



TONBRIDGE & MALLING BOROUGH COUNCIL

EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building
Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ
West Malling (01732) 844522

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: Democratic Services
committee.services@tmbc.gov.uk

14 June 2023

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 Council Chamber, Gibson Drive, Kings Hill on Thursday, 22nd June, 2023 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website. Deposited plans can be viewed online by using [Public Access](#).

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

- | | | |
|----|---|--------|
| 1. | Guidance for the Conduct of Meetings | 5 - 6 |
| 2. | Terms and Reference for Planning Committees | 7 - 10 |

PART 1 - PUBLIC

3. Apologies for Absence
4. Declarations of Interest

Members are reminded of their obligation under the Council's Code of Conduct to disclose any Disclosable Pecuniary Interests and Other Significant Interests in any matter(s) to be considered or being considered at the meeting. These are explained in the Code of Conduct on the Council's website at [Code of conduct for members – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk/code-of-conduct-for-members).

Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting

5. Minutes 11 - 14

To confirm as a correct record the Minutes of the meeting of Area 1 Planning Committee held on 30 March 2023.

6. Glossary and Supplementary Matters 15 - 22

Glossary of abbreviations used in reports to the Area Planning Committee (attached for information)

Any supplementary matters will be circulated via report in advance of the meeting and published to the website.

Decisions to be taken by the Committee

7. TM/23/00615/FL - 37 Avebury Avenue, Tonbridge 23 - 36

Two storey extension on existing building to create 2 x 2 bedroom duplex flats with roof terrace and external alterations

8. TM/23/00364/FL - 1A Croft Close, Tonbridge 37 - 52

New bungalow to the rear of 15 Estridge Way (Revision to TM/20/00862/FL)

Matters for Information

9. Planning Appeals, Public Inquiries and Hearings 53 - 54

To receive and note any update in respect of planning appeals, public inquiries and hearings held since the last meeting of the Planning Committee.

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.

Matters for consideration in Private

11. Exclusion of Press and Public

55 - 56

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

12. 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 M A J Hood (Chair)
Cllr D W King (Vice-Chair)

Cllr L Athwal
Cllr K Barton
Cllr G C Bridge
Cllr J Clokey
Cllr A Cope
Cllr G B Hines

Cllr F A Hoskins
Cllr A Mehmet
Cllr R W G Oliver
Cllr B A Parry
Cllr M R Rhodes
Cllr K S Tunstall

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) All meetings of the Borough Council will be livestreamed to YouTube here, unless there is exempt or confidential business be discussed:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>
- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee/Advisory Board are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chairman, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee/Advisory Board are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.
- Members of the public addressing an Area Planning Committee can participate in person or online. Please contact committee.services@tmbc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

1.	Area Planning Committees
Size and Membership:	
Area 1 Planning Committee	<p>To consist of the members elected for the following wards:</p> <p>Cage Green & Angel; Higham; Hildenborough; Judd; Trench; and Vauxhall</p> <p>(Total – 14 members)</p>
Area 2 Planning Committee	<p>To consist of the members elected for the following wards:</p> <p>Birling, Leybourne & Ryarsh; Borough Green & Platt; Bourne; East Peckham, West Peckham, Mereworth and Watlington; Kings Hill; East Malling, West Malling & Offham; Pilgrims with Ightham</p> <p>(Total – 16 members)</p>
Area 3 Planning Committee	<p>To consist of the members elected for the following wards:</p> <p>Aylesford North & North Downs; Aylesford South & Ditton; Larkfield; Snodland East & Ham Hill; Snodland West & Holborough Lakes; and Walderslade</p> <p>(Total – 14 members)</p>
<p>For the avoidance of doubt, a member of the Executive may serve on an area planning committee if eligible to do so as a councillor</p> <p>(Quorum: 4 Members of the individual Planning Committee)</p>	
Terms of Reference:	
<p>Each Area Planning Committee has been appointed to make decisions on planning applications and related matters and exercise all functions of the Council as the Local Planning Authority relating to their respective wards as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except where recommended for approval in fundamental conflict with the plans and strategies which together comprise the Development Plan.</p>	
<p>Where a Committee rejects a recommendation to approve, or is minded to refuse, an application which is recommended for approval by the Director of Planning, Housing and Environmental Health on grounds which the Director does not consider can be substantiated at appeal, the matter shall be deferred to the next meeting of the Committee to enable the Director of Central Services & Deputy Chief Executive</p>	

to submit an independent report to the Committee on the possibility of costs being awarded against the Council. If the Director of Central Services & Deputy Chief Executives report indicates that there is likely to be a significant risk of costs being awarded against the Borough Council and the Committee resolves to refuse the application that decision will be a recommendation only and the matter shall be submitted to Council for resolution.

These functions shall include (but are not restricted to):

1.	Applications for planning permission under the Town and Country Planning Act 1990 ("the 1990 Act")	
2.	Applications for consent to the cutting down, topping, lopping or destruction of trees.	
3.	Applications for determination under Sections 191 and 192 of the 1990 Act.	
4.	Applications for listed building and conservation area consent under the Planning (Listed Buildings and Conservation Areas) Act 1990.	
5.	Applications for consent under regulations Sections 220 and 221 of the 1990 Act to display advertisements.	
6.	Applications for consent under regulations under Sections 220 and 221 of the 1990 Act to display advertisements.	
7.	Applications for approvals required by a development order or by conditions imposed on the grant of planning permission and applications for determination as to whether prior approvals are required.	
8.	To authorise the issue of Building Preservation Notices pursuant to Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Except in cases where the Director of Planning, Housing and Environmental Health and Director of Central Services & Deputy Chief Executive consider there may be a liability for payment of compensation

9.	To exercise powers in relation to the service of enforcement notices under Parts VII and VIII of the Town and Country Planning Act 1990 and to take all further steps up to and including prosecution.	
10.	To exercise powers in relation to the service of Planning Contravention Notices under section 171C of the Town and Country Planning Act 1990 and to take all further steps up to and including prosecution.	
11.	To exercise powers in relation to the service of Breach of Condition Notices under section 187A of the Town and Country Planning Act 1990 and to take all further steps up to and including prosecution.	
12.	To exercise powers in relation to the service of Stop Notices under Parts VII and VIII of the Town and Country Planning Act 1990	Except in cases where the Director of Planning, Housing and Environmental Health and Director of Central Services & Deputy Chief Executive consider there may be a liability for payment of compensation
13.	To exercise powers in relation to the service of Listed Building Enforcement Notices under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to take all further steps up to and including prosecution.	
14.	Orders for modification or revocation of planning permissions.	Where served with the agreement of the owner
15.	To authorise the issue of Completion Notices under Section 94 Town and Country Planning Act 1990.	
16.	To resolve to serve Article 4 Directions under the Town and Country Planning (General Permitted Development) Order 1995.	
17.	To confirm Directions made under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995	Where objections are received

18.	To deal with objections to tree preservation orders and to determine whether orders shall be confirmed.	
19.	The approval or disapproval of plans for the laying-out of new streets and erection of buildings under the Building Act 1984 and the Building Regulations 1991.	
20.	To exercise the Council's powers under Section 36 of the Building Act 1984 (power to require the removal or alteration of work not in conformity with the building regulations or executed notwithstanding the rejection of plans)	
21.	To make recommendations on Local Plans and Development Briefs and to approve Development Briefs where they are produced pursuant to the requirements of a planning permission.	
22.	To submit views on behalf of the District Planning Authority in relation to the consultations under the Pastoral Measure 1968.	
23.	To consider and approve for consultation purposes Draft Conservation Areas	Formal designation of Conservation Areas reserved to Council
24.	Under the Hedgerows Regulations 1997:	
(a)	to deal with notifications under Section 75 of the Environment Act 1995 and the Regulations and to authorise the service of Hedgerow Retention Notices; and	
(b)	to exercise powers in relation to the service of notices requiring the replanting of important hedgerows under Section 75 of the Environment Act 1995 and the Regulations.	
Highways Use and Regulation		
25.	Each Area Planning Committee shall also exercise the functions of the Council relating to the regulation of the use of highways, as set out in Schedule 1 to the Functions Regulations	

TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 1 PLANNING COMMITTEE

MINUTES

Thursday, 30th March, 2023

Present: Cllr D W King (Chair), Cllr M R Rhodes (Vice-Chair), Cllr Mrs J A Anderson, Cllr M D Boughton, Cllr V M C Branson, Cllr G C Bridge, Cllr A Cope, Cllr M O Davis, Cllr N Foyle, Cllr M A J Hood, Cllr F A Hoskins, Cllr J R S Lark, Cllr H S Rogers, Cllr Miss G E Thomas and Cllr F G Tombolis

Apologies for absence were received from Councillors Mrs P A Bates, A E Clark, N J Heslop and J L Sergison

PART 1 - PUBLIC

AP1 23/6 DECLARATIONS OF INTEREST

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

However, for reasons of transparency Councillor Tombolis advised that he was a landlord of a property in Priory Street. Upon seeking legal advice this was not considered to be a Disclosable Pecuniary or Other Significant Interest as the property was not situated in close proximity to the application site. There was no requirement for Councillor Tombolis to withdraw from the meeting.

AP1 23/7 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 1 Planning Committee held on 16 February 2023 be approved as a correct record and signed by the Chairman.

AP1 23/8 GLOSSARY AND SUPPLEMENTARY MATTERS

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.

**DECISIONS TAKEN UNDER DELEGATED POWERS IN
ACCORDANCE WITH PART 3 OF THE CONSTITUTION
(RESPONSIBILITY FOR COUNCIL FUNCTIONS)**

AP1 23/9 TM/22/00571/FL - 60A PRIORY STREET, TONBRIDGE

Redevelopment of the site to provide eleven dwellings and associated parking, landscaping and amenity at 60A Priory Street, Tonbridge.

This application had been deferred from the meeting of 16 February 2023 to allow for a Members' Site Inspection, which had taken place on 7 March 2023. Members inspected the site from within the site, from surrounding roads and from neighbouring land – 31 Pembury Road and 43 Pembury Road and this was given due regard when considering the application.

RESOLVED: That 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 Environment Health subject to:

- (1) The applicant entering into a planning obligation with the Borough Council to provide financial contributions towards public open space provision (parks and gardens and outdoor sports facilities);
- (2) The applicant entering into a planning obligation with Kent County Council to make financial contributions towards the provision of social care, education and community services;

The section 106 agreement should be agreed in principle within 3 months and the legalities completed within 6 months of the committee resolution unless there are good reasons for the delay. Should the agreement under Section 106 of the Act not be completed and signed by all relevant parties by 16 August 2023, the application to be reported back to the Area 1 Planning Committee with an update on progress and a further recommendation. Alternatively, the application may be refused under powers delegated to the Director of Planning, Housing and Environmental Health who will determine the specific reasons for refusal in consultation with the Chair and Ward Members;

- (3) Amended Condition:
 6. Prior to the commencement of the development hereby approved, a Construction Management Plan shall be submitted to and approved by the Local Planning Authority. The Plan should set out arrangements for the management of any and all demolition and/or construction works and shall include (but not necessarily be limited to) the following:

- (a) The days of the week and hours of the day when the construction works will be limited for approval by the Local Planning Authority;
- (b) Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
- (c) The specific arrangements for the routing and parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase;
- (d) The provision of wheel washing facilities;
- (e) Temporary traffic management/signage;
- (f) Provision of measures to prevent the discharge of surface water onto the highway;
- (g) Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
- (h) The controls on noise and dust arising from the site with reference to current guidance.

The development shall be undertaken in full compliance with the approved details.

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

[Speakers: Ms P White – member of the public and Mr J Thomas on behalf of the applicant participated via MS Teams]

AP1 23/10 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 9.00 pm

This page is intentionally left blank

GLOSSARY of Abbreviations used in reports to Area Planning Committees

A

AAP	Area of Archaeological Potential
AGA	Prior Approval: Agriculture (application suffix)
AGN	Prior Notification: Agriculture (application suffix)
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
AT	Advertisement consent (application suffix)

B

BALI	British Association of Landscape Industries
BPN	Building Preservation Notice
BRE	Building Research Establishment

C

CA	Conservation Area (designated area)
CCEASC	KCC Screening Opinion (application suffix)
CCEASP	KCC Scoping Opinion (application suffix)
CCG	NHS Kent and Medway Group
CNA	Consultation by Neighbouring Authority (application suffix)
CPRE	Council for the Protection of Rural England
CR3	County Regulation 3 (application suffix – determined by KCC)
CR4	County Regulation 4 (application suffix – determined by KCC)
CTRL	Channel Tunnel Rail Link (application suffix)

D

DCLG	Department for Communities and Local Government
DCMS	Department for Culture, Media and Sport
DEEM	Deemed application (application suffix)
DEFRA	Department for the Environment, Food and Rural Affairs
DEPN	Prior Notification: Demolition (application suffix)
DfT	Department for Transport
DLADPD	Development Land Allocations Development Plan Document
DMPO	Development Management Procedure Order
DPD	Development Plan Document
DPHEH	Director of Planning, Housing & Environmental Health
DR3	District Regulation 3
DR4	District Regulation 4
DSSLT	Director of Street Scene, Leisure & Technical Services

E

EA	Environment Agency
EIA	Environmental Impact Assessment
EASC	Environmental Impact Assessment Screening request (application suffix)
EASP	Environmental Impact Assessment Scoping request (application suffix)
EH	English Heritage
EL	Electricity (application suffix)
ELB	Ecclesiastical Exemption Consultation (Listed Building)
EEO	Ecclesiastical Exemption Order
ELEX	Overhead Lines (Exemptions)
EMCG	East Malling Conservation Group
ES	Environmental Statement
EP	Environmental Protection

F

FRA	Flood Risk Assessment
FC	Felling Licence
FL	Full Application (planning application suffix)
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Impact Assessment

G

GDPO	Town & Country Planning (General Development Procedure) Order 2015
GOV	Consultation on Government Development
GPDO	Town & Country Planning (General Permitted Development) Order 2015 (as amended)

H

HE	Highways England
HSE	Health and Safety Executive
HN	Hedgerow Removal Notice (application suffix)
HWRC	Household Waste Recycling Centre

I

IDD	Internal Drainage District
IDB	Upper Medway Internal Drainage Board
IGN3	Kent Design Guide Review: Interim Guidance Note 3 Residential Parking

K

KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards: Supplementary Planning Guidance SPG 4
KDD	KCC Kent Design document

KFRS	Kent Fire and Rescue Service
KGT	Kent Garden Trust
KWT	Kent Wildlife Trust

L

LB	Listed Building Consent (application suffix)
LBX	Listed Building Consent: Extension of Time
LDF	Local Development Framework
LDLBP	Lawful Development Proposed Listed Building (application suffix)
LEMP	Landscape and Ecology Management Plan
LLFA	Lead Local Flood Authority
LMIDB	Lower Medway Internal Drainage Board
LPA	Local Planning Authority
LWS	Local Wildlife Site
LDE	Lawful Development Certificate: Existing Use or Development (application suffix)
LDP	Lawful Development Certificate: Proposed Use or Development (application suffix)
LP	Local Plan
LRD	Listed Building Consent Reserved Details (application suffix)

M

MBC	Maidstone Borough Council
MC	Medway Council (Medway Towns Unitary Authority)
MCA	Mineral Consultation Area
MDE DPD	Managing Development and the Environment Development Plan Document
MGB	Metropolitan Green Belt
MHCL	Ministry of Housing, Communities and Local Government
MIN	Mineral Planning Application (application suffix, KCC determined)
MSI	Member Site Inspection

MWLP Minerals & Waste Local Plan

N

NE Natural England

NMA Non Material Amendment (application suffix)

NPPF National Planning Policy Framework

O

OA Outline Application (application suffix)

OAEA Outline Application with Environment Impact Assessment (application suffix)

OAX Outline Application: Extension of Time

OB106D Details pursuant to S106 obligation (application suffix)

OB106M Modify S106 obligation by agreement (application suffix)

OB106V Vary S106 obligation (application suffix)

OB106X Discharge S106 obligation (application suffix)

P

PC Parish Council

PD Permitted Development

PD4D Permitted development - change of use flexible 2 year

PDL Previously Developed Land

PDRA Permitted development – change of use agricultural building to flexible use (application suffix)

PDV14J Permitted development - solar equipment on non-domestic premises (application suffix)

PDV18 Permitted development - miscellaneous development (application suffix)

PDVAF Permitted development – agricultural building to flexible use (application suffix)

PDVAR Permitted development - agricultural building to residential (application suffix)

PLVLR	Permitted development - larger residential extension (application suffix)
PDVOR	Permitted development - office to residential (application suffix)
PDVPRO	Permitted development - pub to retail and/or office (application suffix)
PDVSDR	Permitted development storage/distribution to residential (application suffix)
PDVSFR	Permitted development (application suffix) PD – shops and financial to restaurant
PDVSR	Permitted development (application suffix) PD – shop and sui generis to residential
POS	Public Open Space
PPG	Planning Practice Guidance
PWC	Prior Written Consent
PROW	Public Right Of Way

R

RD	Reserved Details (application suffix)
RM	Reserved Matters (application suffix)

S

SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (background for the emerging Local Plan)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
SW	Southern Water

T

TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan

TCS	Tonbridge Civic Society
TEPN56/TEN	Prior Notification: Telecoms (application suffix)
TMBC	Tonbridge & Malling Borough Council
TMBCS	Tonbridge & Malling Borough Core Strategy 2007
TMBLP	Tonbridge & Malling Borough Local Plan 1998
TNCA	Notification: Trees in Conservation Areas (application suffix)
TPOC	Trees subject to TPO (application suffix)
TRD	Tree Consent Reserved Details (application suffix)
TRICS	Trip Rate Information Computer System
TWBC	Tunbridge Wells Borough Council

U

UCO	Town and Country Planning Use Classes Order 1987 (as amended)
UMIDB	Upper Medway Internal Drainage Board

W

WAS	Waste Disposal Planning Application (KCC determined)
WTS	Waste Transfer Station

(Version 2/2021)

This page is intentionally left blank

Tonbridge
Judd

17 March 2023

TM/23/00615/FL

Proposal: Two storey extension on existing building to create 2 x 2 bedroom duplex flats with roof terrace and external alterations
Location: 37 Avebury Avenue Tonbridge Kent TN9 1TL
Go to: [Recommendation](#)

1. Description:

- 1.1 Planning permission is sought for the erection of a two-storey roof extension and alterations to the front elevation. The proposed roof extension would add two. Duplex flats, each with two bedrooms. The top floor would be set back slightly from the existing front elevation. In contrast, the rear wall of the two-storey extension would be set 5m further forward of the existing rear elevation of the building, and this would allow for roof terraces to the lower levels of the duplex apartments (second floor). The drawings show that the roof terraces would be enclosed by privacy screening.
- 1.2 The application shows external alterations to the fenestration, entrances and facing materials of the building to include painted brickwork, render and timber cladding to upper elevations).

2. Reason for reporting to Committee:

- 2.1 The application is reported to Committee at the request of Cllr Hood to consider the potential overbearing impact upon neighbouring dwellings.

3. The Site:

- 3.1 The site lies to the south side of Avebury Avenue within the urban area of Tonbridge and to the west of the town centre. It comprises a two-storey, flat roofed building formerly occupied as a gym but works subject to conversion to three duplex flats. It is of brick construction with rendered first floor elevation.
- 3.2 Avebury Avenue runs westward from the High Street to the east and Barden road to the west and forms part of the Tonbridge Central Area to which the Tonbridge Central Area Action Plan (TCAAP) refers. The site is situated at the transition between higher density town centre development to the east and lower density, smaller scale development to the west. The eastern side of Avebury Avenue includes commercial properties and three- and four-storey residential blocks of flats. In contrast, the western section of Avebury Avenue comprises a mix of commercial properties and residential dwellings, and the area to the south and west of the site is made up of predominantly two-storey semi-detached dwellings.
- 3.3 It is located within Flood Zones 2 and 3 and within an area designated as a ground water vulnerability zone (minor).

4. Planning History (relevant):

TM/11/02509/FL Approved 15 November 2011
Change of use of existing building from B1 (office) to D2 (leisure) use (personal training studio and physical rehabilitation clinic)

TM/21/00812/PDVOR Requires Permission 13 May 2021
Prior Notification: change of use from Offices (Class B1(a)) to Dwellinghouses (Class C3): conversion, of the existing office space at No.37 into 5 x self contained flats, with the creation of associated bin and bike stores

TM/21/01678/FL Non-determination 2 September 2021
TM/21/00041/NONDET appeal - Dismissed
Demolish existing commercial building and build six new one bedroom flats

TM/22/00702/PDVMA Prior Approval Approved 31 May 2022
Prior Notification under class MA of part 3: change of use from Gymnasium (Class E) to 3 no. self-contained duplex flats. The units have been designed as 3 duplex units with suitable bedroom space, storage space and kitchen/living space as per the Nationally Described Space Standard requirements. Refuse/recyclable waste storage enclosure and cycle storage provided as shown on accompanying proposals

4.1 In dismissing appeal 21/00041/NONDET, the Inspector concluded:

I have found that the proposed development would harm the character and appearance of the area, would harm the living conditions of neighbouring occupants at 39 and 41 Avebury Avenue, and would fail to contribute towards the provision of off-site open space. I have also found that it would not harm the living conditions of future or other neighbouring occupants, and the risk of flooding can be satisfactorily addressed. Since these latter issues are neutral considerations in my decision, I conclude that the development would conflict with the development plan when taken as a whole.

5. Consultees:

5.1 EP: No objection. Informatives are recommended.

5.2 EA: No objection.

5.3 Private Reps: 16/0X/0S/14R: There were fourteen representations received from eleven third parties which object to the proposal on the following grounds (summarised)

- Loss of privacy and light to neighbouring residential properties

- Overbearing visual impact to neighbouring residential properties
- Noise and disturbance from the proposed roof terrace.
- Additional height will exacerbate existing damp issues at neighbouring residential properties.
- The enclosure of the roof terraces is out of keeping and would reduce cohesion and sense of shared space.
- Odour from waste/refuse storage area situated close to 35 Avebury Avenue.
- Absence of refuse storage
- Increase in traffic and absence of curtilage parking
- Increased pressure on utilities
- Risk of flooding
- Inadequate detail of drainage. Drains have overflowed in the area.
- Limited area for cycle storage
- Loss of property value
- Non-compliance with the Party Wall Act
- Fire safety concerns pertaining to timber cladding
- Problems during current and future construction due to noise, disturbance and congestion
- Contribution to housing supply not justified due to negative impacts and given existing developments in the vicinity.

6. Determining Issues:

Principle of the development

- 6.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise. The Development Plan currently in force for this area comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP), Development Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010. The National Planning Policy Framework ("NPPF") and the associated National Planning Practice Guidance ("NPPG"), National Design Guide (2021) and National Model Design Code (2021) are important material considerations.
- 6.2 The Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). This means that the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2021) must be applied. For decision taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.3 In this case, none of the policies referred in 11(d)(i) apply to the site. As such, pursuant to paragraph 11(d) (ii) of the NPPF, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when the proposal is assessed against the policies in the Framework taken as a whole.

6.4 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective, ensuring that effective use is made of land, helping to improve biodiversity and protecting and enhancing the natural, built and historic environment.

6.5 The location of the site and the type of development proposed would be considered sustainable development under paragraph 8 of the NPPF, and this is set out in greater detail throughout this report as necessary.

6.6 Development plan policy CP11 of the Tonbridge and Malling Borough Core Strategy ("TMBCS") seeks to direct development to urban areas in order to accord with the principles of sustainability set out in policies CP1 and CP2 of the TMBCS. This policy accords with the aims of the NPPF to maximise opportunities for the supply of housing in appropriate locations that can contribute towards the supply and maintain and enhance the vitality of existing communities. The policy is up-to-date, and the proposed development broadly accords with these aims and the requirements of this policy. The principle of residential development within this site is therefore acceptable.

Overall design and character considerations

6.7 Paragraph 130 of the NPPF sets out that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- d) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- e) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

6.8 Development of poor design that fails to reflect local design policies and government guidance on design should be refused as detailed in paragraph 134 of the NPPF.

6.9 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. This aim is echoed in paragraph 58 of the NPPF which seeks to ensure that development will function well, create attractive, safe places in which to live and work, optimise the potential of the site, respond to the local character of the surroundings and be visually attractive. In addition, policies SQ1 of the MDE DPD and TCA1 of the TCAAP require development to reflect the local distinctiveness, context, condition and sensitivity to change of the local character areas. These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments.

6.10 The existing building is not of considerable architectural merit, and its flat-roofed form and brown brick and rendered elevation stands in contrast to the predominantly red-bricked elevations of neighbouring development. The proposal would considerably increase the height of the building, but this would be similar to development to the east and north. The alterations to the front elevation would introduce painted brick at ground floor level with light render and timber cladding to the upper stories. Subject to the selection of materials, which could be subject to approval by condition, this could provide a cohesive and well-designed frontage. There are examples of buildings with similar materials in the wider locality, notably at River Lawn to the east. As such, whilst the building would contrast with development in the immediate vicinity, this would not be to the detriment of the street scene or overall visual amenity of the area.

- 6.11 The proposed flats include adequate internal habitable accommodation which would meet the minimum size standards as set out in the Technical Guidance: Nationally described space standards. Whilst this is not a policy requirement, the guidance provides a reasonable reference for assessment of habitable spaces. The inclusion of roof terraces also ensures that the future occupants of the flats will benefit from outdoor amenity space, which is not always available within a town centre context. For these reasons, it is considered that the proposal would provide satisfactory living conditions for future occupants in accordance with design requirements set out in the NPPF and the National Design Guide 2021.

Residential amenity considerations

- 6.12 Policy CP1 of the TMBCS sets out that in determining planning applications, residential amenity should be preserved and, wherever possible, enhanced. Section (f) of paragraph 130 of the NPPF requires planning policies and decisions to create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.13 Paragraph 185 of the NPPF requires inter alia that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment and to mitigate and reduce such impacts to a minimum.
- 6.14 The proposed development would increase the height and bulk of the existing building raising the overall height to 12.8m. This is 3m higher than the scheme dismissed at appeal (TM/21/01678/FL). Although the rear elevation of the extension is stepped back from the rear of the existing building, the proposal includes the erection of a privacy screen around the roof terrace. This would raise the height of the building at the rear to would raise to 9.3m, just short of the 9.7m height of the appeal scheme.
- 6.15 With regard to the impact upon 39 and 41 Avebury Avenue, the proposed extension would project 2.6m to the rear of the neighbouring properties. Combined with the privacy screening to the rear (which would be secured by condition to prevent overlooking in the event of a permission), the development would present a three- and four-storey flank wall adjacent the garden of the neighbouring garden. The existing building limits light to the neighbouring garden. As such, the proposal would not result in detrimental overshadowing. The absence of windows in the west elevation and the inclusion of a privacy screen around the roof terrace would also limit overlooking. However, the proposed flank elevation would have an unduly prominent and overbearing effect upon the small area of private amenity space of the neighbouring residents. This would result in significant harm to the

amenities and living conditions of the neighbouring residents contrary to policy CP1 of the TMBCS and paragraph 185 of the NPPF.

- 6.16 The application building and Copper House (35 Avebury Avenue) are separated by a distance of 2m at their front corners narrowing to 0.8m at the rear. The proposed extension would include a single window for a bathroom at third floor level, and this would be subject to a condition requiring obscured and fixed glazing should permission be granted to prevent overlooking of the neighbouring properties. The proposed extension would not significantly affect the outlook or light to windows of neighbouring flats at ground and first floor levels which face the existing flank wall of the application site. It would, however, noticeably affect the outlook and light to windows at the flats at second and third floor levels at Copper House. However, plans for Copper House as approved under TM/14/04251/FL show that each of the habitable rooms with windows facing the site have further windows facing to the front or rear. As such, the habitable rooms have further sources of outlook and light. Moreover, this visual relationship would be akin to that of flats at lower floor level, which was deemed acceptable at the grant of permission. Whilst the inclusion of roof terraces would result in some outdoor activity to the rear of the property, it is not considered that this would result in detrimental levels of noise and disturbance to neighbouring occupiers given their size and screening. For these reasons, it is considered that the proposal would not result in adverse harm to the amenities of the neighbouring residents to warrant an objection.
- 6.17 Turning to the impact of the proposal upon neighbouring dwellings to the south/southwest at Barden Road, the rear elevation of the proposed flats would be stepped back from the existing rear elevation and the roof terrace would include privacy screening. As such, it is considered that the proposal would not result in harmful overlooking of the neighbouring properties.
- 6.18 It is noted that the site is within an urban area and construction activities may result in temporary noise and disturbance. As such, should planning permission be granted, a condition should be imposed to require details of a construction environment management plan to ensure that these operations are carried out with the minimum disruption.
- 6.19 The application does not detail refuse storage. Although this is an existing building, the cumulative effect of the conversion of the lower floors and the proposal, would alter the refuse activity and storage. However, should planning permission be granted, this could be controlled by condition requiring the submission and approval of refuse storage areas.

Flood risk

- 6.20 Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a

site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

6.21 The site is in flood zones 2 and 3a, with medium to high probability of flooding. The proposal is for residential development, which is defined as “more vulnerable” in the flood risk vulnerability classification set out in Annexe 3 of the NPPF. More vulnerable development within flood zone 3a should be supported by a site-specific flood assessment and should be subject to sequential and exception testing.

6.22 The exception test is formed of two parts. The first requires that the development should provide wider sustainability benefits to the community which would outweigh the flood risk. The second part requires that the development should be safe for its lifetime without increasing flood risk elsewhere and, where possible, reducing flood risk overall.

6.23 In this instance the development would contribute to a net gain of two dwellings within the Borough at a time when it cannot demonstrate a five-year housing land supply. The dwellings would be in a location with good access to services and sustainable methods of transport, which aligns with the strategic aims of sustainable development set out in the TMBCS and the NPPF. Policy CP10 of the TMBCS acknowledges that redevelopment (including windfall development) within the built-up area may be at medium to high risk of flooding, and the aim should be to minimise and manage flood risk in the detailed design of the development. Development in these areas is preferable to developing sites outside built-up areas which may be at lower risk of flooding but may be less favourable in relation to other planning considerations.

6.24 The application includes a flood risk assessment (FRA) which states that the site is within a medium risk of surface water flooding according to Environment Agency (EA) data. The FRA recommends that the finished floor levels should be set no

lower than 24.00mAOD and that sleeping accommodation should be at first floor level and above the calculated flood level. It notes that owners and occupiers living in the properties should sign up to EA flood warning and alert services to enable protection and evacuation measures to be followed as necessary. The EA has reviewed the FRA and raised no objections. As such, it is considered that the proposal would meet the sequential test and the first part of the exception test.

6.25 The development is for an upward extension of the building and would be elevated with respect to potential flood levels even with an additional allowance for climate change. A flood event would affect access and egress, but there would be sufficient time to warn occupiers and allow safe evacuation, particularly if the recommendation to subscribe to flood alerts set out in the FRA is followed. As the development would not increase the footprint of the buildings, it would not result in greater displacement of water or disrupt the flow of flood water when compared to the existing site. Although the proposal would not reduce flood risk, this is a desirable rather than essential part of the exception test. As such, it is considered that the development would be safe for its lifetime and would not increase flood risk elsewhere and the second part of the exception test is met.

6.26 For these reasons, the proposal complies with Policy CP10 of the TMBCS and paragraph 167 of the NPPF.

Highway safety and parking provision

6.27 Policy CP2 of the Core Strategy states that development should be well located in relation to public transport, cycle and pedestrian routes and have good access to town centres. It should also minimise the need to travel through the implementation of Travel Plans. Policy SQ8 of the MDEDPD requires new development not to significantly harm the highway safety, and that traffic generated by the development can be adequately served by the highway network.

6.28 Paragraph 110 of the NPPF requires development to promote sustainable transport modes, provide safe and suitable access to the site, the design of any road layout to reflect current national guidance and any significant impact on the highway to be assessed. Paragraph 111 continues to state that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts of the development would be severe.

6.29 The site does not include any vehicular access and there is no proposal for on-site parking. Concerns have been raised by local residents regarding the lack of parking provision and existing traffic congestion in the area. Whilst Policy TCA15 of the TCAAP states that parking within the Central Area of Tonbridge will accord with County parking policies/standards, this policy is out-of-date with respect to current policies promoting sustainable transport methods. The site lies within the town centre close to shops, facilities and public transport links. It is therefore within

a highly sustainable location where the provision of on-site parking is not a necessity. The proposal is therefore acceptable in this regard.

6.30 Furthermore, the proposal provides for two additional cycle storage bays, providing a total of five spaces when combined with existing cycle storage. This would further support sustainable transportation methods and accord with the aims of policies, including Policy TCA17 of the TCAAP which requires that developments incorporate provisions for cyclists.

6.31 Notwithstanding the above, should planning permission be granted, it is recommended that a condition be imposed to require the submission and approval of a travel plan aimed at ensuring the occupants maximise use of sustainable transport.

Open space provision

6.32 It is acknowledged that prior approval has recently been approved (TM/22/00702/PDVMA) for the conversion of the existing building to three flats. Although this proposal would result in a cumulative gain of five residential units within the site, it would not trigger the requirement for open space contributions as set out in Policy OS3 of the MDE DPD in its own right.

Climate Change

6.33 Paragraph 153 of the NPPF requires Development Plans to take a proactive approach to mitigating and adapting to climate change. It encourages new development to avoid increase vulnerability to the range of impacts associated with climate change. Where there are proposals in vulnerable areas care is to be taken to mitigate and consider green infrastructure. In addition, proposals should help to reduce greenhouse gas emissions and increase the use of renewable and low carbon energy.

6.34 The Government has adopted the Future Homes and Building Standards in line with its commitment to achieve net zero emissions by 2050. This seeks to reduce CO2 emissions from new homes by 75-80% from 2021 standards, and new homes will need to be “zero carbon ready”, meaning that no further retrofit work will be necessary to enable them to become zero-carbon homes. The first stage of this transition towards the decarbonisation of buildings came into force on 15 June 2022 via a suite of revised Building Regulations, which require that CO2 emissions from new build homes must be 30% lower than under previous standards. The Building Regulations relevant sections are:

- Part L (Conservation of Fuel and Power) Volume 1 Dwellings;
- Part F Ventilation;
- Part O Overheating;
- Part S Electric Charging points.

- 6.35 The efficiency levels now required encourage the installation of zero-carbon technology through Building Regulations. Thus, no conditions or informatives are recommended in relation to the incorporation of zero carbon technologies.
- 6.36 The amended Building Regulations under Approved Document S also require that new developments must include spaces with access to electric vehicle charging points equal to the number of new dwellings and that cable routes/infrastructure should be provided to other parking spaces. Where charging points would have previously been secured by condition, this is no longer reasonably required.

Other matters

- 6.37 Third party concerns regarding party wall and fire safety are noted. However, these are subject to separate legislation/regulation and are therefore not material planning considerations. Similarly, the value of and problems with damp at neighbouring properties is also not a material consideration.
- 6.38 Details of drainage have not been supplied, but this is an existing building with existing drainage connections, and there are mains sewers in the area. Therefore, it is not considered that this proposal would result in significant harm to drainage within the area. However, a condition could be imposed to require such details should permission be granted.

Conclusion

- 6.39 The proposal would result in the net increase of two dwellings to the Borough's housing supply. This would be achieved through development of an existing built-up site in a sustainable location. As the Council cannot demonstrate a five-year housing land supply, this is afforded substantial weight. Alongside this contribution would be a temporary economic benefit arising from construction activity. These benefits are moderate weight.
- 6.40 However, the proposal would result in a significant overbearing impact upon the residential amenity of 39 and 41 Avebury Avenue. As such, whilst the proposal would result in a more efficient use of land, this should not be done at the expense of living standards, as set out in paragraph 125(c) of the NPPF. This harm would significantly and demonstrably outweigh the benefit. As such, the presumption in favour of residential development is not engaged and refusal is recommended.

7. Recommendation:

- 7.1 **Refuse** planning permission for the following reason:

Reason

1. The proposed development by reason of its siting, design, bulk and height would result in an unacceptable overbearing impact on the residents of 39 and 41 Avebury Avenue. The proposal therefore fails to preserve residential amenity

and does not constitute high quality design contrary to policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policy SQ8 of the Managing Development and Environment Development Plan Document 2010 and paragraphs 125, 130 and 185 of the National Planning Policy Framework 2021.

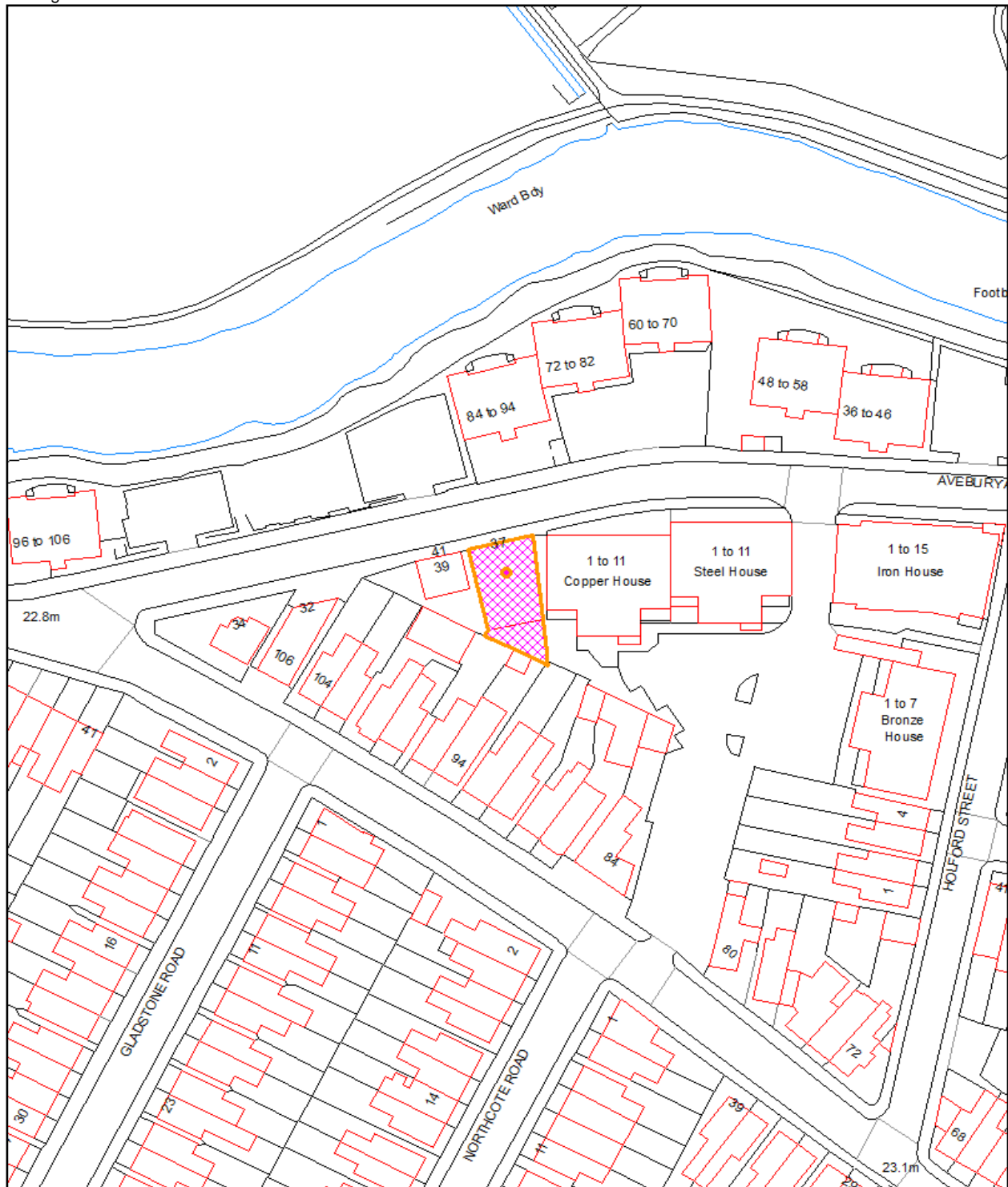
Contact: Alda Song

TM/23/00615/FL

37 Avebury Avenue Tonbridge Kent TN9 1TL

Two storey extension on existing building to create 2 x 2 bedroom duplex flats with roof terrace and external alterations

For reference purposes only. No further copies may be made. ©Crown copyright. All rights reserved. Tonbridge and Malling Borough Council Licence No. 100023300 2015.



This page is intentionally left blank

Tonbridge Higham	22 March 2023	TM/23/00364/FL
Proposal:	New bungalow to the rear of 15 Estridge Way (Revision to TM/20/00862/FL)	
Location:	1A Croft Close Tonbridge Kent TN10 4LA	
Go to:	Recommendation	

1. Description:

- 1.1 Planning permission was granted under planning reference TM/20/00862/FL for the erection of a detached bungalow in the rear garden of 15 Estridge Way in June 2020.
- 1.2 The current application seeks to amend the permitted scheme in the following ways:
 - Minor increase in dwelling size
 - Minor reduction in window sizes
 - Introduction of porch projection
 - Use of render rather than brick
 - Use of grey metal roof tile rather than concrete
- 1.3 The application is retrospective and therefore the current application seeks to regularise works that have already been undertaken. The site is part of an ongoing enforcement action.

2. Reason for reporting to Committee:

- 2.1 The application has been called into Area One Planning Committee by the Ward Member Cllr King to consider the use of materials.

3. The Site:

- 3.1 The site lies within the confines of the settlement, within a wider residential estate. The host dwelling is a late 1940's semi-detached 3-bedroom house facing Estridge Way. The application site is to the rear and fronts onto Croft Close.
- 3.2 The application makes reference to the mixed character of the area and puts forward examples of the use of more contemporary materials in the wider area.
- 3.3 The area falls within E3 of the Tonbridge Character Appraisal Area which comprises Croft Close, Estridge Way and Godfrey Evans Close. The area is described as follows:

Estridge Way forms a quadrangle with short culs-de-sac leading off it and is accessed from Cornwallis Avenue and Orchard Drive via Colin Blythe Road. The

development was begun in the 1930s but was not completed until after the war. There has also been some more recent infill development which gives this area a more mixed character than the other areas.

4. Planning History (relevant):

TM/20/00862/FL Approved 19 June 2020

New bungalow to the rear of 15 Estridge Way

20/02173/NMA Approved 27 October 2020

Non Material Amendment to planning permission TM/20/00862/FL: Alteration to the internal layout only

5. Consultees:

5.1 EP: No objection

5.2 BC: After looking at the design access statement primarily the executive summary and para 7.6 regarding Part O (over heating) relating to the changes in materials and the type of construction, the details provided would not be unreasonable when looking for compliance with the latest requirements under the Building Regulations. It should be noted that the Building Regulation compliance is being dealt with an Approved Inspector under Initial Notice 22/00906/IN.

5.3 Neighbours: 6 objections (summarised)

- The application is retrospective, flouting planning rules
- The roof material is totally out of keeping and unsympathetic in a dominant position
- The application shows properties in a much wider area to provide justification for the changes
- Lack of notification of changes
- Lack of Council action from planning enforcement or building control
- Overbright security lights
- Lack of privacy

6. Determining Issues:

6.1 Retrospective planning permission can be sought and determined by the Local Planning Authority under Section 73a of the Town and Country Planning Act 1990. Extract of the act below.

73A Planning permission for development already carried out.

- (1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.
- (2) Subsection (1) applies to development carried out—
 - (a) without planning permission;
 - (b) in accordance with planning permission granted for a limited period; or
 - (c) without complying with some condition subject to which planning permission was granted.
- (3) Planning permission for such development may be granted so as to have effect from—
 - (a) the date on which the development was carried out; or
 - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.]

6.2 Guidance on retrospective planning applications can be found on the National Planning Practice Guidance under Paragraph: 012 Reference ID: 17b-012-20140306 which states:

A local planning authority can invite a retrospective application. In circumstances where the local planning authority consider that an application is the appropriate way forward to regularise the situation, the owner or occupier of the land should be invited to submit their application ([section 73A of the Town and Country Planning Act 1990](#)) without delay. It is important to note that:

- although a local planning authority may invite an application, it cannot be assumed that permission will be granted, and the local planning authority should take care not to fetter its discretion prior to the determination of any application for planning permission – such an application must be considered in the normal way;
- an enforcement notice may also be issued in relation to other elements of the development.

6.3 This legislation and guidance confirm that it can be appropriate for an applicant to submit a planning application to regularise works that have already been carried out and whilst the LPA must not pre-empt any determination it is important to note that the determination must be carried out in the normal way.

6.4 The application states that the alterations were in response to the updating of the Building Regulations and the roadmap to the Future Homes Standard. This is in addition to the targets set out by the Royal Institute of British Architecture and the Institution of Structural Engineers. The application also makes reference to a restrictive covenant, but such matters are civil and beyond the control of the planning system.

6.5 The original application was determined with regard to the Local Development Plan and the National Planning Policy Framework. In particular the principle of the new dwellinghouse was found to conform to Policy CP11 of the TMBCS and

paragraph 11 of the NPPF. In addition, the original assessment made reference to local plan policies Policies CP24 of the TMBCS and SQ1 of the MDE DPD, and paragraph 127 of the NPPF. The latter has since been updated and now paragraph 130 is of relevance.

- 6.6 The original Delegated Officer Report is attached at Appendix One. For completeness however the relevant policies can be summarised thus.
- 6.7 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. Policy SQ1 of the MDE DPD requires all new development to protect, conserve and, where possible enhance the character and local distinctiveness of the area. The aims of these local plan policies are echoed in paragraph 130 of the NPPF.
- 6.8 Paragraph 130 sets out that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history.
- 6.9 The alterations to window sizes are minimal and make little discernible difference to the overall appearance of the dwellinghouse as built. Similarly, the introduction of a porch canopy and minor expansion of the dwellinghouse raise no further issues that were not considered at the time of the original submission. It would have been reasonable to deal with these amendments through the Non Material Amendment route. However, the change from brick to render and concrete roof tile to metal material alter the appearance of the dwellinghouse and therefore it is appropriate to submit a planning application for this element of the proposal.
- 6.10 Paragraph 134 of the NPPF seeks to ensure that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 6.11 The National Design Guide sets out the characteristics of well-designed places and demonstrates what good design means in practice. It forms part of the government's collection of planning practice guidance and was intended to be read alongside the separate planning practice guidance on design process and tools.
- 6.12 Paragraph 56 of the National Design Guide states that:

“Well-designed places contribute to local distinctiveness. This may include:

- adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns and colours of an area;*

- *drawing upon the architectural precedents that are prevalent in the local area including the proportions of buildings and their openings;*
- *using local building, landscape or topographical features, materials or planting types;*
- *introducing built form and appearance that adds new character and difference to places, with particular attention to how buildings meet the ground and sky;*
- *creating a positive and coherent identity that residents and local communities can identify with.”*

6.13 The wider area is identified as being of mixed character. The use of render is not unusual in the area, nor in similar residential estates within Tonbridge. The use of metal roofing however has been identified by objectors as being both out of keeping and unsympathetic, which is accentuated by the position of the dwelling being adjacent to the highway.

6.14 It is noted that the use of a metal roofing material is more contemporary than the original concrete tile. However, the area is identified as being of mixed character and does not benefit from any particular designation such as a Conservation Area. In light of the character of the immediate and wider area and the absence of any formal designation the use of a metal roofing material would not warrant a refusal of planning permission on this basis.

6.15 Objectors have drawn attention to the alleged lack of action on behalf of the Council. For clarity the site is the subject of an ongoing planning enforcement enquiry as demonstrated by the current application. It must also be noted that it is not the role of the building control regime to identify possible breaches of planning and it appears that the building control function is being undertaken by an independent building inspector rather than the Council.

6.16 Objectors also raise concern regarding the existing security lights at the dwellinghouse. The government planning portal website notes that light itself, and minor domestic light fittings, are not subject to planning controls. It is therefore usually accepted that unless the proposed lighting materially alters the appearance of the dwelling planning consent is not required. However complaints regarding artificial light can fall within the Environmental Protection Act 1990, should the level of intensity and subsequent harm constitute a statutory nuisance. This matter therefore falls beyond the scope of the planning system.

6.17 In conclusion, the amendments to the window sizes, introduction of a porch overhang and alteration to the size and position of the dwellinghouse do not materially affect the appearance of the dwelling. The use of render and metal roof material is also acceptable when assessed with regard to the relevant local and national planning policies and associated guidance. The retrospective nature of the application has no bearing on the appropriateness or otherwise of the

amendments to the original approval and I therefore recommend planning permission is granted.

7. Recommendation: planning permission is approved

- 7.1 This was approved in accordance with the following submitted details: Location Plan dated 16.03.2023, Proposed Floor Plans 1000 dated 16.03.2023, Block Plan 5000 dated 16.03.2023, Perspective view 5100 dated 16.03.2023, Proposed Roof Plan 1200 dated 16.03.2023, Proposed Elevations 2201 dated 16.03.2023, Proposed Elevations 2202 dated 16.03.2023, Proposed Elevations 2203 dated 16.03.2023, Proposed Elevations 2204 dated 16.03.2023, Drainage Layout dated 17.03.2023

Conditions:

- 1 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C and E of Part 1 of Schedule 2 of that Order.

Reason: To prevent an overdevelopment of the site.

- 2 The existing vehicle parking and turning area shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) 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: In the interests of highway safety.

- 3 The development shall be carried out in accordance with the plans listed in the section of this decision notice headed 'This was approved in accordance with the following submitted details'.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

Contact: Maria Brown

APPENDIX ONE

Delegated Report for TM/20/00862/FL: New bungalow to the rear of 15 Estridge Way
approved with conditions on 19 June 2020

This page is intentionally left blank

**Applications delegated to Director of Planning,
Housing & Environmental Health to determine**

TM/20/00862/FL

Location: 15 Estridge Way Tonbridge Kent TN10 4JS

Proposal: New bungalow to the rear of 15 Estridge Way

Target Date: 19 June 2020

EOT Target Date:

1. Description of Proposal:

- 1.1 Planning permission is sought to erect a single one bedroom dwelling in the rear garden of No 15 and access this from an existing vehicular access sited on Croft Close (positioned on the Northern side of the property).
- 1.2 The total site area currently measures around 594 m². (Approx 0.06 hectares). It is proposed to subdivide this into two plots, 414m² for No 15 Estridge Way with 180m² available for the new dwelling.
- 1.3 The proposal is to construct a single detached bungalow of a similar scale and mass to the existing property No 2a Croft Close opposite. The Gross External Floor Area or footprint proposed for the new dwelling is to be 80.5 m².

2. The Site:

- 2.1 15 Estridge Way is a late 1940's semi-detached 3-bedroom house situated on a corner plot, adjoining Croft Close within the built confines of Tonbridge. The house itself is defined by simple brick façades and sits beneath an interlocking concrete tiled roof. To the north of the dwelling is a single storey attached garage of brick construction which sits beneath a flat bitumen roof. Currently the property provides parking for three vehicles (plus the single garage).
- 2.2 Due to Covid 19 restrictions a site visit has not taken place. However recent photographs have been submitted of the site within the Design and Access Statement and these are reproduced as follows:-





3. Planning History (relevant):

TM/81/10926/FUL grant with conditions 11 November 1981

Single storey extension at side to form garage, utility room and w.c. and new front porch.

4. Consultees:

4.1 EP : No objections

4.2 KCC Heritage: No response

4.3 Neighbours: (expired 27/05) No comments received

5. Relevant Policies & Determining Issues:

Principle

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF at paragraph 12 asserts that it *'does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'*.
- 5.2 The site lies within the Tonbridge urban confines where policy CP11 of the TMBCS will apply. Policy CP11 requires that development will be concentrated within the confines of urban areas. The proposal would therefore comply with the requirement of CP11.
- 5.3 TMBC cannot presently demonstrate a five year supply of housing when measured against its objectively assessed need (OAN). In the absence of a five year supply of housing, it is necessary to apply the presumption in favour of development as set out in paragraph 11 of the NPPF. For decision making, this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 5.4 In this case there are no policies within the framework which would protect areas or assets of particular importance (footnote 6) that affect the application site. Paragraph 11(d)ii is therefore engaged and it will need to be considered whether there are any adverse impact of the scheme that would outweigh the benefits.

Design/ street scheme / Layout

- 5.5 Policies CP24 of the TMBCS and SQ1 of the MDE DPD and the most relevant design policies and require development to be well designed and through its scale, density, layout, siting, character and appearance respect the site and its surroundings. Development should also protect, conserve and where possible enhance the character and local distinctiveness of the area, including its setting in relation to the pattern of the settlement, roads and surrounding landscape.

- 5.6 Paragraph 127 of the NPPF sets out that planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 5.7 The proposal seeks to erect a one bedroom detached bungalow in the rear garden of 15 Estridge Way fronting on to Croft Close. The dwelling seeks to replicate the size and form of that of a bungalow that was built opposite the site of the proposed dwelling at 2a Croft Close in 1992 (ref 92/00726/FL) and this proposal also seeks to match its materials. The dwelling is of a simple form, brick built under a tiled pitched roof with a small courtyard area to the rear and a single parking space. I consider the design and appearance of the proposal to be wholly in keeping with the wider area.
- 5.8 With regards to the positioning of the dwelling within the site the dwelling does project beyond the return general building line in Croft Close, yet due to its subservient design it would not appear prominent or out of place, in my view. I therefore consider its positioning to be acceptable.
- 5.9 The proposed design would be appropriate for the character of the area and would not detract from the street scene to accord with Policies CP24, SQ1 and Paragraph 127 of the NPPF.

Residential Amenity

- 5.10 The new dwelling is a single storey bungalow with no rooms proposed in the roof, yet still allows for reasonable spacing to all the boundaries. There are secondary

windows proposed in one of the flank elevations yet the principle windows are to the front and rear of the proposed dwelling. Due to the existing 2m boundary fencing between the existing dwellings that will bound the site (13 and 15 Estridge Way and 1 Croft Close) with the proposed dwelling it will not result in over looking to existing private garden areas.

- 5.11 Based on its proposed position and the current level of privacy I do not consider the proposal would result in a loss of light or impact on privacy to significantly harm the residential amenity of the neighbouring properties.

Highway safety and parking provision

- 5.12 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. 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.

- 5.13 The adopted parking standards are contained within Kent Design Guides Interim Guidance Note 3 on residential parking (IGN3). These set out that a one bed property within this urban/sub-urban area such as this should have a minimum of 1 parking spaces. The proposal therefore meets these requirements, additionally it utilises an existing access. The development is therefore acceptable in terms of paragraph 109 of the NPPF, accords with the adopted standard set out in IGN3 and policy SQ8 of the MDE DPD.

Conclusion

- 5.14 With the above assessment in mind, I consider that the proposal is acceptable in terms of the requirements of the NPPF and the adopted LDF policies. I do not consider the proposal would result in an adverse impacts that would significantly and demonstrably outweigh the benefits of the provision of the dwelling. The presumption remains to be applied and planning permission should be granted subject to conditions.

6. Recommendation:

- 6.1 **Approved** in accordance with the following submitted details

Block Plan JBA.95 TP 02 received 24.04.2020, Proposed Floor Plans JBA.95 TP 03 received 24.04.2020, Proposed Elevations JBA.95 TP 04 received 24.04.2020, Proposed Elevations JBA.95 TP 05 received 24.04.2020, Proposed Elevations JBA.95 TP 06 received 24.04.2020, Proposed Elevations JBA.95 TP 07 received 24.04.2020, Section JBA.95 TP 08 received 24.04.2020, Street Scenes JBA. 95 TP 09 received 24.04.2020, Artist's Impression JBA.95.TP 10 1

received 24.04.2020, Artist's Impression JBA.95 TP 11 2 received 24.04.2020, Location Plan JAB.95 TP 01 received 24.04.2020, Letter received 24.04.2020, Design and Access Statement received 24.04.2020 /subject to the following:

Conditions/Reasons

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.
- 2 All materials used externally shall accord with the approved plans.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.
- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C and E of Part 1 of Schedule 2 of that Order.

Reason: To prevent an overdevelopment of the site.
- 4 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.

Signed.....Rebecca Jarman....(signed electronically).....
Rebecca Jarman

Endorsed By: Robin Gilbert (electronic signature)

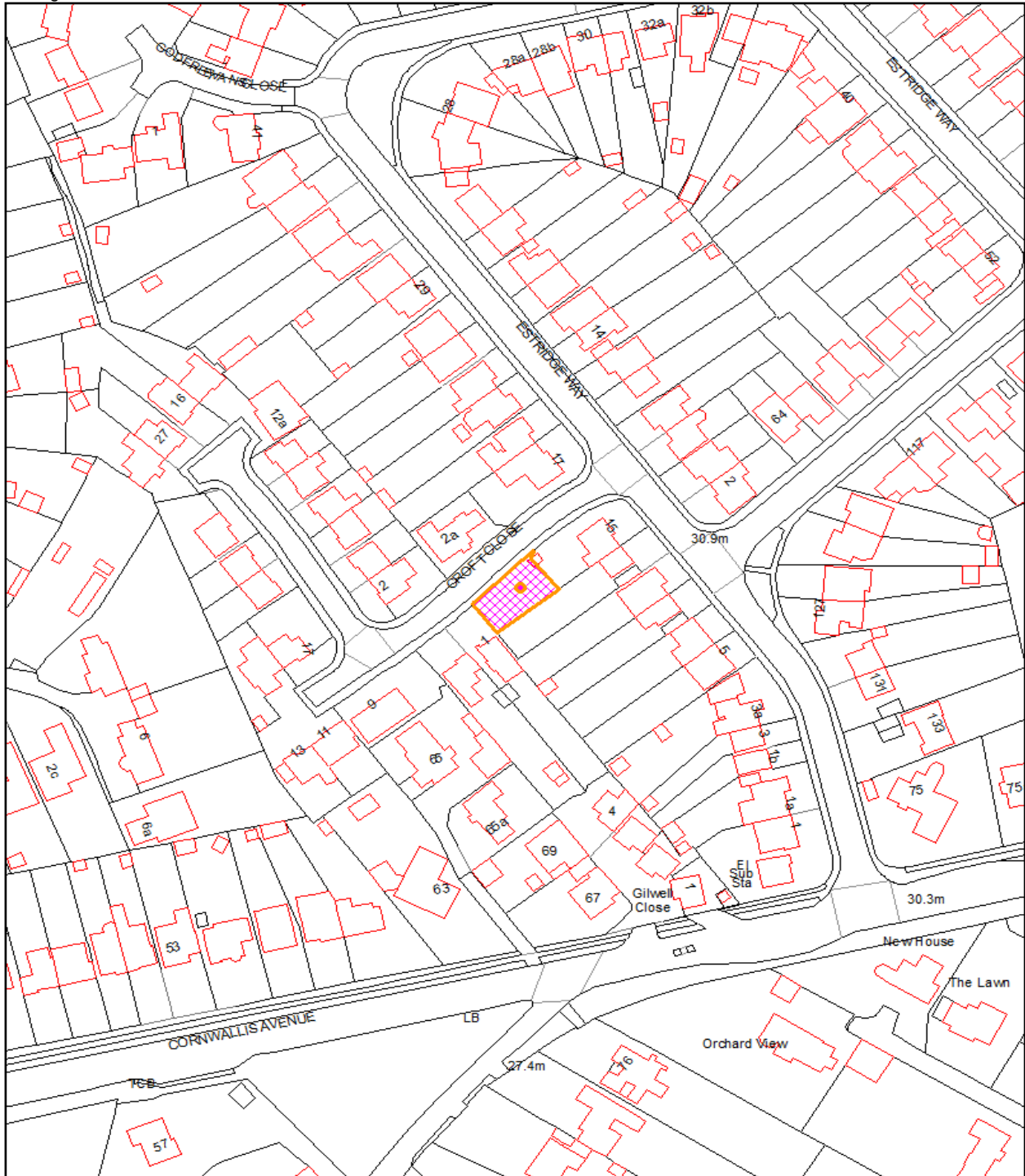
Dated 19.06.2020

TM/23/00364/FL

1A Croft Close Tonbridge Kent TN10 4LA

New bungalow to the rear of 15 Estridge Way (Revision to TM/20/00862/FL)

For reference purposes only. No further copies may be made. ©Crown copyright. All rights reserved. Tonbridge and Malling Borough Council Licence No. 100023300 2015.



This page is intentionally left blank

Planning committee area 1
Planning appeal decisions for area 1

TMBC ref: TM/21/02574/TPOC

PINs Ref: APP/TPO/H2265/9274

Site Address: Lavender Cottage, 11 Hildenbrook Farm, Hildenborough

Description of Development: Works to fell an Oak tree in front garden

Appeal Outcome: Appeal Dismissed

[Appeal Decision](#)

Costs awarded: No

TMBC ref: TM/21/02482/FL

PINs Ref: APP/H2265/W/22/3292544

Site Address: 5 Baltic Road Tonbridge

Description of Development: Erection of a single storey extension to the roof of the building to provide 3 no. self-contained flats (Dwellinghouses Class C3) with associated external alterations, cycle parking, refuse storage and ancillary works

Appeal Outcome: Appeal Dismissed

[Appeal Decision](#)

Costs awarded: No

This page is intentionally left blank

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**

This page is intentionally left blank