard plan farmstead with building to two sides of the yard".
- 5.3.3 Therefore I consider the DBA is rather too brief and should provide more assessment of the farm complex and the smithy. There should also be further assessment of the geo-archaeological interest and the potential for Palaeolithic remains. These elements are preferable but not essential for pre-determination guidance. However, I do consider it is essential to be provided with a statement of significance for the smithy and its relationship to the surrounding post medieval inn and farm complex. This is to ensure that the decision to demolish the smithy is fully informed.
- 5.4 KCC (Education and libraries): A contribution is sought to improve library provision in the Tonbridge area.
- 5.5 Private reps: 39 + site + press notice/1X/0S/17R. Two of the responses contain petitions signed by local residents. However, one is a partial copy of the other. In

total 43 people have signed the petition, who all live either in Portman Park or Shipbourne Road. The reasons for objecting to this application are:

- Overlooking will occur to neighbouring residential properties.
- The fencing around the site will need to be of a high quality to fit in with the character of the Conservation Area.
- Loss of privacy from the new car parking bays next to Dairy Cottage arising from the removal of the existing single storey building.
- Light pollution and noise from users of the new car parking spaces next to Dairy Cottage.
- The development is too ambitious (too large) for the size of the site and is out of keeping with the character of the locality. Despite the change in roof heights it will dominate the existing buildings around it. The mass of the building is not alleviated by the various projections and recesses.
- There are Listed Buildings close to the site that could be de-valued and damaged by the construction of the proposed development.
- The building is 3 storeys in height and will cut out light to properties within Portman Park.
- The development will cause light pollution to the neighbouring properties.
- The development will cause noise disturbance to existing residents of Portman Park in terms of deliveries being made, large bins being emptied, vehicles coming and going to and from the site.
- If the communal facilities include kitchen and dining facilities, this could also cause noise and smells to emanate from the building. The use of plant will also cause noise disturbance to local residents.
- The development will dominate the view from neighbouring properties in Portman Park.
- Car parking for residents and delivery/emergency vehicles is insufficient.
- Details of external lighting are inadequate.
- The access into the site will be horrendous. There is already a constant stream of traffic building up on the Shipbourne Road outside the site.
- The highway assessment is flawed. Improvements should be made to the highway network beyond the boundary of the site.

- The felling of trees within the site will be detrimental to the environment.
- Local infrastructure and medical facilities are already overstretched without the large influx of new patients this development would create.
- Permitted development rights should be removed to ensure permission cannot be eroded in the future.
- The development is targeted as sheltered housing for the elderly. Would it not be more effective to have a mixed housing scheme with a variety of dwellings?
- There is an opportunity for the town to fully utilise land which was previously safeguarded for the Tonbridge relief road. The proposal in its current form does not offer the town the best and most effective development option.
- The proposed development sterilises any development potential on adjacent land owned by the Tonbridge School due to a lack of access through the development site.
- TMBC should clarify that the area forming the confluence of Shipbourne Road and London Road was fully explored by Highways designers to ensure the full utilisation of the parcels of land making up the old relief road proposal.
- The construction of block B could cause damage to the adjacent Grade II Listed Building at 4 Shipbourne Road.

5.6 TCS: The conveniently sited proposal would be welcomed by many local downsizers. The apartments fronting the Shipbourne Road fit in well with the street scene. One criticism – only 17 car parking spaces are provided for residents and none for staff or visitors.

6. Determining Issues:

6.1 I would firstly like to address the recent planning history in connection with this site. In October 2014 APC1 deferred determination of an application proposing residential redevelopment at this site in order to enable the then applicants (KCC) to consider amendments to the proposed layout that would allow for neighbouring land (within the ownership of Tonbridge School) to be developed in the future and/or to explore the possibility of bringing forward a wider scheme for development with adjacent landowners. That application was subsequently withdrawn by KCC and as a result not reported back to APC1.

6.2 The current application is for a significantly different form of development and is proposed by a different applicant. I can advise that the layout of the development now proposed ensures that there would be no physical obstruction to the adjacent portion of land owned by Tonbridge School should they wish to seek to secure development of some kind in the future. I would also advise Members that an

intervening third party owns a strip of land between the two sites. Any future arrangements for access to and the development of adjacent land would be a matter for private negotiations between those parties and, of course, dependent on necessary planning permissions being obtained. I am satisfied that nothing within this current proposal should in itself prevent further development of the adjacent land from a practical viewpoint.

- 6.3 In any case, it is important to recognise that such matters are not usually material planning considerations and as such any arrangements regarding suitable access over land is an entirely private matter and must not have a bearing on the outcome of this planning application.
- 6.4 Whilst I appreciate that it may be *preferable* for the Committee to consider potential development opportunities for a wider area of land in a more holistic way that in itself is not sufficient grounds to defer determination of this application, particularly given that the area of land within the ownership of Tonbridge School is not itself the subject of any current or immediately upcoming development proposals. The Committee is bound to assess the proposed development as submitted and, whilst the applicant may want to engage with adjoining land owners in this respect at some time in the future, they cannot be required to do so by withholding planning permission. Indeed, such a course of action is likely to be seen as unreasonable behaviour by the Council in the event that an appeal was lodged on grounds of non-determination which may be subject to a legitimate claim for costs against the Council.
- 6.5 I now turn to the substantive material considerations of the proposed development.
- 6.6 One of the key aims of the NPPF is to support development of previously developed land (PDL) in appropriate locations. The site is located within the urban area of Tonbridge, not far from the town centre, where a wide range of shops and services are available and easily accessible by public transport. Given the existing and former uses of the site, it is clearly PDL. Policy CP11 of the TMBCS states that development will be concentrated within urban areas including Tonbridge. With this context in mind, in terms of the broad principles, this site presents a good opportunity for redevelopment in the manner proposed.
- 6.7 Turning to the specifics of the scheme itself and dealing firstly with the impact on the Tonbridge Conservation Area and nearby Listed Buildings, paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case the adjacent Grade II Listed buildings and Conservation Area). Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance of such an asset can be harmed or lost through alteration of the asset or through development within its setting.

- 6.8 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that there is a general duty when carrying out any functions under the Planning Acts with respect to any buildings or other land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 6.9 Due to the particular context of this site, there are several different heritage assets that need to be considered, including the removal of the existing depot building, the impact of the development upon the setting of the adjacent Listed Buildings and, of course, whether the development would preserve or enhance the character or appearance of the Tonbridge Conservation Area. I will address each of these elements in turn:

Removal of the existing depot building:

- 6.10 Information submitted with the planning application indicates that the depot building dates from between 1897 and 1908 and was labelled on the 1908 OS map as a “smithy”. The building itself is not listed and is not a designated heritage asset. However, as it is to be demolished as part of this development consideration has to be given to its relevance (value) to the Dry Hill Farm complex of buildings and the wider Conservation Area. The building is of simple brick construction, quite typical of industrial buildings dating from the early 20th Century. Its use as part of a milk depot in the later 20th Century and as a retail shop in more recent times has significantly reduced its historical association with the remaining Dry Hill Farm buildings (Dry Hill Farmhouse and Dairy Cottage) which are both grade II Listed, as well as the barn located to their north east, which is not a Listed Building but which forms part of this historic group of buildings. Due to its appearance and separation from these adjacent buildings, it does not in visual terms read as an integral part of this group of much older buildings.
- 6.11 The building itself is utilitarian in appearance and there are no obvious signs of its original use as a smithy. This is likely to be due to the intervening uses the building has been put to. The appraisal for this part of the Conservation Area considers the car park to be a harmful element and recognises the site frontage to be a visual intrusion. The existing lack of enclosure is described as a negative feature within the appraisal. Within this existing context the depot building itself has a neutral impact upon the character of the wider Conservation Area. Its removal as part of this development would enable the site’s frontage to be developed in a way that would remove the existing visual intrusion created by the car park and provide a building that would remove the negative contribution the site currently makes. Therefore, the removal of the depot building itself would be acceptable in heritage terms. However, I do note the representations made by KCC Heritage and suggest that the most appropriate way forward would be to impose conditions requiring suitable records be kept of any findings.

Introduction of Block B at the site frontage:

- 6.12 This block would be of a scale, form and design that would sit comfortably between the existing historic buildings at 4, 5, 7 and 15 Shipbourne Road. The land rises from south to north along the Shipbourne Road in this locality and the height of the building has been designed to respect the land levels and height of buildings located on either side of the site. The design of this building has taken several references from its neighbours including the projecting front gable wall, barn hipped roof, bay windows and use of materials. This building would therefore significantly enhance the character of the Tonbridge Conservation Area by directly removing the negative aspects identified within the Conservation Area appraisal.
- 6.13 Given the appropriate design/scale/appearance of Block B (the front building), although the immediate setting would change, it would not cause harm to adjacent Listed Buildings (4 and 7) Shipbourne Road), or indeed the setting of Dry Hill Farmhouse and Dairy Cottage.

Introduction of Block A within the site:

- 6.14 This is the larger of the two buildings and it would not sit within the Conservation Area, but would be located adjacent to its eastern boundary and therefore must be considered in terms of its impact on the setting. This building would not be visible from public vantage points within the Conservation Area (Shipbourne Road, Portman Park etc), due to its position within the site and the position of existing buildings in the locality (and that of Block B). Block A has been designed with the appearance of a traditional terrace of buildings with subtle variations in the component elements and making use of traditional materials. The wider area is not characterised by a single typology of built form. Shipbourne Road contains buildings that front on it, but back land development also exists (including Dry Hill Farm house and Dairy Cottage, as well as the existing depot building within the site). Similarly both road frontage and back land development exists to the south and east of the site within Portman Park. In light of these factors and given the lack of its visibility from public vantage points, the proposed Block A building would preserve the character of the Tonbridge Conservation Area.
- 6.15 Block A would be located over 20m to the south of the nearest listed buildings (Dry Hill Farmhouse and Dairy Cottage). The building would face towards them but would not stand directly in front of them as its west flank wall would be located to the east of these buildings as well. The nearest section of Block A facing towards these Listed Building would be the two storey end section measuring 8m high. I am satisfied that due to the position of Block A within the site, its orientation and design, it would not dominate nor detract from the setting of these Listed Buildings.
- 6.16 In light of the above, the development is considered to be acceptable in terms of how it would impact upon designated Heritage Assets within the locality.

6.17 Turning to more general matters of design and appearance TMBCS policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD. The NPPF provides more recent guidance on the issue of design quality at paragraphs 60 and 61. They state:

“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

6.18 The development has been criticised by some local residents for being too large for the site and standing too tall, particularly with reference to Block A. A variety of building types and sizes are present within the vicinity of the site and to a large extent that variety contributes to the character of the area. Bungalows, two storey dwellings and commercial buildings are located close to the site in Shipbourne Road and Portman Park. Whilst it is appreciated that Block A is relatively large in terms of footprint and scale, it would not appear obtrusive in visual terms when considering the surrounding context and equally it must be remembered that the existing depot building within the site is in itself of a substantial size and is not commensurate with the surrounding scale, form or design of the built environment in the locality.

6.19 The proposed development would sit comfortably within the site and it has been designed with a good amount of open space to the south of Block A. Having regard to the existing pattern of development, and the specific layout proposed here, I do not consider that the scheme represents an overdevelopment of the site in any way.

6.20 Whilst some local residents consider Block A to be too tall, its tallest point would be 10.5m above ground level. Whilst this would be taller than some of the adjacent buildings in the locality, this would not render it obtrusive. This particular building would not be seen from public vantage points in the context of existing buildings located around the site. Consequently, it would not appear as an overly tall or domineering building when viewed from Shipbourne Road or Portman Park.

6.21 The proposed application includes details of boundary treatments. The existing boundary walls are to be retained and made good. The existing close boarded

fence located along the north boundary of the site is to be retained. At the eastern end of the site the existing railings are to be replaced with a 1.8m high close boarded fence. Similarly to the south, the existing chain link fence is to be replaced with 1.8m high timber close boarded fencing. Given the existence of this type of boundary treatment already around the site, its use along the east and part of the southern boundaries would be acceptable and would not harm the setting of the adjacent Conservation Area.

- 6.22 Taking all of the above factors into account it is considered that the proposed development would result in a visual improvement of the Shipbourne Road street scene and would enhance the character and appearance of the Tonbridge Conservation Area, which is to be welcomed.
- 6.23 Turning to matters concerning residential amenity, several local residents consider that the development will cause unacceptable overlooking and a loss of light to their properties. Taking the issue of loss of light first, an assessment of daylight light availability to the nearest properties to the proposed buildings (nos. 4 and 7 Shipbourne Road) has been made using the guidance contained within the BRE document (Site Layout Planning for Daylight and Sunlight - a Guide to Good Practice). The tests indicate that the proposed development would not cause an unacceptable loss of light to these neighbouring residential properties. It follows, therefore, that other dwellings located further away from the proposed development would also not suffer an unacceptable loss of light or overshadowing.
- 6.24 Turning to the issue of privacy, this is affected by many different factors including land levels, distance between proposed and existing buildings, window size/orientation as well as existing and proposed boundary features. The development has been sensitively designed to not cause unacceptable overlooking to the private garden areas or habitable room windows of the neighbouring residential properties. Windows located within the east and west elevations of Block A at first floor level are shown to be obscure glazed to avoid overlooking the neighbouring properties. A condition can be used to ensure they are installed and retained in this way.
- 6.25 The proposed plans seek to retain mature trees located around the site (predominantly along the southern and northern boundaries of the site). The existing properties adjoining the site contain a variety of boundary treatments including brick walls, close boarded fencing and evergreen hedges and these features are not shown to be affected by the proposed development. Retaining these existing boundary features and providing additional close boarded fencing to existing open boundaries would assist to mitigate any perceived effects of overlooking to the neighbouring properties.
- 6.26 The development includes the demolition of the existing single storey building located to the rear of the George and Dragon public house in order to provide compensatory car parking for the pub in lieu of that lost by the position of Block B.

The owner of the adjacent property (Dairy Cottage) is concerned that this would leave his property exposed to views, noise and light pollution from users of the new car park and pub staff. However, it is proposed to locate a 1.8m high acoustic fence around the boundary of the site with this neighbouring property to compensate for the loss of the existing building. Whilst the specific design of this fence has not been submitted at this stage it would provide an adequate level of amenity for the neighbouring property as it would deflect noise and prevent car head lights from shining into the windows located within this dwelling. Details of this fence can be required by a condition to ensure it is of an appropriate appearance and style.

- 6.27 Taking all of the above factors into account, the proposed development is considered to be acceptable in terms of residential amenity issues. Whilst I appreciate that the surroundings residents' relationship with the site will change in physical terms, this change would not result in any material harm being caused.
- 6.28 The proposed development would be served by a new access to Shipbourne Road. Thirty three car parking spaces would be provide in total, of which 17 would be available for residents of the proposed apartments. The remainder would be available for patrons of the public house. The proposed residential development would, therefore, have a parking ratio of 0.6 spaces per dwelling. The adopted car parking standards require a maximum of 1 space to be provided for 1 and 2 bedroom apartments in this edge of centre location. The site is located close to Tonbridge town centre and is well related to the public transport network so the residents will have access to a choice of transport modes and will not need to rely on the private motor car. In light of this and given the nature of the proposed development, I do not consider that a full parking requirement should be insisted upon. On-street parking controls exist in the locality that would prevent indiscriminate and inconsiderate parking on the local roads taking place.
- 6.29 It must be borne in mind that current Government guidance contained within Paragraph 32 of the NPPF states that permission should only be refused on transport grounds if the impacts are considered to be severe. It is well known that the traffic builds up along the stretch of Shipbourne Road outside the site at certain times of the day as it is close to the traffic light controlled junction with the London Road and is one of the main routes into the town centre. Information has been submitted to demonstrate that vehicles including refuse freighters can safely turn into and out of the site in both directions. Account must also be taken of the fact that the site has a lawful, unfettered, retail use which could recommence without needing planning permission from the Borough Council. Due to this and given the size of the site, such a use is likely to generate far more movements to and from the site than the proposed residential development. The highway authority has not objected to the proposed development.
- 6.30 Concerns have been expressed by local residents that there are no dedicated spaces for staff or visitors to park within the site. However there would only be

one site manager on site. This is not a care home where numerous nursing and ancillary staff would work in shifts, 24 hours a day. Residents will be aware of the availability of parking before they move into the development and will be able to advise their visitors of the situation accordingly.

- 6.31 Taking the above into consideration, the proposed development is considered to be acceptable in terms of both highway safety and parking provision.
- 6.32 The site is subject to road traffic noise. However details of what mitigation measures are required to provide an acceptable aural amenity for the eventual occupiers can be required by condition, as is usual practice. Similarly, a condition can be used to require details of any mitigation required to prevent noise disturbance to neighbouring residential properties arising from the use of the plant room within the development.
- 6.33 A contaminated land investigation report has been submitted as part of this application. Whilst appropriate mitigation measures are specified for the majority of the site (essentially capping the site under clean imported topsoil), there are two small areas of the site that require further investigation and consideration of appropriate mitigation. Again, this matter can be satisfactorily dealt with by conditions.
- 6.34 Policy CP17 of the TMBCS requires the provision of affordable housing as part of developments in urban areas where 15 or more dwellings would be created. This policy allows for commuted sums to be accepted as an alternative to on site provision where the developer can demonstrate exceptional reasons. In this case, the development is for retirement apartments and each apartment would have to contribute to a service charge for the whole site. The imposition of a service charge for any affordable units within this development would not make them affordable in real terms and, as such, it is considered more appropriate to accept a commuted sum rather than on site provision given that there is a clear, evidenced need for affordable accommodation of this nature within the Borough. Officers are continuing to assess what such a commuted sum might be, when having due regard to the necessary tests set out within the SPD, and the confidential, detailed financial appraisal submitted by the developer (an approach also advocated by the adopted SPD) and will report further by way of a supplementary report.
- 6.35 Policy OS3 of the MDE DPD requires the provision of open space as part of a development. The policy states that where this cannot be provided on site, a contribution will be sought to enhance existing off site public open space. Again, officer assessment is continuing regarding whether a, and if so what, contribution can be achieved here in light of the position with regard to affordable housing as set out above. Further detail in respect of this will be reported as a supplementary matter.
- 6.36 Other infrastructure considerations: KCC has requested a contribution towards the enhancement of library services within the town. The Community Infrastructure

Levy Regulations contain three statutory tests. Regulation 122 states that a planning obligation may only be required if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

6.37 KCC has provided no evidence to suggest that existing facilities in the area could not absorb the needs of future residents with regards to libraries and as such the request does not meet the tests set out in Regulation 122 and the contribution will not be pursued in this instance.

6.38 The applicant has carried out a bat survey of the site but no bats were recorded emerging from any trees or the building on site and concludes that roosting bats are likely to be absent from the site. However it also notes that bats over fly the site and their roosts are likely to be located to the east of the site. However, the report recommends that mitigation measures are undertaken by installing bat boxes as part of the proposed development.

6.39 Lighting can be an issue, not just for local residents but for the local bat population as well. As no external lighting details have been submitted at this stage, I would recommend a condition to require such details to be approved by the LPA before any external lighting is installed.

6.40 In conclusion, the proposed development would be an effective use of previously developed land in a highly sustainable urban location. The development is considered to fit comfortably within the site and would enhance the appearance of the designated Conservation Area and the setting of the neighbouring Listed Buildings, which is to be welcomed. I therefore recommend that planning permission be granted.

7. Recommendation:

7.1 **Grant Planning Permission** as detailed in the following submitted details: Letter APPLICANT re cert B dated 07.10.2015, Letter KCC re cert B dated 07.10.2015, Letter GEORGE AND DRAGON re cert B dated 07.10.2015, Certificate B dated 07.10.2015, Letter dated 07.10.2015, Archaeological Assessment dated 09.10.2015, Planning Statement dated 09.10.2015, Viability Assessment AFFORDABLE HOUSING dated 09.10.2015, Bat Survey PHASE 2 dated 07.10.2015, Transport Statement dated 07.10.2015, Statement HERITAGE dated 07.10.2015, Site Survey INVESTIGATION REPORT dated 07.10.2015, Design and Access Statement dated 07.10.2015, Supporting Statement STAKEHOLDER ENGAGEMENT dated 01.10.2015, Arboricultural Survey dated 07.10.2015, Tree Protection Plan 15267-BT1 dated 07.10.2015, Elevations 20057TB P04 1of 2 block A dated 07.10.2015, , Floor Plan 20057TB P03 dated

07.10.2015, Site Plan 20057TB P02 dated 07.10.2015, Site Plan 20057TB P06 distance dated 07.10.2015, Location Plan 20057TB P01 dated 07.10.2015, Topographical Survey 211465-SU-01 dated 30.09.2015, Other Trip calculation dated 08.12.2015, Other Trip Calculation dated 08.12.2015, Drawing VEHICLE SWEPT PATHS dated 08.12.2015, Drawing VEHICLE SWEPT PATHS dated 08.12.2015, Drawing ROAD OFFERED FOR ADOPTION dated 08.12.2015, Elevations 20057TB P05 Rev A 2of 2 block B dated 07.10.2015 subject to:

7.2 The applicant entering into a Section 106 Agreement covering the following matters:

- An affordable housing contribution;
- A public open space contribution as deemed appropriate and;

7.3 The following conditions:

Conditions:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 3 No development shall commence (other than the removal of the existing buildings within the site) until a scheme of landscaping has been submitted to the Local Planning Authority and the landscaping shall be undertaken in accordance with the approved details. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 4 The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be

replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 5 The boundary treatments to be built within and around the boundary of the site shall accord with the details shown on drawing no.20057TB P02, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the visual amenity of the locality.

- 6 Details of the design of the acoustic fence shall submitted to and approved by the Local Planning Authority prior to the demolition of the building located adjacent to Dairy Cottage. The fence shall be erected within 2 calendar months following the demolition of this building, in strict accordance with the approved details and shall be retained at all times thereafter.

Reason: To ensure that the development does not harm the visual amenity of the locality and in the interests of residential amenity.

- 7 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

- 8 No development shall take place until details of the finished slab level for the buildings in relation to the existing and proposed land levels within the site have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the visual amenity of the locality.

- 9 No above ground works shall commence until full details of a scheme of acoustic protection to habitable rooms have been submitted to and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels that comply with BS 8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings. The approved scheme shall be implemented prior to the first occupation of the dwellings and shall be retained at all times thereafter.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

- 10 None of the buildings shall be occupied until details demonstrating that noise emitted from the plant rooms does not exceed NR35 at the boundary of the nearest residential property have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: In the interests of the amenities of future occupants.

- 11 No external lighting shall be installed until full details have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details and retained at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the visual amenity of the locality or residential amenity.

- 12 The Bat mitigation measures set out in section 4 of the Phase 2 Bat Survey Report shall be incorporated into the development prior to the first occupation of the development and shall be retained at all times thereafter.

Reason: In the interests of these protected species.

- 13 The window on the south elevation of Block B at first floor level shall be fitted with obscured glass and, apart from any top-hung light, shall be non-opening. This work shall be effected before the extension is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

- 14 The window located at first floor level on the east and west elevations of Block A shall be fitted with obscured glass and, apart from any top-hung light, shall be non-opening. This work shall be effected before the extension is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

- 15 Notwithstanding the conclusions of the Crossfield Consulting Site Investigation report no development shall take place until the following have been submitted to and approved by the local planning Authority:

- (a) results of further site investigations targeting the area of the site where the hydrocarbon odour was detected within the made ground and also the area of the site adjacent to the electricity sub-station. This shall include any necessary intrusive investigations and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement for those specific parts of the site informed by the site investigation

results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures in addition to the mitigation measures proposed within the Crossfield Consulting Site Investigation report. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

- (b) prior to the commencement of the development the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 16 Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. Where it is identified that further remediation works are necessary, details and a timetable of these works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 17 No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (including a timetable for such investigation) which has been submitted by the applicant and approved by the Local Planning Authority. The programme shall be informed by the archaeological desk based assessment prepared by CGMS dated October 2015.

Reason: In the interests of archaeological research.

- 18 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

- 19 No development shall commence (other than the removal of the existing buildings within the site) until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed without increase to on site or off site flood risk. The drainage scheme shall be based upon the submitted drainage strategy and the proposed discharge rate to the public surface water sewer agreed with Southern Water.

No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 20 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class C of Part 16 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In order to enable the Local Planning Authority to regulate and control the installation of microwave antennas on the buildings in the interests of visual amenity.

Informatives

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to

Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmbc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

- 2 The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
- 3 The Local Planning Authority will not accept any liability for remediation works.
- 4 The applicant is reminded that a suitably qualified and competent person shall fulfil the requirements of the condition(s) pertaining to contaminated land remediation.
- 5 The applicant is advised to install the fencing along the southern boundary of the site in such a way to avoid harming the root system of the existing trees and hedges.
- 6 The applicant is advised to take particular care when undertaking development close to the Grade II Listed Building at 4 Shipbourne Road.
- 7 The applicant is advised to adopt considerate construction techniques for the duration of the development in order to minimise any detriment caused to local residents. For example, the applicant is advised to park all construction and worker's vehicles within the site and to avoid working outside normal working hours of 08.00 to 18.00 Monday to Friday, 08.00 to 13.00 on Saturdays with no working on Sundays, Bank or public holidays.

Contact: Matthew Broome

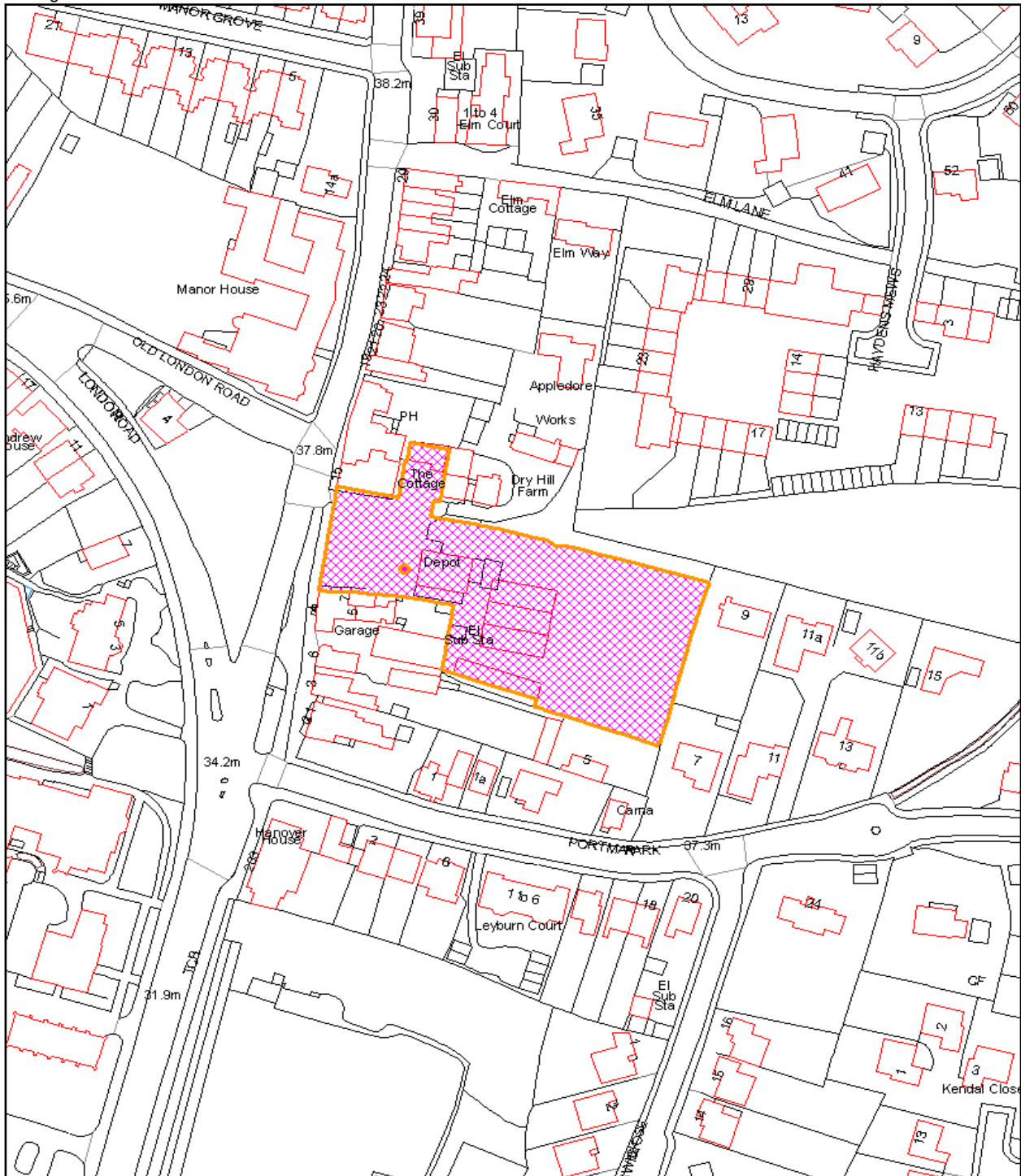
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TM/15/03172/FL

Land Adjoining 15 Shipbourne Road Tonbridge Kent

Demolition of existing buildings and redevelopment to form up to 31 one and two bed retirement apartments for the elderly including communal facilities, access, car parking, landscaping and additional parking for the George and Dragon Public House

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Alleged Unauthorised Development

Tonbridge

14/00174/WORKM

559436 145792

Medway

Location:

18 Hectorage Road Tonbridge Kent TN9 2DP

1. Purpose of Report:

- 1.1 To report the unauthorised construction of a timber play structure resembling the superstructure of a ship within the rear garden of 18 Hectorage Road, Tonbridge.

2. The Site:

- 2.1 The site is within the built urban area of Tonbridge. This is an early 20th century semi-detached house on the southern side of Hectorage Road. The neighbouring houses are in close proximity on either side.
- 2.2 The rear garden is approximately 4.5 metres wide by 13 metres long with a paved terrace adjacent to the rear of the house. The garden then rises up by about one metre to a lawn with a large garden shed/workshop adjacent to the rear boundary. There are interwoven panel fences topped with trellis approximately 1.85 metres high on both side boundaries. There are similar sized gardens to neighbouring houses on either side, with the back gardens of houses in Royal Rise on higher ground beyond the rear boundary to the south.

3. Planning History

- 3.1 None relevant

4. Alleged Unauthorised Development:

- 4.1 Without planning permission, the construction of a timber play structure resembling the superstructure of a ship that is over 4 metres high within 2 metres of the boundary of the curtilage of the dwellinghouse, and which incorporates a raised platform greater than 300 millimetres above ground level in the rear garden of this dwellinghouse.

5. Determining Issues:

- 5.1 The play structure is a climbing frame/tree house designed and purpose built by the owner and based on a nautical theme, resembling the superstructure of a ship. It is built of timber incorporating a hollow square tower representing the trunk of a tree with an internal ladder, supporting a cantilevered platform with an open balustrade of vertical timber posts and horizontal rope restraints and an "A" shaped cabin on top of the platform. There is also an external ladder to the platform, which has the appearance of a gangplank, which can be fitted on either side of the structure. The

structure is within 200 millimetres of the eastern side joint boundary fence with 20 Hectorage Road and within 10 metres of the back of the house.

- 5.2 The platform is 2.31 metres above ground level and the overall structure about 4.38 metres high from ground level to the top of a cantilevered central timber beam along the length that supports the roof of the cabin and which then extends forward as a hoist for a canvas bucket. The platform is open sided apart from the timber and rope balustrade and faces towards the rear of the house.
- 5.3 The structure constitutes development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended) and, by virtue of its height, nature and proximity to the site boundary, does not constitute permitted development. As such, it requires planning permission from the Council. Without such permission the development is unauthorised and in breach of planning control.
- 5.4 To provide some background, I can advise that the owner was originally informed that the structure would require planning permission from the Council by letter back in June 2014. As Members will be aware, Section 73A of the Town and Country Planning Act 1990 (as amended) specifically allows for the submission of applications for development that has been carried out before the date of the application as one means of resolving a breach of planning control. The owner was invited to submit a retrospective planning application on a without prejudice basis and advised that without such permission the development was vulnerable to enforcement action. No application was submitted and several letters followed reminding the owner of the fact that the development was unauthorised. One letter also offered to meet with the owner to discuss what measures might be incorporated into the design of the play structure to overcome any concerns relating to the overlooking of neighbouring properties.
- 5.5 Contact was subsequently made by the owner via email dated 14 August 2014 explaining that he too wished to "clear this matter up". He advised that he would be away for the succeeding few weeks, but would welcome the opportunity to discuss the matter further on his return. However, he made no further contact and further letters were subsequently sent inviting him to resume his discussions with Officers.
- 5.6 To date, no further response has been received from the owner and an application has still not been submitted.
- 5.7 Turning to the planning considerations relevant to this matter, one of the core planning principles set out in the NPPF is that the planning system should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy CP24 of the TMBCS requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, siting, character and appearance be designed to respect the site and its surroundings. Development

which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement will not be permitted.

- 5.8 The main issue in the consideration of this case centres on the privacy of the neighbours. Indeed, throughout our communications, the owner has been continually advised that any retrospective planning application he made would need to include details of screening around the raised platform to prevent direct overlooking into neighbouring properties and that any application without details of adequate screening was unlikely to be viewed favourably.
- 5.9 The structure is built on the lawn on a part of the rear garden which is approximately 1m higher than the floor level of No.18 itself. The gardens of the neighbouring properties appear to have similar variations in ground levels with the rear or southern parts generally higher than the floor level of the dwellings themselves. This exacerbates the impact of the structure, which is clearly visible from neighbouring properties. By virtue of its position within the garden, the change in land levels at this point combined with the height and design of the structure, there is significant overlooking occurring as a result of this development. As part of investigations, Officers have visited one of the neighbouring properties and it is clear that there are direct views from the structure over the garden immediately adjacent to the rear of the house and into the rear ground floor rooms and first floor back bedroom of this particular house, which is considered to be unacceptable.
- 5.10 Clearly one solution to remedy this harm would be to require the removal of the structure in its entirety. However, it is considered that alternative measures to prevent views from the structure could be incorporated into its design which would alleviate the identified harm to privacy. Indeed, the owner was advised of alterations that could be undertaken to overcome these concerns as follows:
- The removal of the ladder access to the outdoor deck, on both sides of the structure.
 - The removal of the balustrade in full from around the outdoor deck.
 - The insertion in the open gable cabin area of a timber 'wall' with or without an opaque safety glass/Perspex window.
 - The insertion of opaque safety glass/Perspex panels in the sides of the gabled cabin area.
- 5.11 As I have explained at paragraphs 5.4 and 5.5, the owner did not take the opportunity to undertake these suggested remedial works or seek to discuss further with Officers.
- 5.12 Officers have made every possible attempt to negotiate a more agreeable outcome with the owner of this property, particularly given that the structure is for use by his family members but, as the above explanation sets out, such attempts have not been successful. With this in mind, and given the serious loss of privacy arising from the

structure, there is no option but to recommend that formal action now be taken to resolve the matter. I therefore recommend that an Enforcement Notice be served to secure the remedial measures specified above in order to mitigate the detrimental effects on amenity arising from the direct overlooking onto neighbouring land.

6. Recommendation:

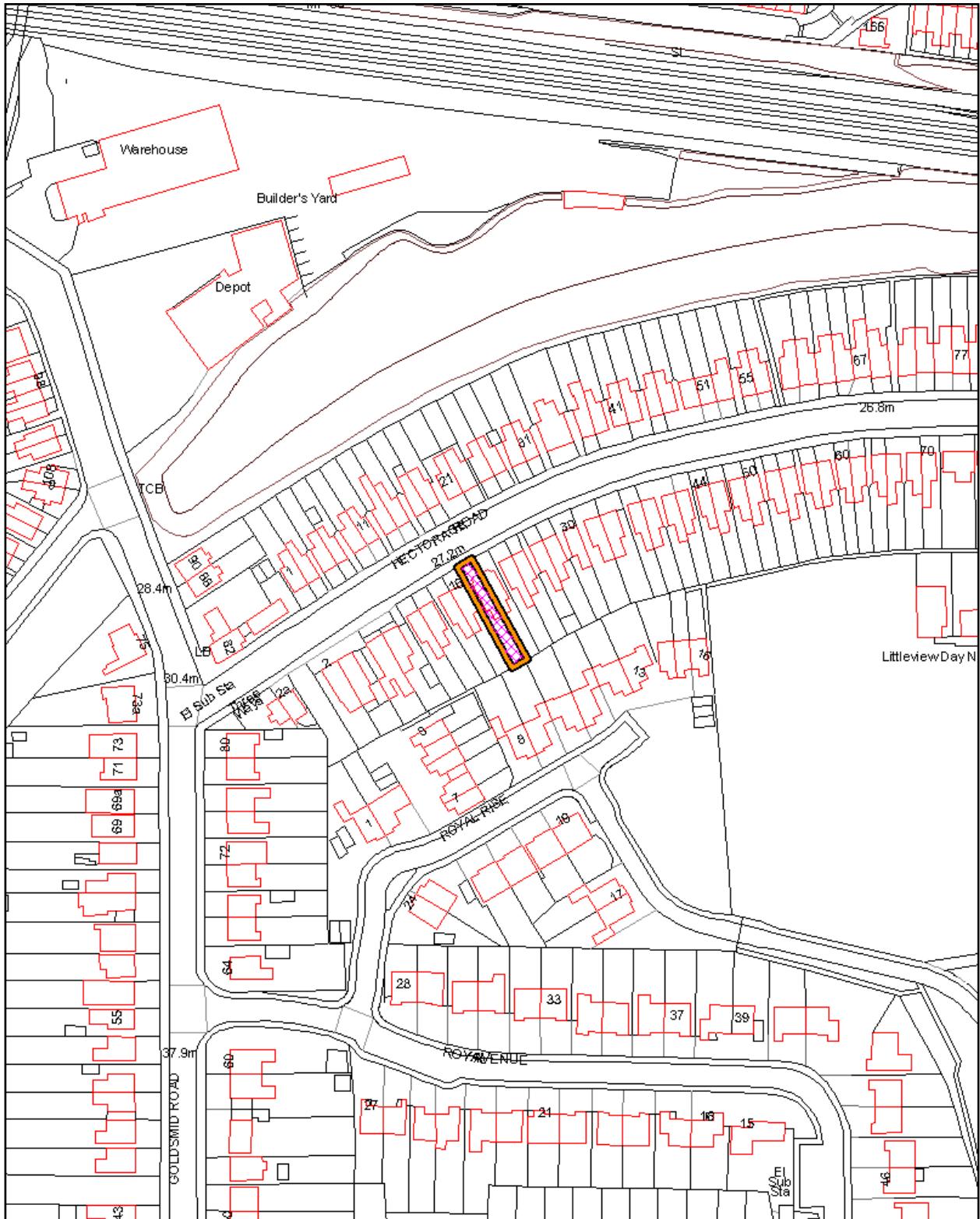
- 6.1 An Enforcement Notice **BE ISSUED**, the detailed wording of which to be agreed with the Director of Central Services to require the alteration of the unauthorised structure as specified above.

Contact: Gordon Hogben

14/00174/WORKM

18 Hectorage Road Tonbridge Kent TN9 2DP

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TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 1 PLANNING COMMITTEE

21 January 2016

Report of the Director of Planning, Housing and Environmental Health and Director of Central Services

Part 1- Public

Matters for Information

ENFORCEMENT ACTION IN CONNECTION WITH DEVELOPMENT AT GEORGE AND DRAGON PH, 17 SHIPBOURNE ROAD, TONBRIDGE – UPDATE REPORT

To update Members on enforcement action taken using emergency powers in connection with the development at the George and Dragon Public House, 17 Shipbourne Road, Tonbridge.

1.1 Introduction

- 1.1.1 In late November 2015 it came to the Council's attention that significant internal and external works were being undertaken to this Grade II Listed Building which did not have formal consent from this Authority. These unauthorised works had commenced despite efforts from Officers in August 2015 to engage with the contractors and owners in order to explain the difference between repairs to a Listed Building not requiring consent and alterations to the building which would require consent.
- 1.1.2 As soon as it became apparent that such works had commenced, the contractors were instructed to stop all works, which they complied with. However, it left a situation whereby the works that had been undertaken were unauthorised and further works were needed to either remedy certain unacceptable elements of the unauthorised development along with a need for additional works to take place in order to seek to secure the preservation of the building in an appropriate way (to ensure the works were completed in an acceptable manner).
- 1.1.3 Members will be aware that it is an offence to carry out unauthorised works to a Listed Building and as such the Council in its role as Local Planning Authority has the ability to prosecute anyone with an interest in the property in such circumstances. However, in this instance our primary concern was ensuring the long term future of the Listed Building prevailed and it was concluded that the most appropriate form of action would be to serve a Listed Building Enforcement Notice using the emergency powers of the Director of Central Services. The Notice was served on 08 December 2015. If no appeal is lodged by the developer, the Notice will become effective on 08 January

2016 with a period for compliance of three months but I can advise Members that steps have already been taken to comply with certain aspects of the Notice, giving us every confidence that the Notice will be complied with and that no appeal will be lodged.

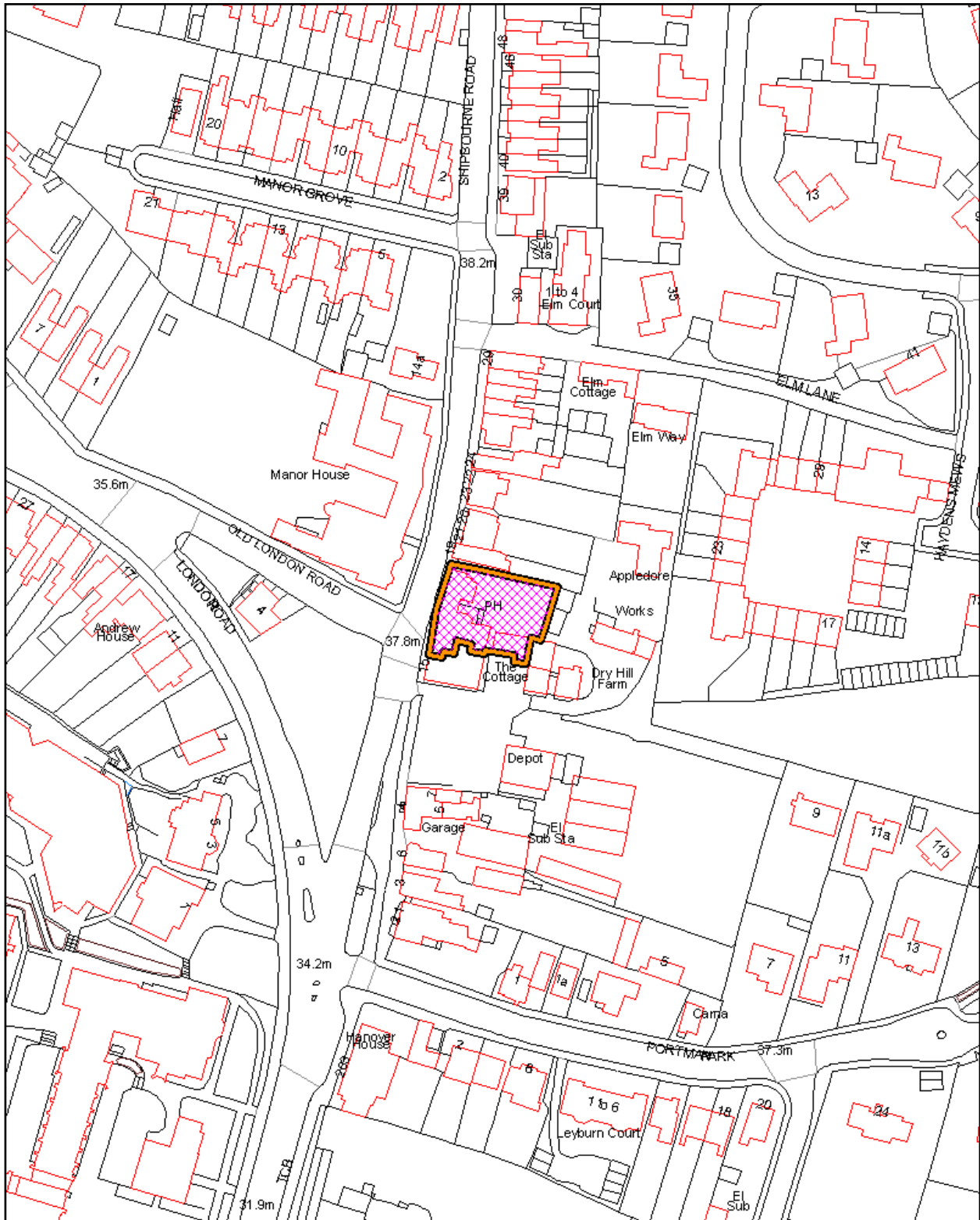
- 1.1.4 The Notice requires internal and external remedial and completion works to be undertaken in compliance with a detailed and exhaustive Schedule appended to the Notice itself.
- 1.1.5 We have reported this matter to the Committee in view of the serious nature of the breach of planning control and the significant extent of the works required by the Listed Building Enforcement Notice to rectify the unauthorised situation.

FOR INFORMATION

15/00427/LAH

George And Dragon 17 Shipbourne Road Tonbridge Kent TN10 3DN

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Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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