

# 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)

22 June 2016

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

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 1 Planning Committee to be held in the Riverside Lounge, Angel Centre, Tonbridge on Thursday, 30th June, 2016 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

## A G E N D A

### PART 1 - PUBLIC

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 7 April 2016

**Decisions to be taken by the Committee**

4. Development Control 9 - 12  
Introduction and Glossary
5. TM/16/01498/FL - 16 Royal Avenue, Tonbridge 13 - 24
6. TM/16/00957/FL - 1 Rodney Avenue, Tonbridge 25 - 36
7. 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**

8. Exclusion of Press and Public 37 - 38

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**

9. Urgent Items

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

## **MEMBERSHIP**

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

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

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

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 1 PLANNING COMMITTEE

Thursday, 7th April, 2016

**Present:** Cllr V M C Branson (Vice-Chairman, in the Chair), Cllr Mrs J A Anderson, Cllr O C Baldock, Cllr Mrs P A Bates, Cllr P F Bolt, Cllr J L Botten, Cllr M O Davis, Cllr Mrs M F Heslop, Cllr N J Heslop, Cllr M R Rhodes, Cllr H S Rogers, Cllr Miss J L Sergison, Cllr C P Smith, Cllr Ms S V Spence and Cllr F G Tombolis

Apologies for absence were received from Councillors R D Lancaster (Chairman), Ms J A Atkinson, D J Cure, T Edmondston-Low and B T M Elks

#### PART 1 - PUBLIC

##### **AP1 16/8 DECLARATIONS OF INTEREST**

There were no declarations of interest in accordance with the Code of Conduct.

##### **AP1 16/9 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 1 Planning Committee held on 21 January 2016 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 16/10 DEVELOPMENT CONTROL**

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

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

**AP1 16/11 (A) TM/15/02817/FL AND (B) TM/15/02818/LB - THE OLD POWER STATION, THE SLADE, TONBRIDGE**

- Application (A): Conversion of The Old Power Station, currently used as a training centre, into 5 no. dwellings and a new building comprising 7 no. dwellings built on the existing rear car park at The Old Power Station, The Slade, Tonbridge

**RESOLVED:** That planning permission be GRANTED, subject to:

(1) The applicant entering into a Section 106 Agreement covering:

- the provision of a total primary education contribution of £5312.16 towards Slade Primary School; and
- a public open space contribution as deemed appropriate

(2) The submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health; subject to:

(3) Amended Condition:

13. No development shall commence until a detailed sustainable surface water drainage scheme for the site (based on the details provided within the Flood Risk Assessment by BdR Engineering Consultants dated 15 September 2015) has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed without increase to on site or off site flood risk. The drainage scheme shall be based upon the submitted drainage strategy and the proposed discharge rate to the public surface water sewer agreed with Southern Water.

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

- (i) A timetable for its implementation; and
- (ii) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any

other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

(4) Amended and Additional Informatives:

5. 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 0800 – 1800 Mondays to Fridays, and given the proximity of the site to the sports ground and public car parks used for sports events is strongly encouraged not to undertake works on Saturdays, Sundays, Bank or public holidays. Additionally, given the proximity of the site to the Slade Primary School, the applicant is asked to make all reasonable steps to ensure delivery and construction vehicles are arriving or leaving the site around school drop off and pick up times. 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 Telephone: 03000 418181 at an early time.

7. The applicant is requested to advise any future occupiers of this development that they may not be eligible for the Residents Parking Scheme but that season tickets may be available to park in the nearby public car parks in close proximity to the site. Further details can be obtained via the Council's website [www.tmbc.gov.uk](http://www.tmbc.gov.uk)

- Application (B): Listed Building Application: Conversion of the Old Power Station, currently used as a training centre, into 5 no. dwellings The Old Power Station, The Slade Tonbridge

**RESOLVED:** That Listed Building Consent be GRANTED in accordance with the submitted details, conditions, reasons and

informatives set out in the report of the Director of Planning, Housing and Environmental Health

[Speakers: Mrs S Bevan – Chairman, Slade Area Residents Association; Mrs Wilson – member of the public and Mr Gregory – applicant]

**AP1 16/12 TM/15/03844/FL - 35A YARDLEY PARK ROAD, TONBRIDGE**

Change of use from use Class C3 (residential) to mixed use C3 (residential) and D2 (yoga studio) at 35A Yardley Park Road, Tonbridge

**RESOLVED:** That temporary planning permission be GRANTED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health; subject to:

(1) Amended Condition:

1. The D2 Yoga Studio use hereby permitted shall be discontinued on or before 11 April 2017.

Reason: In the interest of amenity.

[Speakers: Mr Reiss and Mrs Hills – members of the public and Mr G Edwards – applicant]

**AP1 16/13 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 9.19 pm



## 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 23 September 2015

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

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

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

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

**Tonbridge**  
Medway

**13 May 2016**

**TM/16/01498/FL**

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Proposal: Extension and change of use from single dwelling house to 7 bed HMO  
Location: 16 Royal Avenue Tonbridge Kent TN9 2DB  
Applicant: Mr Peter Dabner

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## **1. Description:**

- 1.1 Planning permission is sought for the erection of a two storey side extension and single storey rear extension together with the conversion of the extended, resultant, building from a single dwellinghouse to a 7 bed House in Multiple Occupation (HMO).
- 1.2 Planning permission has already been granted for exactly the same extensions in terms of dimensions and appearance (TM/16/00619/FL refers), albeit that a different internal layout, to facilitate the proposed use of the property as a HMO, is now shown.
- 1.3 The extended dwelling is proposed to incorporate 3 bedrooms (2 with en-suites) at ground floor level, together with a shared kitchen/dining room and lounge, with a further 4 bedrooms and 2 bathrooms at first floor level.
- 1.4 The associated curtilage is shown to include an area of hard standing to the front. There is also a cycle shed proposed to be located to the rear of the property.

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

- 2.1 At the request of Councillor Jon Botten, due to the high level of public interest.

## **3. The Site:**

- 3.1 The application site contains a semi-detached dwellinghouse on the south side of Royal Avenue, within the built confines of Tonbridge.
- 3.2 The adjoining half of the semi-detached pair has an existing two storey side extension and single storey rear extension which is built within fairly close proximity to the common boundary with the application site.
- 3.3 The front elevation of the neighbouring property to the east is set slightly back from the application property. This property does not have any windows within the flank elevation facing towards the application site.

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

TM/74/11047/OLD Grant With Conditions 29 September 1966

Layout of road and sewers and erection of 39 dwellings and garages

TM/16/00619/FL Approved 26 April 2016

Two storey side extension and single storey rear extension

**5. Consultees:**

5.1 Private Reps: (20/0X/28R/0S) (including 3 households with 2 objections each), raising the following key concerns:

- Area is for family homes not for a HMO – out of character and overdevelopment;
- Could potentially be a home for 14 residents;
- The residents of this converted house could be undesirable and transient;
- A HMO would impact the quiet enjoyment of neighbouring family homes;
- The local schools and children should be safeguarded against potentially undesirable residents;
- There are already many flat developments in Tonbridge;
- Car parking is a major issue in the local area;
- A HMO would result in more cars in the street;
- Access is extremely difficult for delivery vehicles, Council service vehicles and emergency vehicles;
- The proposals are in breach of parking standards set out in IGN3;
- Pedestrian health and safety is a concern as no street lights and parking on the pavement;
- Further demands will be put on the services, waste water and road infrastructure;
- Taking away the front garden area to park cars is out of character with the road and could increase surface water onto the road – as could the extensions;

- Potential overlooking from the proposals;
- The desirability of the area will be reduced and house prices will fall;
- This is against the restrictive covenants on the title deeds schedule; and
- The proposals will create a precedent for the area.

**6. Determining Issues:**

6.1 There are two main strands to this planning application,

- The built development proposed in the form of the side and rear extensions and;
- The change of use of the resultant building into a 7 bed HMO.

6.2 I will address each of these in turn.

Extensions to the building:

6.3 Planning permission has already been granted for the two storey side and single storey rear extensions to the dwelling, shown to be in exactly the same form as previously approved. The recent grant of planning permission for the extensions demonstrates that they were wholly policy compliant and would not cause any planning harm. There have been no changes to the relevant policy framework or material changes on site that would lead a different conclusion to be drawn two months after that previous grant of permission.

6.4 As such, the extensions could be built out at any time without any further approval from the Council as LPA. The internal configuration of the extensions would not be subject to any form of control and could deviate from those previously approved plans without any subsequent involvement from the Council. Of course, I recognise that the extension would in reality facilitate the change of use to the level proposed in this application, and I will now turn to the potential issues in that respect:

Change of use from dwellinghouse to house in multiple occupation:

Principles:

6.5 Importantly, it must be firstly recognised that the use of the building by between 3 and 6 unrelated residents who share basic amenities such as a kitchen and bathroom (House in Multiple Occupation, Use Class C4) does not require the benefit of planning permission from the Council as it is afforded permitted development rights as set out in the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The use of the building by

more than 6 people as a larger HMO requires the benefit of planning permission from the LPA.

- 6.6 The permitted development rights effectively set the benchmark against which the assessment of this case must be made because that could take place without any formal approval. It is therefore necessary, in making a determination in this case, to decide whether the additionality of the extra residents arising from the provision of a 7-bedroom property is acceptable in planning terms when considering how the building will be used and the comparative intensity of that use. The planning application proposes a total of 7 bedrooms to be provided within the building. The bedrooms are shown to be double rooms meaning that conceivably the facilities provided would allow for a total of 14 residents to occupy the building. It is the potential impact arising from this (maximum) level of occupation when compared to the permitted development benchmark of 6 residents that must be considered in determining this planning application.
- 6.7 Multiple occupations of traditionally built dwellinghouses may be alleged to have a damaging impact on residential surroundings, with increased activity in terms of comings and goings and general noise being cited in support of such assertions. Inadequate space about a house for requirements such as parking, dustbins and all the other domestic paraphernalia likely to be used by a number of “households” may also be stated as a problem which affects the environment in general, and which could be exacerbated as the number of occupants increases. These matters will provide the focus for the assessment that follows but, in terms of the broader principles, it is important to acknowledge that house conversions of this nature can provide an important source of new housing. They form an important part of the housing stock, providing a valuable supply of privately rented accommodation, providing accommodation for a variety of occupiers and being one of the most affordable forms of accommodation in the private rented sector.
- 6.8 In this respect, I am mindful that a key national housing objective as set out in the NPPF is the creation of mixed, sustainable and inclusive communities, which contain a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. In the broadest of policy terms, there is no policy objection to the provision of accommodation of this nature, provided it does not cause any other planning harm sufficient to justify refusal.

*Impact on the character of the property and the surrounding area:*

- 6.9 One of the core principles contained within the NPPF concerns the achievement of a good standard of amenity for all existing and future occupiers of land and buildings (paragraph 17). Policy CP1 of the TMBCS states that in determining planning applications the quality of the natural and historic environment, the countryside, residential amenity and land, air and water quality will be preserved and where possible, enhanced. Policy CP24 of the TMBCS specifically requires



good design and quality in new developments, and a respect for the site and its surroundings. This is supported by Policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible, enhance:

- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
- the distinctive setting of and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.

6.10 It is clear that Royal Avenue and its immediate surrounds are characterised predominately by housing stock that is dominated by single-family units although subdivision within the terms of the permitted development rights may not be immediately apparent. By its very nature, the intensity of a seven-bedroomed HMO results, theoretically, in a significant number of unrelated people residing within a single property with a considerable amount of associated residential activity. As such, the size and scale of the proposed HMO in terms of its use may not be sympathetic to or in keeping with its surroundings or the local context, contrary to policies CP24 and SQ1.

6.11 However, in terms of the physical character of the residential area, the building will retain the appearance of a single residential dwelling house and contain residential rooms. In general terms, the proposed use will retain a residential character albeit in a more intensive form. It must therefore be considered whether or not the increased level of residential activity arising from the proposed change of use would have the consequence of causing any overt harm in planning terms that would justify the refusal of planning permission.

*Car parking and cycle parking provision:*

6.12 I am aware that there are localised parking problems already experienced within Royal Avenue. Whilst it is acknowledged that within the locality there is already high degree of on-street parking, these proposals must be assessed on their own merits, having regard to the adopted parking standards.

6.13 In HMO cases it may be asserted that residents would have a low level of car ownership. In addition, it may be argued that premises may lawfully be occupied by a large single household which may give rise to even greater parking requirements than a multiple occupation use. On appeal, I am aware that Inspectors have accepted that greatly reduced or nil parking requirements for HMOs are acceptable given the likely demand based on a common sense evaluation of the particular case - proximity to public transport, shops etc. being important factors as well as capacity on and off site and roadside parking controls operating.

- 6.14 In this case, KCC (H+T) has advised that they generally regard such proposals as a 4+ bed house for the purposes of applying IGN3: Residential Parking which would require 1.5 spaces in an edge of centre location; 2 spaces for a suburban location.
- 6.15 The proposals include an off-street parking area which would be capable of providing at least 2 parking spaces. In considering the parking provisions proposed, consideration must also be given to the location of the property within a sustainable location close to Tonbridge town centre with its associated transport infrastructure and services. The proposals also include the provision of a cycle store within the rear garden area.
- 6.16 Taking these factors into account, I have no reason to conclude that the proposals would be unacceptable on parking provision or more general highway safety grounds, particularly when considering the requirements set out in paragraph 32 of the NPPF which makes it very clear that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. There are, therefore, no justifiable grounds to refuse planning permission on grounds of lack of parking or highway safety particularly when, once again, considering the benchmark set by the permitted development rights.

*Impact upon the residential amenity:*

- 6.17 Firstly, whilst I appreciate that there may be local anxiety about the nature of the future occupiers, there is nothing to suggest that the occupiers of the resultant accommodation would be any more or less likely to behave in an anti-social or threatening manner than any resident of a single family dwellinghouse. In any case, this is not something that can be controlled by the planning system. Other regimes operate to deal with any issues of anti-social behaviour and similar and they operate entirely independently of the planning system.
- 6.18 However, the level of activity resulting from a group of up to 14 residents must be considered in terms of the potential impacts on residential amenity. Undoubtedly, it is likely to result in more frequent comings and goings and differing patterns of behaviour than traditional family housing. The resulting potential for noise and disturbance to neighbouring occupiers is increased by the high number of occupants proposed in this instance. When considering the difference between the permitted development benchmark of 6 residents to the maximum 14 that this accommodation could provide for, it is my view that there would be a significant increase in activity that would in turn have a significantly detrimental impact upon the residential amenities of nearby property occupiers. In particular the noise and disturbance associated with increased trips in addition to more general intensification of activity at the property is likely to have a significant impact upon the living conditions of the occupiers of nearby residential properties, particularly

as the area is characterised mainly by family dwellings in close proximity to each other.

- 6.19 To some extent such disturbance is likely to be exacerbated by the design and location of the proposed car parking area to the front of the site, again given its proximity to surrounding residential dwellinghouses. Notwithstanding the commentary above concerning the technical parking standards to be applied in cases such as this, the fact that the applicant is proposing to provide such an area suggests there is an expectation their tenants will require its provision and thus will utilise it even if to a limited degree. How such an area might be regularised or used in practical terms is effectively an unknown quantity, and in all likelihood, could give rise to unorthodox movements of vehicles to allow for individual comings and goings of residents which could in turn create noise and disturbance which would simply serve to exacerbate the impact on neighbours further.
- 6.20 With these considerations in mind, I conclude that permitting the intensity of the use as proposed would harm the living conditions of neighbouring occupiers, contrary to the requirements of the NPPF and LDF. In making this assertion, I have been mindful as to whether or not there are any planning conditions that could be imposed upon a planning permission that could mitigate such harm and to whether or not the six tests set out in the NPPF would be met in seeking to impose any such conditions. Paragraph 203 of the NPPF states “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”. Paragraph 206 of the NPPF states “Planning conditions should only be imposed where they are: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects.”

Limit on number of occupants:

- 6.21 The imposition of such a condition has the potential to resolve any concern that the intensity of occupancy of premises would increase in the future without the need for further planning permission. However, my concern would be that such a condition would be in danger of failing the test of reasonableness insofar as there would be a fundamental discord between granting planning permission for the level of accommodation proposed but then, for example, requiring by condition a far reduced level of occupancy of the approved facilities. Similarly, although not impossible to enforce, I would suggest that in practical terms it would be extremely difficult to enforce such a condition should it be imposed.

Restrictions on car ownership:

- 6.22 Such a condition could take the form of control to ensure that occupants would not be car owners; however this would again be extremely difficult to enforce. I appreciate that there is nothing to prevent an applicant entering into an undertaking to restrict lettings to non-car owners. In this situation we would need to consider how it would be monitored such an agreement, and I do not believe

that such an undertaking could be practically or successfully monitored in these circumstances.

Limited period or personal permissions:

- 6.23 Such conditions could in theory take the form of a temporary planning permission to allow for a “trial period” in order to ascertain in practical terms how a more intensive use would operate within this context and in order to practically test any other conditions that might be legitimately imposed.
- 6.24 Given that the proposal includes the construction of extensions along with other significant modifications to the building to allow for it to be used in the way proposed (and presumably to subsequently meet the requirements of any other legislation), it would be entirely unreasonable to seek to impose a temporary condition in this instance. A judgment must instead be made as to whether this level of residential use can harmoniously exist alongside the existing residential accommodation on a permanent basis.
- 6.25 In terms of personal permissions, I am aware of occasions whereby local authorities have sought to restrict occupancy to stipulated tenants (for example weekday tenants employed in the area who then return home to their primary residence at weekends) in an attempt to minimise impact on a locality. Appeal decisions conclude in such cases that there was no effective way of ensuring that the premises were used on this basis.
- 6.26 Again, with these considerations in mind, I do not believe that such conditions would meet the necessary tests.

Provision for a resident caretaker:

- 6.27 In some cases, where it is likely that there may be possible problems relating to the multiple occupation of premises, a condition may be applied requiring the provision of accommodation for a resident caretaker. I am aware that some local authorities take this further by stipulating that should these requirements not be met for any continuous period exceeding one month, the use as a whole should cease within three months. There is nothing to suggest that the residents of the proposed accommodation would be of a nature that would require such onerous intervention and therefore as such any such condition would be unreasonable in planning terms.

Amenity standards for the future occupants:

- 6.28 Internally, the provision of substandard accommodation may be a matter of local authority concern, but the intervention of the planning system into the field of matters otherwise controllable under housing or environmental health powers may only be justified when overcrowding implied has a knock-on effect on wider amenity or land use concerns, as assessed above.

6.29 In any case, I can confirm that the bedrooms are all of a sufficient size and adequate communal living and kitchen facilities have been provided. The standard of accommodation is therefore acceptable in terms of the governing housing legislation.

Refuse and Recycling Storage:

6.30 There will be a need to provide a suitable area within the site for the storage and screening of bins. A side entrance into the rear garden is to be retained along the length of the extended building and so the storage area would most logically be sited in the rear garden (at an appropriate point). I understand that for the proposed use, the Council would provide 2 x 360l black bin (this is the family sized bin - "normal" size is 240l), 2 x 240l green lidded bin (although more could be provided upon request) and 2 x green recycling boxes.

6.31 I would suggest that a planning condition be imposed on any permission granted requiring details of such an area to be submitted for formal approval prior to the occupation of the building as an HMO. The residential curtilage is of a sufficient size to ensure that such a store could be accommodated without causing harm to visual or residential amenity subject to appropriate siting and design.

Other matters:

6.32 I appreciate that there is some concern regarding the impact the extensions and areas of hardstanding might have on surface water drainage. As established, the extension already has an extant planning permission in place and the creation of hardstanding within front gardens, (provided porous materials are used in its construction) amounts to permitted development. This can be secured in this instance by way of a planning condition.

6.33 I acknowledge that there is a general local feeling that the wider town has in recent years seen the development of a large number of flatted residential schemes. However, an HMO offers a different type of accommodation to a self-contained flat, both in terms of function and affordability. It is also not for the Planning Authority to seek to resist a particular type of housing in a location which is otherwise considered acceptable in those other land-use terms. Equally, the grant of planning permission for an HMO in this location would not set a precedent for other similar developments within the locality as each case would need to be assessed on its own merits at that point in time.

6.34 The representations received raise a number of objections concerning matters such as demand on infrastructure services (e.g. water, sewerage, etc.), a reduction in local house prices, and the presence of a restrictive covenant within the road. These are not material planning considerations which can be taken into consideration in the determination of this application.

6.35 In light of the above, I conclude that, on balance, the increased level of activity arising from the proposed change of use would not be compatible with its surroundings or local context as it would be at a level that would cause harm to the residential amenities of the surrounding occupiers contrary to the requirements set out in the NPPF and LDF. There are no planning conditions which could be reasonably imposed that would mitigate the identified harm and I therefore recommend that planning permission be refused for the following reason:

**7. Recommendation:**

**7.1 Refuse Planning Permission** for the following reason:

- 1 The proposed change of use to a seven bedroom House in Multiple Occupation would result in an unacceptable intensification of the use of the property which would cause harm to the living conditions of neighbouring residential occupiers by virtue of the resultant levels of activity and associated noise and disturbance. As such, the proposal is not compatible with its immediate surroundings and would cause harm to residential amenity and is therefore contrary to policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and policy SQ1 of the Managing Development and the Environment DPD 2010.

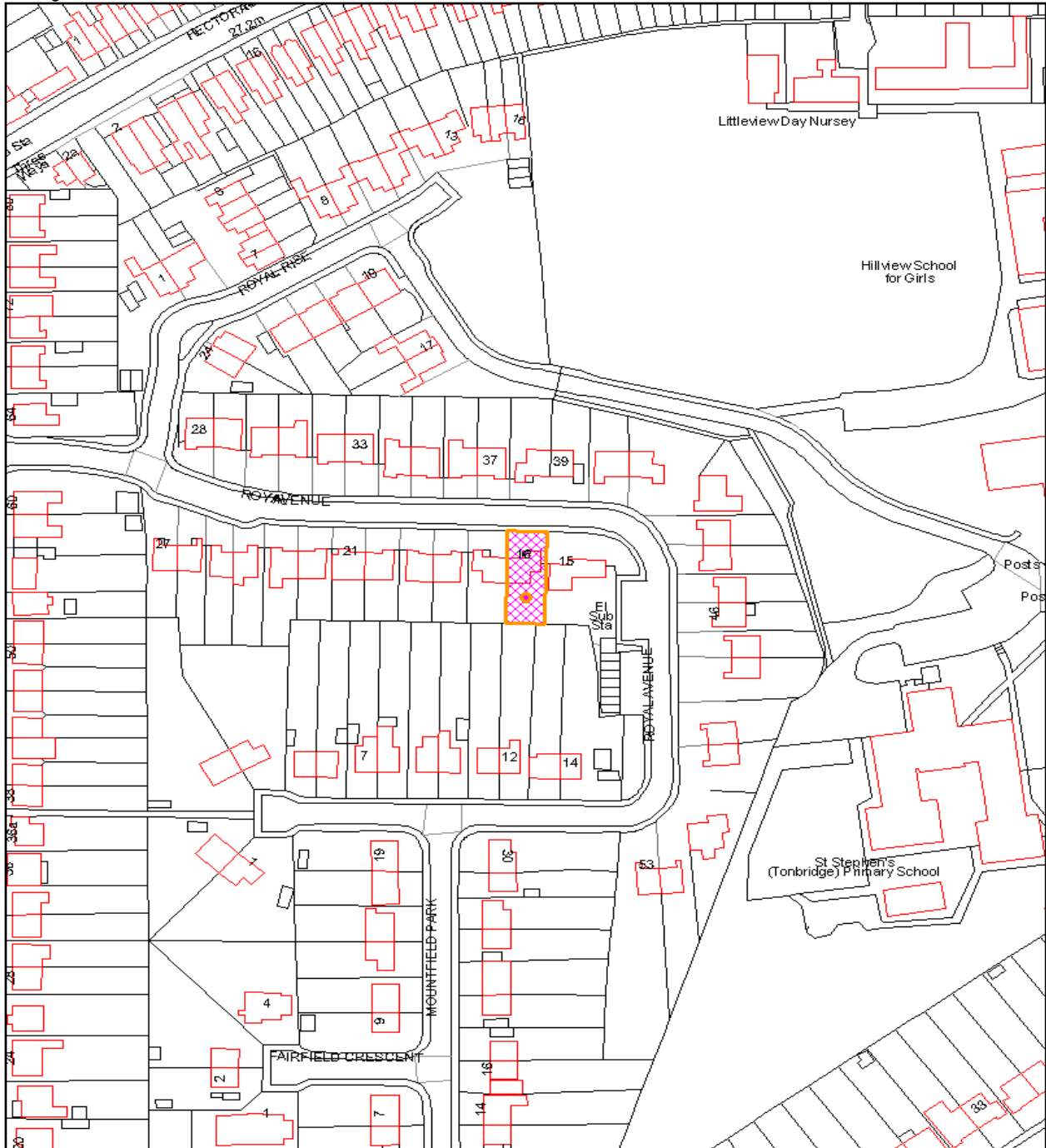
Contact: Vicky Bedford

**TM/16/01498/FL**

16 Royal Avenue Tonbridge Kent TN9 2DB

Extension and change of use from single dwelling house to 7 bed HMO

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**Tonbridge**  
Higham

**21 March 2016**

**TM/16/00957/FL**

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Proposal: Proposed two storey chalet style detached dwelling with associated parking and garden areas  
Location: 1 Rodney Avenue Tonbridge Kent TN10 4JR  
Applicant: Mr & Mrs Mark Bridgewater

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## **1. Description:**

1.1 Planning permission is sought for the erection of a detached dwelling within the side garden of 1 Rodney Avenue.

1.2 The proposed dwelling has been designed with a chalet style appearance and incorporates gable roof detailing to the front (north) and rear (south) elevations, along with a glazed gable to the east flank elevation. The proposals include a vehicle access and hardstanding area on the west side of the application site, between the proposed dwelling and No.1, with access directly onto Rodney Avenue.

1.3 This application follows an earlier refusal of planning permission (determined under delegated powers) for the erection of a two storey detached house (TM/15/00414/FL refers). The reason for refusal on that occasion being:

*“The proposed new dwellinghouse, by virtue of its specific siting and detailed design combined with the constrained nature of the plot, would result in a dominant and obtrusive form of development which would be out of character with and harmful to the street scene and surrounding locality. The proposed development is therefore contrary to policy CP24 of the Tonbridge and Malling Core Strategy 2007, policy SQ1 of the Managing Development and the Environment Development Plan Document 2010 and the core principles of the National Planning Policy Framework (paragraphs 17, 58 and 64).”*

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

2.1 At the request of Councillor Tom Edmondston-Low due to the high level of local concern.

## **3. The Site:**

3.1 The site lies within the urban confines of Tonbridge and currently forms part of the side garden area to the east of No.1 Rodney Avenue. The site is formed of an unusual shaped plot, with the site being bordered by roads on 3 sides.

3.2 The ground level slopes away from the application site to the north and also to the east.

3.3 Rodney Avenue is a residential cul-de-sac comprising detached bungalows, many of which have been extended. The application site is also viewed within the wider context of Cornwallis Avenue, due to its siting, which has a mixture of house types and styles.

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

TM/57/10067/OLD grant with conditions 5 November 1957

Semi-bungalow and garage.

TM/57/10090/OLD grant with conditions 6 August 1957

Outline application for erection of 2 dwellings.

TM/03/01889/FL Grant With Conditions 7 August 2003

Demolish existing garage and construct two storey side extension

TM/15/00414/FL Refuse 13 April 2015

Proposed 2 storey detached house with associated vehicle and pedestrian access with onsite parking and private garden

TM/15/03841/FL Application Withdrawn 15 January 2016

New dwelling

**5. Consultees:**

5.1 KCC (Heritage): No comments to make.

5.2 Neighbours: (15/0X/15R/0S) (2x letters from one property), raising the following key concerns:

- Government planning policy gives Council's new powers to stop unwanted development on gardens;
- Overdevelopment – the dwelling will fill the site leaving little garden, having a cramped effect and is unsuitable in size and location;
- The submitted plans overstate the size of the plot;
- Will block light and air to No.3;
- Will overlook properties to the north;

- Cars will be left on the road/pavement due to proposed tandem parking and too small turning area impacting other properties;
- Construction vehicles, skips etc will have no alternative but to park on the road – should be made to stay out of Rodney Avenue;
- The entrance on the narrow “s” bend will cause traffic disruption;
- The proposed access looks hazardous;
- Traffic lines/visibility will be reduced by the siting of the dwelling;
- Detrimental to character of road – design out of keeping and dominant position;
- The new property stands in front of the building lines for Rodney Avenue and Cornwallis Avenue;
- The A26 is an increasingly busy and noisy road; an additional building and fence will reflect the noise back across the road to Cornwallis Avenue;
- The site is close to Flood Zone 3;
- Virtually all of the trees and shrubs will be removed; and
- The bin store is located adjacent to the turning area so will impact space.

## **6. Determining Issues:**

### *Principle of development:*

- 6.1 The delivery of new housing lies at the heart of the NPPF, with the supply for housing to meet need expressed as one of the core roles which the planning system must perform to achieve sustainable development. It states that best use should be made of opportunities within existing urban areas to meet housing need by encouraging the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value (paragraph 111). Whilst residential gardens are not defined as previously developed land, there is no automatic embargo on the development of such land per-se. The NPPF simply states that land in built-up areas such as private residential gardens is not considered to be "previously developed land" i.e. brownfield land. More fundamentally in the consideration of this planning application, there is a general presumption in favour of sustainable development and the best use of land within urban areas. This is supported by policy CP11 of the TMBCS which states that development should be concentrated in urban areas including Tonbridge.
- 6.2 Furthermore, Rodney Avenue is predominantly characterised by detached bungalows, many of which have been extended, with Cornwallis Avenue

comprising a wider mix of property types and styles and a variety of plot sizes. With this in mind it is not considered that the proposed density of the development and the relatively compact private curtilage area proposed is out of keeping with the prevailing pattern of development in the locality.

- 6.3 Importantly, the previous refusal did not resist the development on any grounds of principle, but rather the specific detail of that earlier scheme was not acceptable.
- 6.4 With these considerations in mind I consider that the broad principle of development of this nature is acceptable.

*Character, scale and design:*

- 6.3 Policy CP24 of the TMBCS sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by Policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:
- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
  - the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views
- 6.4 The previous reason for refusal focused on the specific siting and detailed design of the building proposed at that time being out of keeping with and harmful to the character and appearance of the locality, given the constrained nature of the plot (given that it occupies a prominent position on a corner plot). The scheme currently before Members for determination has a reduced footprint and the design has been amended substantially in order to take into account the previous refusal.
- 6.5 The proposed building has been designed as a chalet dwelling, with rooms in the roof space. In my view, the design of the building, which incorporates brick, painted render and wooden cladding, has been carefully considered and adopts a mixture of contemporary design along with a reflection of the scale and proportions of the existing properties within Rodney Avenue. I am mindful of the requirement set out in paragraph 60 of the NPPF which states that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. That said, it is however proper to seek to provide or reinforce local distinctiveness. In this case, I consider that the proposed dwelling, in design terms, would sit comfortably within the plot and would not appear obtrusive when viewed from the public street scene settings of both Cornwallis Avenue and Rodney Avenue.

6.6 Due to the particular shape and position of the application site, I do not consider that the siting of the proposed dwelling will have a detrimental impact on the character of the area or street scene as there is no defined building line in this location. Furthermore, owing to the sloping nature of the site, the proposed dwelling would sit at a lower level to the adjacent property at No.1, thus having a reduced impact in terms of scale. As such, I consider that the proposed building would sit comfortably within the existing surrounding built context. Nevertheless, details of finished floor and ridge levels can be required by condition.

Residential amenity:

6.7 The dwelling is proposed to be well separated from its nearest neighbours and this specific siting would ensure that there would be no harmful impact on the amenities of these neighbours in terms of daylight/sunlight or feelings of general oppressiveness. No.1 Rodney Avenue has existing openings within the east elevation and a roof terrace facing towards the application site. A window is proposed within the flank wall of the new dwelling which will face towards this roof terrace. To protect the residents of these properties a condition will be attached requiring this west flank window (which serves the stairwell) to be obscure glazed. The "picture window" proposed within the east flank of the new building will look towards the garden and the road beyond rather than having a direct relationship with any neighbouring properties.

Highway safety and parking provision:

6.8 Policy SQ8 of the MDE DPD states that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network. Paragraph 32 of the NPPF requires that decisions should take account of whether a safe and suitable access to the site can be achieved for all people and states that development should only be prevented or refused on transport grounds where the residual impacts of development are severe. The proposals include the widening of an existing shared access to provide a new driveway to No's 1 Rodney Avenue and 1A Rodney Avenue (the proposed dwelling), with the access for 1B Rodney Avenue being retained. To the front boundary the proposals show a low level wall and soft landscaping. A condition will be attached requesting details of the boundary treatments are submitted to ensure adequate visibility is maintained. The driveway to serve the new dwelling shows parking to be provided for two cars in tandem along with a turning area. This meets the adopted standards set out in IGN3 for a residential dwelling of this size in a location such as this.

6.9 I recognise that there is local concern about how construction vehicles might be managed given that this is a relatively small residential cul-de-sac. However, a degree of construction traffic results from any new development and this is not a material planning consideration. An informative can be attached to any permission

granted to request that the applicant ensures that construction works are carried out in a sensitive manner.

Other matters:

- 6.10 Whilst some trees are shown to be removed to facilitate the proposed development, these are not protected and the site is not located within a Conservation Area. As such, they could be removed at any point without consent. It is considered that the trees which are to remain, along with the proposed additional soft landscaping, are satisfactory in retaining the character of the area.
- 6.11 The site lies within Flood Zone 1 and as such there are no justifiable grounds to resist the proposed development on grounds of flood risk.
- 6.12 In light of the above considerations, I consider that the proposed scheme responds positively to the nature of this site and successfully overcomes the previous reasons for refusal and meets the requirements of the NPPF and LDF. As such, the following recommendation is put forward:

**7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Artist's Impression CONTEXTURAL VIEWS 1-5 dated 21.04.2016, Topographical Survey S14/4474/01 dated 27.04.2016, Design and Access Statement dated 21.03.2016, Location Plan A 010 proposed dated 21.03.2016, Site Plan A 011 existing dated 21.03.2016, Existing Elevations A 012 dated 21.03.2016, Sections A 013 existing dated 21.03.2016, Drawing A 014 existing 3D views dated 21.03.2016, Site Plan A 200 proposed dated 21.03.2016, Proposed Plans A 201 dated 21.03.2016, Proposed Plans A 202 dated 21.03.2016, Proposed Elevations A 203 dated 21.03.2016, Proposed Elevations A 204 dated 21.03.2016, Sections A 205 proposed dated 21.03.2016, Drawing A 206 proposed 3D views dated 21.03.2016, subject to the following conditions:

**Conditions:**

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

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

2. No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm visual amenity 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 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

4. The driveway to serve the development hereby approved shall be constructed of a porous material or provision should be made to direct water run-off from the hard surface to a permeable or porous surface within the curtilage of the dwellinghouse.

Reason: To ensure that the development is in accordance with National requirements and does not increase the risk of flooding in the area.

5. Within 3 months from the commencement of the development full details of the proposed boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be carried out in accordance with the approved plans.

Reason: To protect the visual amenities of the area and in the interests of highway safety.

6. No obstruction to vision exceeding 1.05 metres in height shall be placed to the northern boundary of the site, so as to provide a visibility splay. The visibility splay shall be retained thereafter.

Reason: To ensure the safe and free flow of traffic.

7. The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

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

8. No development shall take place until details of the finished floor levels, eaves and ridge heights of the dwelling hereby approved in relation to the neighbouring property at No.1, 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 the locality.

9. Within 3 months of commencement of the development full details of a scheme of acoustic protection for the habitable rooms of the building shall be submitted to and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels are in accordance with BS8233:2014. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

Reason: In the interests of aural amenity of the occupants of the new dwelling.

10. The first floor window on the west elevation shall be fitted with obscured glass and, apart from any top-hung light, shall be non-opening. This work shall be effected before the dwelling is occupied and shall be retained thereafter.

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

**Informatives:**

1. Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/box should be stored within the boundary of the property and placed at the nearest point to the public highway on the collection day.
2. 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.
3. The applicant is reminded that private vehicles and construction traffic should be parked considerably to reduce hazards to vehicles and pedestrians.
4. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to



Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](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.

Contact: Vicky Bedford

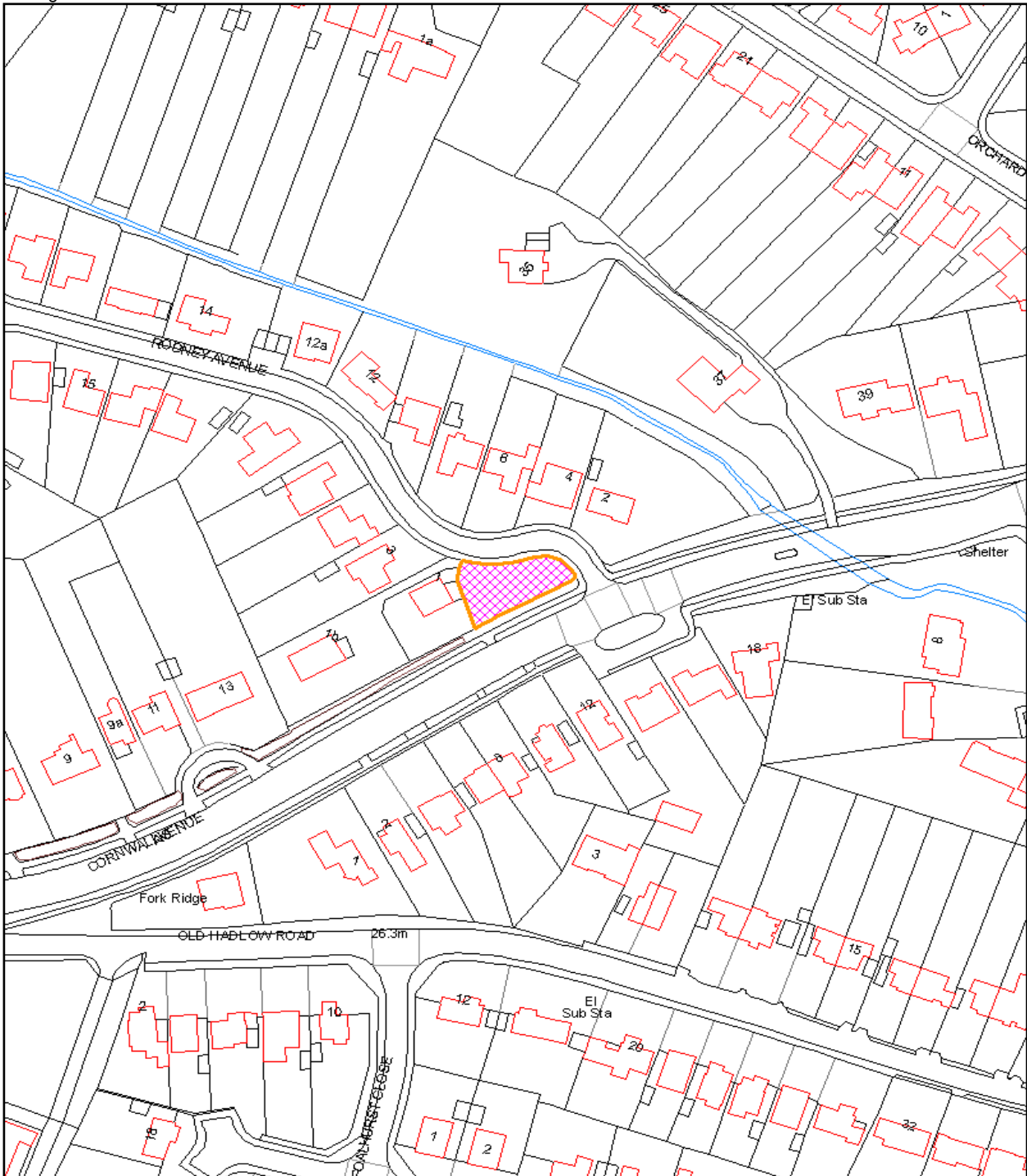
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**TM/16/00957/FL**

1 Rodney Avenue Tonbridge Kent TN10 4JR

Proposed two storey chalet style detached dwelling with associated parking and garden areas

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# Agenda Item 8

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

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

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