

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### 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  
[committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)

30 March 2015

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, 9th April, 2015 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

1. Apologies for Absence
2. Declarations of Interest

3. Minutes 5 - 8

To confirm as a correct record the Minutes of the meeting of Area 1 Planning Committee held on 26 February 2015

**Decisions to be taken by the Committee**

4. Development Control 9 - 12  
Introduction and Glossary
5. TM/15/00842/FL - 152 to 154 Tonbridge Road, Hildenborough 13 - 24
6. TM/14/03644/FL - Alexander Stables, Vines Lane, Hildenborough 25 - 44
7. TM/14/03797/FL - 1 Waterloo Road, Tonbridge 45 - 54
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**

9. Exclusion of Press and Public

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

Cllr Miss J R L Elks  
Cllr Mrs M F Heslop  
Cllr N J Heslop  
Cllr M R Rhodes  
Cllr Miss J L Sergison  
Cllr C P Smith  
Cllr Ms S V Spence  
Cllr D J Trice

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 1 PLANNING COMMITTEE

Thursday, 26th February, 2015

**Present:** Cllr R D Lancaster (Chairman), Cllr V M C Branson (Vice-Chairman), Cllr Mrs J A Anderson, Cllr O C Baldock, Cllr Mrs P Bates, Cllr P F Bolt, Cllr D J Cure, Cllr M O Davis, Cllr Mrs M F Heslop, Cllr N J Heslop, Cllr M R Rhodes, Cllr Miss J L Sergison, Cllr Ms S V Spence and Cllr D J Trice

Councillor Mrs S Murray was also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors A W Allison, Ms J A Atkinson, T Edmondston-Low, Miss J R L Elks and C P Smith

### PART 1 - PUBLIC

#### **AP1 15/1 DECLARATIONS OF INTEREST**

Councillor Baldock declared an Other Significant Interest in application TM/14/02674/OA in that he knew one of the neighbours to the site. He withdrew from the meeting during consideration of this item.

#### **AP1 15/2 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 1 Planning Committee held on 23 October 2014 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 15/3 DEVELOPMENT CONTROL AND SUPPLEMENTARY REPORTS**

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 15/4 TM/14/02674/OA - 31-36 QUARRY HILL ROAD, TONBRIDGE**

Outline application for the demolition of existing buildings and erection of a 63 bedroom care home (use class C2), with associated parking and landscaping at 31-36 Quarry Hill Road, Tonbridge.

**RESOLVED:** That the application be

REFUSED for the following reason

1. The proposed building by virtue of its scale, bulk, massing, detailed design and external appearance would be out of keeping with the surrounding built form and the built environment generally and would therefore be detrimental to the prevailing scale and resultant character of Quarry Hill Road which will detract from the character of this part of the Conservation Area and associated views from and within it. As a result, the proposal is contrary to Policy CP24 of the Tonbridge and Malling Core Strategy 2007 and policy SQ1 of Managing Development and Environment DPD2010 and would lead to the unjustified harm to heritage assets contrary to paragraphs 131 and 132 of the National Planning Policy Framework 2012.

[Speakers: Mrs A Young, Mr A Young, Dr S Wilson, Miss S Russell, Mr M Carlow, Ms J Lewis, Mr E Power – members of the public; Mr J Tarzey – Agent]

**AP1 15/5 TM/14/03644/FL - ALEXANDER STABLES, VINES LANE, HILDENBOROUGH**

Demolition of existing buildings on site and construction of 2 detached residential dwellings and associated access and landscaping at Alexander Stables, Vines Lane, Hildenborough, Tonbridge.

**APPLICATION WITHDRAWN FROM AGENDA**

**AP1 15/6 TM/14/02628/OA - 82 GOLDSMID ROAD, TONBRIDGE**

Outline Application: Demolition of the rear garage and the construction 6 new dwellings in total. The works will involve part conversion and extension to existing building at 82 Goldsmid Road, Tonbridge.

**RESOLVED:** That the application be

DEFERRED for a Members' site inspection.

[Speakers: Mrs S Jackson – member of the public]

**AP1 15/7 TM/14/03797/FL - 1 WATERLOO ROAD, TONBRIDGE**

Change of use to D1 to operate a children's day nursery at 1 Waterloo Road, Tonbridge.

**APPLICATION WITHDRAWN FROM AGENDA**

**AP1 15/8 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 8.49 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.

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#### **GLOSSARY of Abbreviations and Application types used in reports to Area Planning Committees as at 16 August 2013**

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
CBCO	Chief Building Control Officer
CEHO	Chief Environmental Health Officer
CHO	Chief Housing Officer
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 (part of the emerging LDF)
DMPO	Development Management Procedure Order
DPD	Development Plan Document (part of emerging LDF)
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 1995
GPDO	Town & Country Planning (General Permitted Development) Order 1995
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 - formerly KTNC
LB	Listed Building (Grade I, II* or II)
LDF	Local Development Framework
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
MLP	Minerals Local Plan
MPG	Minerals Planning Guidance Notes
NE	Natural England
NPPF	National Planning Policy Framework
ODPM	Office of the Deputy Prime Minister
PC	Parish Council
PD	Permitted Development

POS	Public Open Space
PPG	Planning Policy Guidance Note
PPS	Planning Policy Statement (issued by ODPM/DCLG)
PROW	Public Right Of Way
RH	Russet Homes
RPG	Regional Planning Guidance
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
TCG	Tonbridge Conservation Group
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
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
ORM	Other Related Matter
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

**Hildenborough**                      **556746 148692**    **11 March 2015**                      **TM/15/00842/FL**  
Hildenborough

Proposal:                      Variation of conditions 6 and 7 of planning permission TM/13/02727/FL to allow for the cafe to be open until 8pm Wednesdays- Saturdays between the months of June- September, to allow for the use of the outside space by customers until 8pm Wednesdays- Saturdays between the months of June- September and to allow for use of the premises for private functions all year round (up to a maximum of 8 per month) on Tuesdays-Saturdays up until 11pm

Location:                      152-154 Tonbridge Road Hildenborough Tonbridge Kent

Applicant:                      Dame Kelly Holmes

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**1. Description:**

- 1.1 This application seeks a variation to the hours of operation which was controlled by conditions 6 and 7 of permission TM/13/02727/FL (change of use of 152 – 154 Tonbridge Road to a restaurant and café on the ground floor and beauticians and meeting area at first floor).
- 1.2 Condition 6 of the planning permission restricted opening hours for customers to between 08.00 and 18.00 Monday to Saturday, and between 10.00 and 16.00 on Sunday.
- 1.3 Condition 7 of the planning permission requires that the use of the external seating area and rear first floor terrace to cease by 18.00 Monday to Saturday and by 16.00 on Sundays.
- 1.4 This application seeks to extend normal opening hours on Wednesdays to Saturdays, between the months of June to September, to 20.00 in both cases. This would also allow the use of the premises and outside area until 20.00 on these days during the summer months.
- 1.5 Furthermore, the application seeks to extend the use of the premises for private functions up until 11pm. It is stated that this would involve a maximum of 8 such functions per month, all year round, on Tuesdays - Saturdays.

**2. Reason for reporting to Committee:**

- 2.1 Called in by Cllr Smith given the sensitive planning history connected to this site.

**3. The Site:**

- 3.1 The site lies within the rural settlement confines of Hildenborough, within the Conservation Area. It lies on the northern side of the Tonbridge Road (B245). The buildings form part of a row of Victorian dwellings, and have been converted, renovated and extended over the past year. They are now in use as the café and beauticians, as approved by permission TM/13/02727/FL.

**4. Planning History (relevant):**

TM/13/02727/FL      Approved      18 December 2013

Change of use from residential (C3) and ground floor shop (A1) to restaurant and cafe (A3) on ground floor and beauticians and meeting area at first floor. Demolition of flat roof side and rear extension and removal of two storey rear extension. Construction of new single storey additions and alterations to front elevation

TM/14/01448/NMA      Approved      27 May 2014

Non material amendment to planning permission TM/13/02727/FL (Change of use from residential (C3) and ground floor shop (A1) to restaurant and cafe (A3) on ground floor and beauticians and meeting area at first floor. Demolition of flat roof side and rear extension and removal of two storey rear extension. Construction of new single storey additions and alterations to front elevation) being internal alterations to layout and external alterations

TM/14/02828/RD      Approved      25 September 2014

Details of screening pursuant to condition 9 of planning permission TM/13/02727/FL (Change of use from residential (C3) and ground floor shop (A1) to restaurant and cafe (A3) on ground floor and beauticians and meeting area at first floor. Demolition of flat roof side and rear extension and removal of two storey rear extension. Construction of new single storey additions and alterations to front elevation)

TM/14/03379/NMA      Approved      22 October 2014

Non material amendment, being alterations to elevations and size of external canopy

**5. Consultees:**

- 5.1 PC: No comments received to date.
- 5.2 Private Reps 100/2X/1R/0S. Objections are raised on the following grounds:
- Condition 6 was in line with Parish Council comments.
  - The venue is more than a simple café which now has an alcohol licence and licence to play music.

- No need for another venue for private functions as there are a number of existing facilities nearby.
- The parking spaces that would become free once business close are quickly filled by residents returning from work.
- Use of the business premises parking across the road would help if this arrangement is put into place prior to any grant of permission to vary hours of opening.
- Parking problems already exist with the bus stop frequently occupied by private cars which causes congestion.
- The front seating area is often used for parking.

5.2.2 Letters making no objection raised the following questions:

- Would private functions be kept inside the premises?
- Would the smoking area be kept to the front of the premises?
- Would private functions be kept to specific days?
- Would a member of staff always be present at private functions?
- Would finish times of 8pm and 11pm include clearing up time?
- If permission is granted a temporary period would be preferable.

## **6. Determining Issues:**

- 6.1 The NPPF seeks to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This includes supporting the growth and expansion of all types of business and enterprise in rural areas and seeks to promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship. Additionally, policy CP12 of the TMBCS states that (amongst others) employment development will be permitted within the confines of the defined rural settlements, which includes Hildenborough. With these policies in mind, there is no objection to the overarching principle of expanding the way in which this business operates as proposed.
- 6.2 A key cause for concern in the consideration of the original planning application for the change of use of these premises to a café was how the amenities of the surrounding residential properties might be affected. Members will recall that careful consideration was given to the approved opening hours in order to allow the applicant to commence the business in a way that would not be to the

detriment of those residential amenities. The use has now commenced and its early commercial success to date has led the applicant to consider developing it further. It is therefore necessary to consider how the expansion of the business in the way proposed would affect the amenities of the surrounding residents.

- 6.3 In this respect, paragraph 123 of the NPPF states that new planning policies and decisions should aim to:

*“Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.*

*Mitigate and reduce to a minimum other adverse impacts of health and quality of life arising from noise from new development, including through the use of conditions.*

- 6.4 The proposal seeks to extend the current closing time for general customers from 6pm to 8pm Wednesday to Saturday during the period from June to September. This would allow for use of both the café and outside space until 8pm at these times. It is understood that this increased closing time would be for customers and that clearing up time would follow, resulting in staff only on the premises after 8pm on these specific days.
- 6.5 The applicant also requests that the premises be available for hire for private functions throughout the year, but only on Tuesdays to Saturdays, leaving Sundays and Mondays to operate under the terms of the original planning permission. It is intended that these private functions would also be able to make use of the outside space until 8pm during June to September and 6pm during the remaining months. The applicant has indicated that such functions would be managed by the staff ensuring that would always be someone onsite responsible for the running of the event. This would also ensure a point of contact for residents should the need arise.
- 6.6 The applicant has requested permission to hold up to 8 of these private functions per month. Whilst it is not yet clear how popular this would be in practice, the applicant has indicated that allowing for a maximum of 8 would give the flexibility required. It is recognised that there are other venues locally which offer hire for private functions, however this cannot be considered a reason to refuse the opportunity for other venues to do the same.
- 6.7 Question has been raised regarding the outside area being used as a smoking point. The applicant has explained that there is no such area available at the moment meaning that the use of the outside area is purely in connection with the main function of the café. It would, therefore, not be the case that there would be any added scope for customers to use this space to smoke beyond the stipulated hours.



- 6.8 Since the café opened, the Council has received no complaints with regards to noise or disturbance which in my view indicates that it is being properly and sensitively managed. However, I understand that it has only been open since December so it is recognised that use of the outside space in particular would have been limited during the winter months. It is anticipated that this space would be more intensively used during the longer days and warmer months. During this time, it is also more likely that neighbouring residents would have their windows open more often than during recent months.
- 6.9 In terms of the extended opening hours and use of the outside space until 8pm for a few days a week during the summer, this would in my view not be unreasonable for such a business. It is accepted that the premises are in close proximity to neighbouring residential properties, however such uses are not uncommon in built up areas like this and the additional two hours would not, in my view, cause such harm to justify a refusal of planning permission. Crucially, it should be noted that there is no change proposed to the Sunday operating hours. Again, the key will be how the extended use is managed on an ongoing basis. To date, there is every suggestion that the applicant is managing the use in a positive and appropriate fashion and that this would continue.
- 6.10 The applicant has stated that in the interests of being a good neighbour to minimise any such impact on neighbouring amenities, a number of measures will be introduced to make customers aware of the need to behave in an appropriate manner. For every private function booked, the clients will be asked to sign an agreement that they will inform their guests of the need to respect neighbouring properties. Signs are also proposed to be placed at the exit to remind customers when they leave of their responsibility to be respectful to these neighbours. The staff handbook that is issued to all members of staff will include requirements that all event nights are run in a responsible manner, and there is a Challenge 21 policy for the serving of alcohol on the premises. Any member of staff under 18 is also not allowed to serve alcohol to customers. The premises are also bound, of course, by the terms of their license which affords further controls on how the use operates and is managed.
- 6.11 When considering the policy aims and the need to support a growing business alongside the need to protect the amenities of neighbouring properties, I consider that, on balance, the extended hours sought by this application are reasonable. I am also of the view that the request to hire the café out for private functions up to 8 times a month can be acceptable if appropriately controlled by way of responsible management and acceptable opening hours. The applicant should be mindful of the fact that planning conditions also afforded control over the type of food that could be cooked and served within the premises and it is important to note that there is no indication that these are to change as a result of the extension of operating hours proposed.

- 6.12 I appreciate that the use has not been operating for a significant length of time, and has not yet been open during the summer when the potential for conflict between the café use and residential amenity could be increased. The NPPG advocates the use of temporary planning permissions where a ‘trial run’ is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.
- 6.13 With this in mind, I consider it to be reasonable in these circumstances to grant permission for the variation of the conditions on a temporary basis for 12 months. This would allow for the monitoring of the extended use and hours whilst also allowing the applicant to establish what the real level of demand for such extended facilities might be. I would also suggest that the applicant be required to keep a log book detailing all events and private functions to provide a detailed depiction of the nature of this aspect of the use. Again, I would suggest that this be required by planning condition. With such a mechanism in place, should any complaints be received, Officers will be able to refer to the log book to understand what problems may have occurred and prompt the applicant to introduce measures to ensure there is no reoccurrence. This will also be an important tool in reassessing any further applications following the 12 month temporary period.
- 6.14 I recognise that the other key concern at the time of the original planning application for the change of use centred on the lack of parking available on site and the potential impact upon the local highway network. Indeed, the concerns raised by the two representations to date in connection with this application also largely relate to parking implications. I understand that discussions are in place with the business on the opposite side of the B245 regarding the possibility of that extensive car park being used by those attending private events/functions in the future should planning permission be granted. This is clearly a very positive conversation, which should be welcomed but I must stress that the conditions now sought to be varied were not imposed for any highway reason. They were imposed in order to control the use of the premises in the interests of residential amenity. It would, therefore, be unreasonable to resist the variation of the conditions on highway safety grounds now. Furthermore, it would not be possible to *require* the use of the nearby car parks in the way described by the applicant given that this land is outside of their control. Instead, the ongoing discussions described within the submission should be viewed as a gesture of good intent on the part of the applicant, and certainly an added bonus should those discussions prove to be fruitful.
- 6.15 In terms of the private events/functions potentially increasing traffic movements to the site, beyond that already established by the café use, I would suggest that a further condition be imposed requiring a travel plan to be submitted detailing how clients will be specifically advised on the circumstances of the site and the constraints of the local highway network. Although at this time I am only recommending permission be granted on a temporary basis, I do not consider the

requirement for a travel plan to be unreasonable in the specific circumstances, and given the information already provided by the applicant, this would not be an onerous requirement.

6.16 In light of the above considerations, the following recommendation is put forward:

**7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Supporting information statement dated 11.03.2015, email dated 19.03.15, email dated 25.03.15 subject to the following Draft Conditions (final wordings to be agreed with Director of Central Services):

**Conditions:**

1 The development hereby permitted shall cease on or before 30 April 2016.

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

2 The uses hereby approved shall be operated fully in accordance with plan number 13/1779/100 C and the Supporting Statement prepared by MKA Architects received on 08 November 2013 approved under planning reference TM/13/02727/FL unless otherwise agreed in writing by the Local Planning Authority.

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

3 The uses at ground and first floor level hereby permitted shall be limited only to that applied for and specified in the Supporting Statement prepared by MKA Architects received on 08 November 2013 approved under planning reference TM/13/02727/FL, with the ground floor café only serving the items specified within that Supporting Statement unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

4 There shall be no more than a total of 100 café customers or private event attendees on site at any time during any working day.

Reason: In the interests of residential amenity.

5 The business shall not be carried on, and the premises shall not be open to customers, outside the hours of 08:00 to 18:00 Monday to Saturday (extended until 20:00 Wednesday to Saturday between the months of June and September) and 10:00 to 16:00 on Sunday unless otherwise agreed by the Local Planning Authority.

Reason: In the interests of residential amenity.

6 External seating shall be limited only to the areas identified on plan number 13/1779/100 C approved under planning reference TM/13/02727/FL. The use of these areas shall cease by 18:00 hours Monday to Saturday (extended until 20:00 Wednesday to Saturday between the months of June and September) and 16:00 hours on Sundays with all customers vacating these areas by the relevant time on each day. The tables and chairs in the external seating areas shall be rendered unavailable for use in these areas from the above times on each day.

7 The use of the rear first floor terrace shall cease by 18:00 hours Monday to Saturday and 16:00 hours on Sundays with all customers vacating these areas by the relevant time on each day. The tables and chairs in the external seating areas shall be rendered unavailable for use in these areas from the above times on each day.

Reason: In the interests of residential amenity.

8 No external lighting shall be installed in connection with the building 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.

Reason: To ensure that the development does not harm the character and visual amenity of this rural locality.

9 The privacy screen enclosing the first floor terrace shall be retained at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and privacy of adjoining property.

10 The use of the premises for private events and functions shall not commence until a Travel Plan covering all staff and attendees has been submitted to the Local Planning Authority for formal approval. Thereafter, the Travel Plan shall be implemented and monitored to ensure strict compliance with the approved scheme.

Reason: In the interests of highway safety.

11 The cycle storage area approved under planning reference TM/13/02727/FL shall be kept available for the storage of cycles at all times.

Reason: In the interests of highway safety.

12 The designated bin storage area approved under planning reference TM/13/02727/FL shall be kept available for the storage of refuse bins and recycling boxes at all times.

Reason: In the interests of visual and residential amenity

- 13 No amplified music/speech shall be played within the garden or on the terrace and any music played within the building shall be inaudible outside of the building.

Reason: To protect the aural environment of nearby dwellings and in the interests of residential amenity.

- 14 No seating shall be placed on and no food or drink shall be consumed from the first floor terrace hereby approved at any time.

Reason: In the interests of residential amenity.

- 15 No children's play equipment of any type, whether or not requiring planning permission, shall be installed or placed at any point within the rear garden, at any time, without the formal written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 16 The building shall be used for no more than 8 pre-booked events and functions within any one calendar month and for no more than one pre-booked event or function on any given day. The use of the premises for pre-booked events and functions shall not operate outside the hours of 08:00 to 23:00 Tuesday to Saturday unless otherwise agreed by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 17 A log book of all pre-booked events and functions, including any noise incidents and measures for future mitigation shall be maintained at the premises, which shall be made available for inspection by the Local Planning Authority.

Reason: To ensure the use proper management of the restaurant use of the premises in order to safeguard the amenities of neighbouring occupiers.

- 18 Within two months of the grant of this permission a list of pre-booked events and functions for the period covered by this permission shall be provided to the Local Planning Authority. Any bookings taken following the submission of the list shall be notified to the Local Planning Authority as soon as they are confirmed.

Reason: To allow the proposed extended operating hours to be monitored during the specified period.

**Informative:**

- 1 The applicant is asked to ensure that access to 150 Tonbridge Road is not obstructed at any time and to ensure customers are suitably aware of the shared nature of the access when entering the premises. The applicant is encouraged to discuss with the occupiers of 150 how the space between the two buildings is best managed to ensure that the private right of way is maintained.

Contact: Holly Pitcher



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**Hildenborough**                      **556599 150106**    **27 October 2014**                      **TM/14/03644/FL**  
Hildenborough

Proposal:                                  Demolition of existing buildings on site and construction of 2 detached residential dwellings and associated access and landscaping  
Location:                                  Alexander Stables Vines Lane Hildenborough Tonbridge Kent  
Applicant:                                  Kent & Medway NHS Social Care And Partnership Trust

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## **1. Description:**

- 1.1 Full planning permission is sought for the demolition of the existing buildings and the erection of two detached one and a half storey residential dwellings. The properties would also have a small shed in the rear garden area for the storage of bicycles and other ancillary domestic paraphernalia. The site is proposed to be accessed from the access road to Alexander House to the western side of the site, across an area of land which is proposed to be planted as an orchard. The dwellings would have a hardstanding area to the front for car parking and turning with a landscaped area to the southern boundary with the open field.
- 1.2 The application was withdrawn from the Agenda prior to the Area 1 Planning Committee of 25 February 2015 as it became apparent that some neighbours had not received their letters informing them of the committee date.

## **2. Reason for reporting to Committee:**

- 2.1 At the request of the Ward Member Cllr Rhodes and in the public interest given the Green Belt setting.

## **3. The Site:**

- 3.1 The application site currently comprises a small complex of single storey brick buildings which were originally used as stables, and which the applicant has stated were most recently in use for occupational therapy by the NHS. These buildings are now redundant as they have not been used in recent years.
- 3.2 The southern boundary to the site is open to agricultural fields, with a small low level fence demarcating the boundary between the application site and the surrounding land. The northern and eastern boundaries are marked by dense and mature hedgerows and trees which largely screen the site from the neighbouring dwellings to the north and the public footpath which runs along the eastern boundary.
- 3.3 The site is accessed from a shared access road which runs to the west of the site, connecting to Vines Lane which is to the north. Views into the site from the access road are readily available due to the open nature of the western boundary.

3.4 The site is located outside the built confines of Hildenborough village and is therefore in the countryside for development plan purposes. The site is located within the Metropolitan Green Belt; the local landscape is of no other special designations.

**4. Planning History (relevant):**

TM/05/02667/FL      Grant With Conditions      3 January 2006

Demolition of existing stables and construction of 5 no. 1 bedroom units with communal rooms (for persons with learning difficulties).

**5. Consultees:**

5.1 PC: Raise objection on the following grounds:

- The site is within the MGB and the PC cannot find any very exceptional circumstances for the development of the three large detached houses or see how it will enhance the openness of the area.
- The development would demolish historic Victorian buildings.
- It is proposed to erect at least one detached house on undeveloped land.
- Overdevelopment of the site not in keeping with those buildings it is proposed to demolish and would not enhance the appearance of this otherwise rural area. The development is totally inappropriate to the rural area.
- Concern with regard to the impact upon ecology and the fact only one pond has been surveyed.
- The site is frequently waterlogged therefore drainage in the local area would need to be improved.
- Access would be provided from a narrow, single carriageway private road which serves as access for carers to those living in sheltered accommodation as well as all residents. The development would add to traffic problems experienced by all residents as well as those living in the area as a result of speeding traffic on Vines Lane.
- Safety concerns with regard to the volume of traffic on the site and access roads to the site.
- The loss of mature trees to accommodate the orchard, of particular concern would be the loss of the species of old apple if it is present on the site.

5.2 KCC (Highways): Raise no objections subject to conditions.

5.3 KCC PROW: Raise no objections.

5.4 Natural England: Raise no objections.

5.5 Private Reps: *Original Consultation*: 11 + site notice/0X/18R/0S: Objections raised on the following grounds:

- The development does not meet the tests of paragraph 89 of the NPPF - the exception of the previously developed land should not apply to the whole site as not all of the land has been previously developed.
- The fact that the land was previously developed does not allow comprehensive development that would undermine the purposes of the Green Belt.
- The proposed development would have a greater impact upon the openness of the Green Belt. This is due to the fact that the existing built form is relatively low key within the landscape due to its single storey form. The proposed development would significantly increase the bulk and massing of the built form on the site and would dominate the site.
- The positioning of housing units across the whole site will be of detriment - especially the positioning of plot 1.
- The applicant has not demonstrated Very Special Circumstances to justify the development as the condition of the site is not so exceptionally poor as to justify new buildings within the Green Belt.
- The conversion of the existing buildings as a fall-back position would be favourable in terms of maintaining the openness.
- The previous planning permission was granted due to the Very Special Circumstances of the need for the accommodation, without this the development would have been inappropriate. The proposed development is larger than that previously approved.
- The location of the site is unsustainable due to its distance from local services resulting in a car-dependent residential development.
- The site is subject to surface water flooding and it is unclear how adequate drainage would be provided as it is believed that the subsoil is clay and therefore soakaways would be inappropriate.
- The proposed development would result in the loss of terrestrial and reptile habitat. The mitigation measures are inadequate and would be difficult to enforce over the lifetime of the development.
- The development proposes new trees on land outside of their ownership.

- The application states there would be improvements to the access but this is a track owned by Alexander House. They have not been informed of any works to the access.
- Concern with regard to responsibilities for the access after the site is redeveloped.
- Concern with regard to conflict between vehicles accessing the site conflicting with those at Holly Lodge. Plus those residents at Holly Lodge require emergency access at all times. This has not been given consideration in the submission.
- The existing site is over developed at Holly Lodge and causes significant disturbance to local residents. The proposed development would cause intolerable disturbance to the neighbours even before any building starts.
- The development would only benefit the applicant who has not considered the long term effects on the immediate neighbours.
- Concern with regard to an intensification of use of the access to pedestrians, horse riders and other vehicles.
- The development would blight the outlook for a number of neighbouring properties.
- The development would block light and unacceptably overlook Owls Hoot.
- The site is already being marketed for sale even though planning permission has not been granted - question the integrity of the planning system.
- The dwellings are large in size with small gardens - would families living in the countryside want this?
- Concern the development would set a precedent elsewhere.
- The development would be unsettling to the very sick residents of Holly Lodge who currently enjoy a peaceful existence.
- The development would place considerable burdens on the village of Hildenborough, the existing roads and limited public transport and schooling.
- The fact that the NHS trust no longer has use for the site and so has let it degrade cannot be taken as an excuse to allow the development.
- The private drive is not built for construction traffic and the building of Holly Lodge caused considerable damage to the driveway and gate posts.

- The bridle path and footpath run along the edge of the site. The ditches along the sides of the footpath are already nearly at capacity, the development can only exacerbate this situation.

5.5.2 Additional Consultation: 28/0X/6R/0S. Objections raised as follows:

- The development would increase vehicular traffic in an already busy country lane.
- The extent of hardstanding is unacceptable in an area of high water table and little opportunity for rainwater runoff.
- Although the height of the proposed buildings has been reduced, they would still dominate the existing adjoining properties and affect privacy.
- The omission of garages will most probably result in future applications to erect garages.
- Objections to the proposals do not relate to numbers of dwellings but rather the principle.
- Although the development would replace existing buildings it is the character of the site that would be altered inappropriately.
- The right thing to do would be to pull down the existing buildings and sell the land for grazing.
- The Council should not consider any dwellings to be acceptable.
- The land could not be considered to be brownfield land.
- Any dwelling of any sort with its associated activity would have a greater impact on the existing openness of the area.

5.5.3 Since 25 February, a further 3 letters of objection have been received raising the following additional points:

- The amendments have not resolved ecological issues.
- Once permission is granted for the two dwellings, the applicant will seek to develop the proposed fruit orchard.
- The application site is not brownfield land.
- The proposed development would not reduce the existing footprint when you take into account the driveways, hardstanding, dwellings and sheds. This would have a significant impact that far outweighs the existing single storey work sheds which have not been used since the 1990's.

- The Alexander House estate has already been over developed. This should be taken into consideration when any decision is made.
- Ongoing concern about services and the high water table on the site.
- The site has never and should never be used for residential purposes.
- Overlooking to Brambleside by 8 windows due to the repositioning of plot 2 and the removal of trees.

**6. Determining Issues:**

- 6.1 The NPPF along with policy CP1 of the TMBCS (2007) and policy CC1 of the MDE DPD (2010) place sustainability at the heart of decision making, ensuring that new development does not cause irrevocable harm to the environment and balancing this against the need to support a strong, competitive economy and protect the social welfare of existing and future residents. Policies CP1 and CP24 of the TMBCS 2007 and Policy SQ1 of the MDE DPD require high quality design which reflects the local distinctiveness of the area and respect the site and its surroundings in terms of materials, siting, character and appearance.
- 6.2 The application site is located outside the settlement confines of Hildenborough Village and therefore is in the countryside for development plan purposes. Policy CP14 of the TMBCS seeks to prevent the incursion of built development within such areas in order to protect the character and appearance of the countryside. The site is also located within the MGB. The purpose of the MGB is to check the unrestricted sprawl of large built up areas, preventing the merging of neighbouring towns and villages and to safeguard the countryside from encroachment. Paragraph 79 of the NPPF states that the essential characteristics of such areas are their openness and their permanence. Any inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. This is supported by policy CP3 of the TMBCS.
- 6.3 Paragraph 89 of the NPPF states that certain forms of development are not inappropriate in the Green Belt. Included within the definition of development which is not considered to be inappropriate is limited infilling or the partial or complete redevelopment of previously developed sites (Brownfield Land), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 6.4 This current policy framework post-dates the planning permission that was granted in 2006 for the construction of 5 x 1 bedroom care units to extend across the application site and the neighbouring piece of land which is now proposed to be planted as an orchard. In any event, in that case, the very specific type of

residential accommodation represented very special circumstances due to the specialist needs of the end user. The occupation of the development was restricted by condition on the planning permission.

- 6.5 As highlighted above, since that time the policy context against which the application must be considered has changed. The NPPF makes provision for the redevelopment of previously developed land within the Green Belt as an exception to the definition of inappropriate development subject to certain criteria. Previously developed land is defined within the NPPF as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The eastern half of the application site currently hosts buildings and their associated curtilage which runs to the boundary fence to the south and along the western side of the proposed boundary to plot 1. The entirety of the now proposed built development and the associated residential curtilages therefore falls within the area that meets the criteria to be considered as previously developed land on the site.
- 6.6 With these factors in mind, the proposed development is therefore not inappropriate development by definition, provided that it meets the criteria in the NPPF. As such, the acceptability of the development falls to be assessed in terms of the impact of the development upon the open nature and function of the Green Belt, when considering the reasons for including land within it, and other factors that may cause any other harm.
- 6.7 The existing buildings on the site are of a single storey form, with a total footprint area of 310m<sup>2</sup>. These buildings are of a substantial construction although somewhat dilapidated due to their disuse in the most recent years. The proposed development would represent a reduction in footprint area from the existing buildings to a total footprint (including the shed buildings) to 286m<sup>2</sup>. It is acknowledged that the proposed buildings would be higher than the existing buildings as they would have a one and a half storey form with a height of approximately 7 metres rather than the overall height of 4m at present. However, the detached nature of the proposed dwellings and the spacing between them would limit their impact upon the openness of the site when considered in relation to the existing buildings which have a larger footprint and greater mass due to their attachment to one another. It is proposed to retain an open boundary to the south to allow the site to remain open to the countryside, and the built development would be concentrated on the existing previously developed land. As such, on balance, it is considered that the development would not have a detrimental impact upon the openness of the Green Belt.
- 6.8 In order to protect the openness of the Green Belt in the longer term and to allow the Local Planning Authority to retain control with regard to the construction of additional ancillary buildings on the site, it is considered reasonable and necessary

to remove permitted development rights for extensions to the dwellings and the construction of outbuildings along with the construction of new fences, walls and other means of enclosure. This can be adequately secured by planning condition.

- 6.9 In order to promote sustainable development in rural areas, paragraph 55 of the NPPF states that housing should be located where it will enhance or maintain the vitality of rural communities and that new isolated homes in the countryside should be avoided unless there are special circumstances such as the re-use of redundant or disused buildings which would lead to an enhancement of the immediate setting. Although this proposal does not seek to re-use existing buildings on the site, these structures appear capable of conversion due to the fact that they are of substantial construction, and therefore such a scheme of conversion would be policy compliant. Notwithstanding the capability of the existing buildings for conversion, the wording of the NPPF highlights central government policy to be supportive of the provision of new housing development where this would not result in the provision of new buildings in the rural landscape. This is a material consideration in the determination of this planning application.
- 6.10 The application site is located to the rear of a string of dwellings generally fronting onto Vines Lane, clustering around the junction with Riding Lane. The dwellings have a loose knit semi-urban grain which is characteristic of development in rural areas and are generally well spaced with substantial gardens. The development would introduce two dwellings onto land which is currently occupied by a more intensive form of development. The former stable buildings are of no visual merit and their original form has been detracted from by the modern conservatory extension to the southern elevation. The buildings cover a substantial part of the application site and have a considerable mass due to their sprawling footprint. For these reasons there is no objection to the loss of the former stable buildings; indeed there would be visual betterment in some respects.
- 6.11 The proposed dwellings which would replace the existing built development would be of a detached nature and well spaced from one another with relatively spacious gardens. The dwelling houses would be of an unassuming scale and bulk with a one and a half storey form and 7 metre height and have been well designed to sit within the rural locality. The amount of built development on the site, including hardstanding areas and the boundary treatments, would allow the site to retain an open character which would maintain the visual grading of the built development into the countryside. The creation of the orchard area and the addition of boundary planting would retain the soft edge to the residential development along Vines Lane and would respect the loose knit grain which is intrinsic to the character of the locality.
- 6.12 The proposed development would be no more harmful in sustainability terms than the *conversion* of the existing buildings into residential accommodation or indeed their permitted use from 2006. The proposed development offers the opportunity to



provide a visual amelioration of the site with the provision of two new well designed dwellings. These factors balance in favour of the development.

- 6.13 Development plan policy along with the NPPF requires that all new development does not result in harm to the residential amenities of neighbouring properties in order to allow for an environmental and social sustainability. The closest neighbours to the application site are situated at Stone Lodge, 25 metres to the north west, and Brambleside, 32 metres to the north. One neighbour at Owls Hoot has raised concern that the development would cause an unacceptable loss of light and overlooking to their property. This dwelling is situated 40 metres from the end of the rear garden areas of the proposed dwellings. These separating distances would prevent an adverse impact being caused due to overlooking or by the development being unacceptably overbearing.
- 6.14 Concern has been raised by the neighbour at Brambleside that the development would cause an unacceptable overlooking to their property. This neighbour would be situated 30 metres from the rear elevation of the closest of the two new proposed dwellings. Although trees are proposed to be removed, some tree screen would remain between the site and the neighbour. Although some overlooking would be able to occur, the separating distance would prevent this from being at an intensive and harmful level.
- 6.15 Some local residents have raised concern that the development would impact upon the quiet enjoyment of the local area by the residents of Holly Lodge who require a quiet environment due to their medical needs. It is important to note that no objections have been received from Holly Lodge despite the property being notified of the application. These neighbours are situated over 40 metres from the proposed residential dwellings. The noise and disturbance from a small scale residential development of two houses would not have a significant impact upon the tranquillity of the locality overall, and could have less impact than the lawful use of the site. In light of this, it is not considered that the development would have a detrimental impact upon the specific needs of the residents of Holly Lodge.
- 6.16 Access to the properties would run to the western side of Stone Lodge. The existing access road serves Alexander House to the south and Holly Lodge (6 residential units for people with autism) to the west. The use of the access for two additional dwellings would cause some increase in vehicular movements. However, given the limited small scale of the development and the fact that the existing buildings could be converted into residential dwellings, this would not cause a harmful level of noise and disturbance to the neighbouring residential occupants.
- 6.17 The proposed dwellings are of sufficient size to provide adequate internal living accommodation and have access to external garden areas. This would prevent harm being caused to the residential amenity of future occupants of the dwellings.

- 6.18 Paragraph 32 of the NPPF requires decision making to take account of a safe and suitable access to the site being achieved for all people; and improvements that can be taken within the transport network that cost effectively limit the significant impacts of the development. Paragraph 32 clearly states that development should only be prevented where the residual cumulative impacts of development are severe.
- 6.19 A significant level of concern has been raised with regard to the impact of traffic movements upon highway safety. Particular issues which have been raised relate to access to the neighbouring residential care units at Holly Lodge, intensification of use of the access road, and use of the access onto Vines Lane.
- 6.20 The site is accessed by way of a single track access road from Vines Lane. This access road currently serves Alexander House and Holly Lodge as well as providing rear access to Stone Lodge. It is noted that the residential care use at Holly Lodge results in vehicular movements to and from the site which are more intense than the original dwellings they replaced. These matters were assessed at the time of the previous planning application and were considered to be acceptable. As such, this application can only consider the cumulative impact of the addition of two dwellings to this existing situation.
- 6.21 As highlighted by the NPPF, the assessment of highway impact is a severity test, with a requirement that development is only refused where the cumulative impacts of development are severe. The development proposes a minor development of two dwellings. These dwellings would result in additional traffic movements through the access and along the access road but would not significantly intensify the use of the access, especially when considered in relation to the potential lawful use of the site for occupational therapy purposes (D1). Furthermore, the buildings themselves could be converted into more residential accommodation which would have the same highway impact as that proposed as part of the current application.
- 6.22 The application site is located away from the service centre of Hildenborough and several letters of objection have raised the issue that this would increase the reliance upon the private car, especially as there are no footpaths along the edge of the highway or good public transport links. Paragraph 34 of the NPPF requires that new development that would generate significant movement are located where the need to travel would be minimised and the use of sustainable transport modes could be maximised. The proposed development would not generate significant traffic movement as discussed above, and therefore its location away from the village centre is acceptable in highway terms.
- 6.23 It is not proposed to make any alterations to the access onto Vines Lane; this land is not in the ownership of the applicants. KCC Highways has raised no objections to the intensification of use of the access onto the public highway.

- 6.24 The development proposes the provision of two car parking spaces to serve each dwelling with a turning area within the site. This would prevent the need for vehicles to park on the private access road or on the public highway at Vines Lane. This is in compliance with the parking standards within IGN3 as set out by KCC Highways but in the form adopted by TMBC.
- 6.25 Access to and from Holly Lodge would not be adversely impacted by the proposed development as sufficient parking is to be provided within the application site. The access road to Holly Lodge and Alexander House is in a private ownership and therefore if the access was to become blocked this would be a private civil matter.
- 6.26 The application has been supported by an arboricultural report assessing the impact of the development upon the trees on the site and outlining mitigation measures to prevent damage to retained trees. The report identifies three trees which need to be removed regardless of the development occurring due to the fact that they are unsafe. It is also proposed to remove one apple tree which is of a Category C along with other small trees and shrubs. Trees around the boundaries of the site which are a mixture of Category B and C would be retained, maintaining the visual amenity value they afford to the landscape and providing a soft edge to the residential scheme.
- 6.27 In order to protect the trees during construction the report proposes a series of measures including the installation of fencing around the calculated tree protection areas (as shown on drawing number J49.47/01 Rev A); no storage of materials within the Root Protection Area's along with no lighting of fires; no levels changes on the site; and the routing of services outside of the RPA's. These methods are fully detailed within the arboricultural assessment and could be controlled by condition on any planning permission.
- 6.28 The proposed orchard is shown to be maintained as a wildlife area. No details of a management plan have been provided to ensure its long term maintenance and protection for such purposes. In light of this, I recommend that a condition be imposed to require submission and approval of details prior to the commencement of the development in order to ensure an appropriate detail can be agreed to prevent harm being caused to protected species, and for its retention and maintenance in perpetuity.
- 6.29 The application site has been identified as being suitable habitat for protected species including reptiles (slow worms and grass snakes) and newts, and as a foraging area for bats. A Phase 1 habitat survey has been submitted with the application to detail the presence of protected species on the site and to set out a methodology for protecting and mitigating harm.
- 6.30 The report identifies that the buildings themselves show no presence of roosting bats but that the site is passed over by bats foraging for food. The demolition of the existing buildings should therefore not result in the loss of bat roosts but a

precautionary approach is recommended to these works, timing demolition at appropriate times of year when the bats are least vulnerable to disturbance and under the supervision of a qualified ecologist.

- 6.31 The site is host to great crested newts and is in close proximity to three ponds which provide an aquatic habitat. The ecological report recommends that prior to the commencement of any development the newts will need to be trapped and relocated. The loss of the small area of habitat could be partially compensated for by the provision of the orchard area to the west of the site along with internal planting to the residential site to the east.
- 6.32 There is also a presence of reptiles on the existing site including slow worms and grass snakes. Once again the ecological report recommends a trapping and relocation exercise on the existing site prior to the commencement of development. As only part of the land is to be developed there is opportunity for relocation of species onto land to the west which would limit the harm caused due to the loss of habitat.
- 6.33 Details of a mitigation and enhancement strategy for protected species could be required by planning condition to ensure that any development did not cause harm to protected species and took the opportunity to ameliorate the local habitats.
- 6.34 The site has also been identified as having the potential for contamination due to its historic use as an agricultural building, along with the fact that other developments within the locality have required remediation. A condition requiring the submission of a contamination report and remediation strategy would be required by condition on any planning permission on the precautionary principle.
- 6.35 A concern raised by occupants of the neighbouring dwellings relates to surface water flooding. The application site is not situated within flood zones 2 or 3 but is situated approximately 190 metres away from these flood zones. Although it is noted that the site becomes waterlogged due to the clay subsoil, surface water drainage is a matter to be considered by way of the Building Regulations regime. Notwithstanding this, the development offers some opportunity to improve land drainage by way of the installation of new drainage systems. This should present the opportunity to prevent surface water flooding from occurring to the neighbouring dwellings.
- 6.36 A Public Right of Way runs from north to south east along the boundary to the application site. It is not proposed to place any development on the Public Right of Way as it is located outside of the application site. The existing buildings currently bound the footpath; these would be removed and a new boundary line established. These works would not impact upon the Public Right of Way. The ditches along the side of the footpath are the responsibility of the landowner but the footpath is already muddy and soft underfoot as it is sheltered by trees and the existing building. KCC PROW has raised no objections to the application as they do not consider the development would detrimentally impact upon the footpath.

6.37 In light of the above assessment, I conclude that the proposal is acceptable in light of the requirements of the NPPF in terms of the principle of the proposed development, given its location within the Metropolitan Green Belt and the specific detail of the proposed development in terms of its impact on the Green Belt and the locality generally. It also accords with policies CP1, CP3, CP14 and CP24 of the TMBCS and policies SQ1 and SQ8 of the MDE DPD. As such, the following recommendation is put forward:

**7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Email Fm Agent dated 19.01.2015, Existing Plans DHA/10141/20 Ground figure dated 19.01.2015, Proposed Layout DHA/10141/21 dated 19.01.2015, Proposed Layout DHA/10141/22 Landscaping \_ ecology dated 19.01.2015, Proposed Floor Plans DHA/10141/23 Plots 1 \_ 2 dated 19.01.2015, Proposed Elevations DHA/10141/24 Plot 1 dated 19.01.2015, Proposed Elevations DHA/10141/25 Plot 2 dated 19.01.2015, Proposed Plans and Elevations DHA/10141/26 Garden shed dated 19.01.2015, Details DHA/10141/27 Ecology dated 19.01.2015, Letter Covering letter dated 27.10.2014, Habitat Survey Report dated 27.10.2014, Planning Statement dated 27.10.2014, Arboricultural Survey dated 27.10.2014, Location Plan DHA/10141/01 dated 27.10.2014, Existing Plans DHA/10141/02 Ground figure dated 27.10.2014, subject to the following:

**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 No development shall take place until written details and photographs of all materials to be used externally in the construction of the dwelling have been submitted to and approved by the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

3 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 1995 (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 to this reserved parking space.

Reason: To ensure no adverse impact upon highway safety resulting from potentially hazardous on-street parking.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C and E of Part 1 and Class A of Part 2 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 further development within this site in the interests of the environment.

- 5 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. 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. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

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

- 6 Prior to the commencement of development details of a mitigation and enhancement strategy for bats, reptiles and amphibians shall be submitted to and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved strategy unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the existing populations of protected species and to improve the habitat on the site.

- 7 The development shall be carried out in accordance with the recommendations of the Arboricultural Implications Assessment by Broad Oak Tree Consultants dated 20.10.14 and detailed on drawing number J49.47/01 Rev A.

Reason: In order to prevent the loss of trees on the site.

- 8 No development, other than demolition of any building, removal of hardstanding, ground investigations or site survey works, shall be commenced until:

a) A site investigation based on the recommendations in the Phase 1 Contaminated Land Assessment by Lustre Consulting has been undertaken to determine the nature and extent of any contamination, and

b) The results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

c) The approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and

d) A Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

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

Reason: In the interests of amenity and public safety.

- 9 Before occupation of either of the dwellings hereby approved the former stable buildings shown for removal on the approved plan shall be demolished and all materials arising therefrom shall be removed from the site in its entirety.

Reason: In the interests of residential and visual amenities.

- 10 Prior to the commencement of the development a management strategy for the area of proposed orchard as shown on the submitted site layout plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include:

- i) Type and maturity of the trees to be planted
- ii) Timetable for implementation
- iii) Persons responsible for implementing the works
- iv) Details of the initial aftercare and long term maintenance

The approved development shall thereafter be implemented in accordance with the approved details to a timeframe previously agreed in writing by the Local Planning Authority and all features shall be retained in that manner thereafter in perpetuity.

Reason: To safeguard and improve natural habitats within and adjacent to the site.

**Informatives:**

- 1 The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked 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](mailto: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 With regard to the construction phase of the development, the applicant is asked to take all reasonable steps to mitigate any impact upon surrounding residents. With this in mind, they are strongly encouraged to apply for a Section 61 Control of Pollution Act 1974 'prior consent' notice to regulate working hours/methods. It is recommended that you contact the Environmental Health Pollution Control Team on [pollution.control@tmbc.gov.uk](mailto:pollution.control@tmbc.gov.uk) in advance of the commencement of works to discuss this further. The applicant is also advised to not undertake construction works outside the hours of 08.00 -18:00 Mondays to Fridays, 08:00-13:00 on Saturdays and to not undertake works on Sundays, Bank or public holidays. Furthermore, arrangements for the management of demolition and construction traffic to and from the site should be carefully considered in the interests of residential amenities and highway safety. With regard to works within the limits of the highway and construction practices to prevent issues such as the deposit of mud on the highway, the applicant is encouraged to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181 at an early time.
- 4 It is recommended that bonfires are not held at the site as this can cause justifiable nuisance for neighbours.



- 5 The Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in the future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

Contact: Kathryn Holland

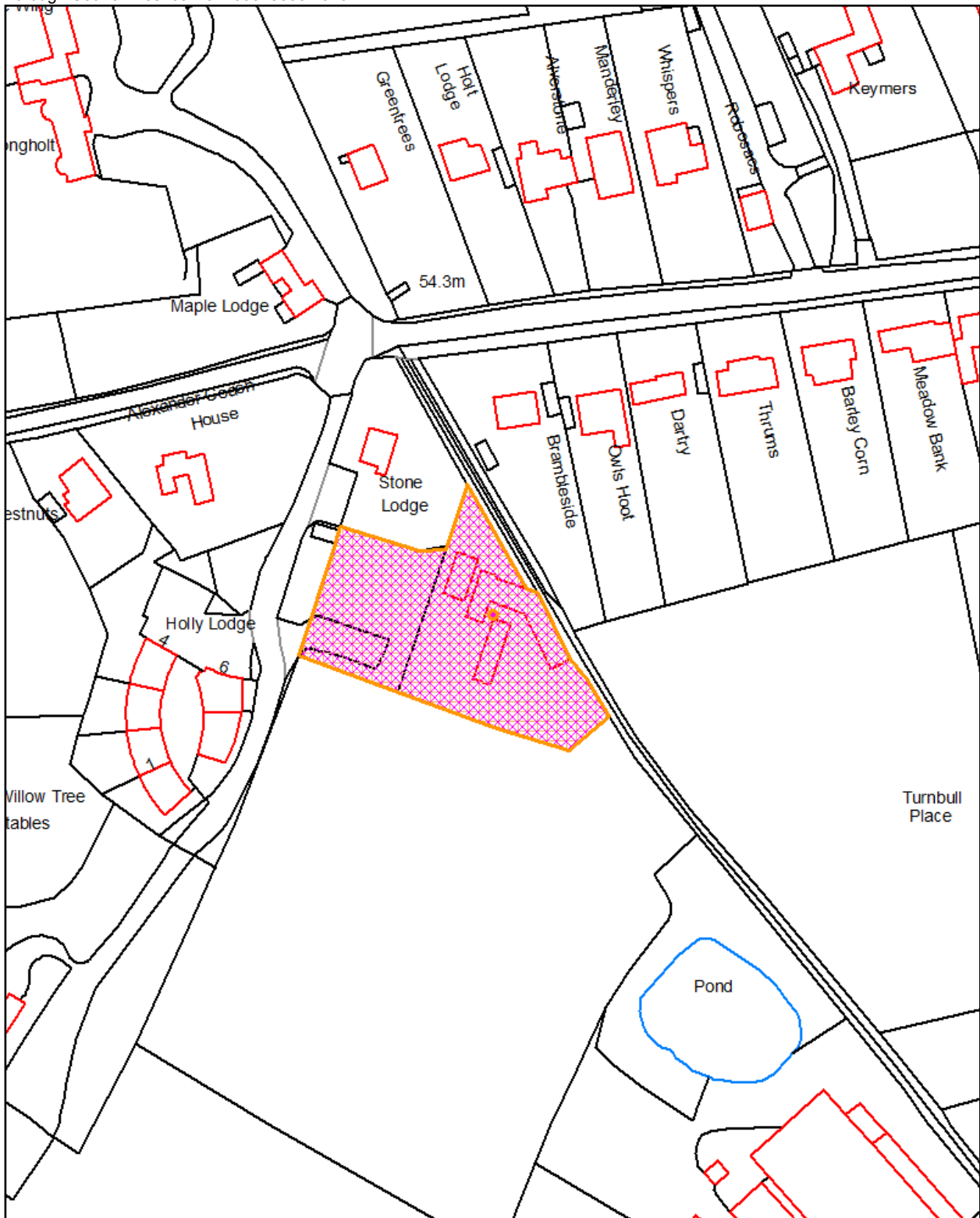
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**TM/14/03644/FL**

Alexander Stables Vines Lane Hildenborough Tonbridge Kent

Demolition of existing buildings on site and construction of 2 detached residential dwellings and associated access and landscaping

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1400. The applicant considers that, in order for KCC to meet its obligation under Section 7 of the Childcare Act 2006, it is important to create spaces for childcare across the County.

**2. Reason for reporting to Committee:**

- 2.1 At the request of Cllr Cure regarding the highway safety implications of the proposed development and the issue of air quality, given the intended use.

**3. The Site:**

- 3.1 The site is located within Tonbridge town centre on the south side of Waterloo Road, close to its junction with Quarry Hill Road. The building adjoins the Lidl supermarket to the north. On the north side of Waterloo Road is Tonbridge railway station. From the 1970s the site was a public house and it has also been used for retail purposes.

**4. Planning History (relevant):**

SW/4/70/54                      grant with conditions                      7 May 1970

Application for the erection of a supermarket, three shop units, offices, public house, and car parking.

TM/13/00825/FL              Approved    14 May 2013

Change of use of vacant retail unit to use as a place of worship, community use and café

**5. Consultees:**

- 5.1 KCC (Highways): I note that use class D1 is already permissible at this site. It is considered that the proximity of this proposal to Tonbridge Rail Station will be an attraction for child care for commuters. It is further considered that the parking restraints and congestion readily experienced in this urban area will be a disincentive for parents to park locally to pick up and drop off children, particularly when children are of an age where escort to the nursery and thereby leaving a vehicle unattended is required. In accordance with the needs and tests within the NPPF I do not consider that this proposal has a clear, tangible element of road safety detriment and I write to confirm on behalf of the Highway Authority therefore that I have no objection to this proposal.

- 5.2 Private Reps: 24 + site notice/0X/0S/0R.

**6. Determining Issues:**

- 6.1 The site lies within the St Stephens Place frontage secondary retail area. Policy TCA 6 of the TCAAP applies and states that loss of retail use will be resisted. Changes from retail to non-retail activities will only be permitted if the use will not undermine the retail function of the area.
- 6.2 In this case, the unit is currently vacant and has been for some time. In 2013 the Council accepted that the property could acceptably be used as a place of worship through the grant of planning permission TM/13/00825/FL. The site is located to the rear of the Lidl supermarket and does not have a strong presence on Quarry Hill Road. The proposed change of use would bring a vacant building back into use and would not undermine the retail function of the wider St Stephens Place secondary shopping area. It is, of course, a key aim of current Government guidance contained within the NPPF to actively encourage the reuse of land and buildings, particularly in town centres, and the proposed development clearly accords with this national guidance.
- 6.3 Policy CP 1 of the TMBCS states that when determining applications residential amenity will be preserved. Policy CP 24 of the TMBCS states that development that would be detrimental to the amenity, functioning or character of a settlement will not be permitted. Policy SQ1 of the MDE DPD requires developments to protect and conserve the character and local distinctiveness of the area including its prevailing level of tranquillity.
- 6.4 The physical alterations to the building (the creation of the additional windows within the flank wall) and the enclosure of the external play area would not detract from the character of the site or wider locality and are considered to be acceptable.
- 6.5 There are two flats located above the premises. However the proposed use will require approval under the Building Regulations and this process will deal with the issue of potential air born noise transference between the proposed nursery and the flats above. I understand that a concrete floor separates the flats from the unit below which should also help to minimise noise transference between the building below (last used as a bed shop but capable of use, without needing planning permission from the Council, for a wide variety of retail use or residential use) and the flats. This was identified at the time the second floor of this building was being converted into flats. It is understood that when the flats were created on top of this building in 2007 additional acoustic insulation was installed within the floor between the flats and the building below. Therefore, it is the case that either insulation has already been installed between the application site and the flats or would have to be installed in order to comply with the Building Regulations. Either way, the issue of noise transference would be dealt with under the Building Regulations.
- 6.6 The site is located within the busy town centre close the railway station and Quarry Hill Road, where there is already a significant level of general and traffic noise.

Furthermore, the use of the nursery, as applied for, would be limited to weekdays only and then only between the hours of 07.00 and 19.30. In this context the use of the building as proposed is unlikely to generate such noise and disturbance that it would be out of keeping with the existing level of activity in this town centre location. I recommend the use of a condition limiting the opening hours applied for in order to safeguard the amenity of local residents.

- 6.7 The remaining issues relate to the potential impacts of the proposed use on highway safety and whether any conflicts exist between the proposed use and the nearby AQMA. Current Government guidance contained within the NPPF encourages uses that generate significant amounts of movements to be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised (paragraph 34). The site is located within the town centre and is conveniently located for access by public transport or on foot. This was obviously a factor in the historic use of the site as public house and the more recent permitted use as a place of worship. It must also be recognised that following the cessation of the public house use, the site became a retail shop. Both the historic uses of the site and the recently consented use as a place of worship and café are capable of generating a significant amount of traffic in their own right, albeit perhaps at different times of the day to the use currently proposed. Furthermore, it should be highlighted that the building could be used for a number of purposes for which planning permission would not be required from the LPA including a supermarket, retail warehousing or as an undertaker, all of which could represent their own challenges in terms of traffic generation and for which parking would not be provided on site.
- 6.8 In addition to the historic use rights of the building, and the consented (albeit unimplemented planning permission), both of which represent a clear basis on which decision making must start, I am satisfied that the use would be located within a sustainable location as far as transport choices are concerned. The applicant intends to highlight and explain these locational benefits to all prospective parents within their information packs. The sections of Quarry Hill and Waterloo Roads located close to the site contain parking restrictions that would discourage parents from simply stopping in these roads whilst dropping off their children. Although I appreciate there is concern about the potential for parents to make attempts to drop off and pick up along Waterloo Road the applicants have stressed that they would be seeking to ensure parents did not park in these areas, with reference made within the Travel Plan to parents who continually park in inappropriate ways to be penalised by having their children removed from the nursery, for example.
- 6.9 Public car parks are also available within walking distance of the site and the applicant has agreed through a Travel Plan to promote the different transport options available to prospective parents and staff alike and to sign up parents to a "Good Parking/Travel Charter". I would suggest that ongoing compliance with the Travel Plan be made a condition of any planning permission granted, along with a



requirement that the applicant enter into a regular monitoring regime, details of which can be required by planning condition. I understand that the operations of the applicant's current premises in Cranbrook is the subject of daily and weekly reviews by staff and management and this is a proactive process that should be commended. This arrangement can be adequately formalised through the condition as suggested. Through such a condition, it would be possible for the situation to be reviewed on an ongoing basis.

- 6.10 Whilst a good reputation for a nursery can bring in parents from further afield, many parents tend to choose a good nursery either close to where they live or close to their place of work for convenience. It is evident from the information submitted by the applicant that there are more children of nursery/pre-school age in this part of Tonbridge than there are places to serve them. It is a likely scenario that many of the places within the proposed nursery would be taken by children of local residents who could either walk to the site or who have to pass the site on their way to work either by car or public transport.
- 6.11 In light of these factors, particularly given the levels of control that could be afforded through the suggested planning condition, when balanced against what the building could be used for without any such controls being in place, I am satisfied that the proposed development would not cause any more harm to the safe or free flow of traffic than the historic or permitted uses of the site. Furthermore, it needs to be remembered that current Government guidance contained within paragraph 32 of the NPPF states that applications should only be refused on transport grounds where the impact of the development is **severe** (my emphasis). The highway authority has not objected to the proposed development, considering it to be acceptable in terms of highway safety impacts. Given the nature of the proposed use, the highly sustainable location of the site with the choice of travel options available to parents and staff alike, I concur with this assessment.
- 6.12 The site, whilst being located within Tonbridge town centre, does not lie within the AQMA. In comparison with the High Street, Waterloo Road does not experience the same volumes of traffic nor is it a street canyon. These factors result in the exceedance of nitrogen dioxide annual mean on the High Street but this is not reflected in the air quality of Waterloo Road and the nitrogen dioxide levels are indicated to be within the air quality objectives. There are currently parking restrictions on Waterloo Road which are intended to prevent idling cars waiting outside the proposed nursery entrance way. There is a taxi rank on the opposite side of the road to the development but taxi cabs are advised by the Council of the need to switch their engines off if stationary for more than one minute. This, combined with the separation distance to the proposed nursery entrance way, means exceedances are unlikely to be caused as a result of the taxis.
- 6.13 In respect of both highway safety and air quality, it is important to remember that the nursery will be required to meet the standards set by Ofsted and that these

standards are likely to be far more rigorous than any restrictions that can reasonably be achieved through the planning system. For example, The Early Years Foundation Stage (EYFS) defines the legal requirements and standards for promoting the care, learning and development of children from birth to five years in Ofsted registered childcare provision. The EYFS requirements include:

- The *Learning and Development Requirements* which shape the activities and experiences that childcare providers offer children.
- The *Assessment Requirements* which detail how childcare providers monitor and plan for children's progress.
- The *Safeguarding and Welfare Requirements* which ensure children are kept safe and have their welfare promoted

6.14 The Safeguarding and Welfare Requirements cover ten areas which relate to the safety and well-being of children: child protection; suitable people; staff qualifications, training, support and skills; key person; staff:child ratios; health; managing behaviour; **safety and suitability of premises, environment and equipment**; special educational needs; and information and records. Each area is supported by specific requirements and guidance to direct providers' policies, procedures and practices.

6.15 Having studied the nursery's previous Ofsted Report (dated October 2014); I can advise that they received an 'Outstanding' result from their last inspection. I appreciate that the setting of the existing facility is likely to be different to Waterloo Road but I am confident that the highly effective level of management displayed here would give Members assurance that the site would be operated in an acceptable manner.

6.16 Furthermore, it is worthwhile mentioning that a great deal of care appears to have been taken to make suitable use of the outside space, by creating a good quality outdoor play area that merges with the indoor play area. The floor in both cases is proposed to be finished with a material called 'as good as grass' with shock pad underlay. Again, this suggests a carefully considered operation and an attention to detail presumably predicated on the applicant's wish to obtain equally high Ofsted ratings as their Cranbrook facility.

6.17 In light of all of the above, the proposed development would not harm the functioning or amenity of the local area. It would also help to bring a vacant building back into a use that is considered to be compatible with its town centre location. Accordingly, the proposed development is considered to be acceptable in planning terms and complies with development plan policies CP1, CP 24, TCA 6 and SQ 1. Consequently, I recommend that planning permission be granted.

## 7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details:  
Report update to Travel Plan received 12.03.2015, Design and Access Statement received 10.11.2014, Existing Plans and Elevations 1080-01 received 10.11.2014, Proposed Elevations 1080-03 received 10.11.2014, Proposed Floor Plans 1080-02 B received 18.02.2015, subject to the following:

**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. The business shall not be carried on outside the hours of 07.00 to 19.30 Mondays to Fridays with no working on Saturdays, Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

3. The Travel Plan hereby approved shall be fully implemented to ensure strict compliance with the approved scheme and to ensure children are not dropped off/picked up along Waterloo Road. Thereafter, the Travel Plan shall be monitored to ensure ongoing compliance with the approved scheme.

Reason: In the interests of the proper management of traffic.

4. Within one month of the commencement of the use hereby approved, a scheme detailing the ongoing monitoring of the approved Travel Plan shall be submitted to the Local Planning Authority for approval. This should include full details of how the applicant will record instances of inconsiderate or irresponsible car parking together with the sanctions imposed by the applicant in response to such instances, and any measures subsequently put in place to prevent reoccurrences.

Reason: In the interests of the proper management of traffic.

**Informatives:**

1. The applicant is reminded that the proposed level of WC provision is considered to be inadequate for the numbers of children proposed. For 65 children, 7 WCs and wash hand basins should be provided. For 20 members of staff, 3 additional WCs and wash hand basins should be provided. For further advice concerning this matter and to food register this business the applicant is advised to contact the Borough Council's Food and Safety Team on 01732 876191. The kitchen also appears small for the intended use of the premises.
2. The applicant is advised that the duty holder should carry out an asbestos survey

before any changes are made to the fabric of the building or any changes are made, as required by the Control for Asbestos Regulations 2012. More details can be found at [www.hse.gov.uk/asbestos](http://www.hse.gov.uk/asbestos).

- 3 In relation to conditions 3 and 4, the applicant is advised to adopt clear policies and guidance to issue to all staff and parents/carer's as to how they will be expected to behave whilst dropping off and picking up children. The Good Parking/Travel Charter should be adopted prior to the first use of the site and should include details of the penalties that would be imposed should the charter be breached by anyone who has agreed to its terms.
4. In relation to Condition 4, the applicant is strongly encouraged to establish a transport forum to discuss and consider the implications and monitoring of the travel plan. This should include staff/representatives of the nursery, the Local Planning Authority, the Local Highway Authority and parents).

Contact: Matthew Broome



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