

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive
Damian Roberts

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

9 October 2024

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, 17th October, 2024 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

DAMIAN ROBERTS

Chief Executive

AGENDA

1. Guidance for the Conduct of Meetings

5 - 8

PART 1 - PUBLIC

2. Apologies for Absence
3. 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).

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

4. Minutes 9 - 14

To confirm as a correct record the Minutes of the ordinary and extraordinary meetings of Area 1 Planning Committee held on 5 September 2024 and 10 October 2024 respectively.

5. 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

6. TM/24/01150/PA - 111 Douglas Road, Tonbridge 23 - 46

Erection of a two storey side extension to create a two bedroom dwelling, including reconfiguration of the roof, new dormer windows, internal reconfiguration of the existing dwelling to incorporate a loft conversion and associated access and landscaping works

7. TM/23/00796/FL - The Vicarage, Church Street, Tonbridge 47 - 70

Erection of one dwelling with incidental ground works and access

Matters for Information

8. Planning Appeals, Public Inquiries and Hearings 71 - 72

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

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.

Matters for consideration in Private

10. Exclusion of Press and Public

73 - 74

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

11. 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 F A Hoskins

Cllr A Mehmet
Cllr R W G Oliver
Cllr B A Parry
Cllr Stacey Pilgrim
Cllr M R Rhodes
Cllr K S Tunstall

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<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 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 Chair, 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 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 should attend in person. However, arrangements to participate online can be considered in certain circumstances. 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.

This page is intentionally left blank

TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 1 PLANNING COMMITTEE

Thursday, 5th September, 2024

Present: Cllr M A J Hood (Chair), Cllr L Athwal, Cllr G C Bridge, Cllr J Clokey, Cllr A Cope, Cllr F A Hoskins, Cllr B A Parry, Cllr Stacey Pilgrim, Cllr M R Rhodes and Cllr K S Tunstall.

(Note: As Councillor D W King was unable to attend in person and participated via MS Teams he was unable to vote on any matters).

Apologies for absence were received from Councillors K Barton, A Mehmet and R W G Oliver.

PART 1 - PUBLIC

AP1 24/7 DECLARATIONS OF INTEREST

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

AP1 24/8 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 1 Planning Committee held on 28 March 2024 be approved as a correct record and signed by the Chairman.

AP1 24/9 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 24/10 TM/24/00806/PA - SMITH AND SONS BUILDERS YARD, 4 ORCHARD DRIVE, TONBRIDGE

Redevelopment of the builders yard and residential garden land associated with no.4 Orchard Drive to provide 3 no. residential dwellings, including associated amenity, parking, landscaping, and other associated works.

Due regard was given to the determining issues detailed in the report of the Director of Planning, Housing and Environmental Health.

There was detailed discussion regarding the proximity of a number of houses to the proposed development. A proposal to refuse planning permission on the grounds of potential overbearing of the development on neighbouring properties on Croft Close due to the proposed height and extent of development adjacent to the boundary was lost following a formal vote.

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) delegated authority to the Director of Planning, Housing and Environmental Health to form the wording of an additional condition requiring the Applicant to submit details to and seek approval from the Local Planning Authority in respect of the slab levels of the proposed dwellings.

[Speakers: Ms E Thompson (on behalf of Ms S Briggs, a member of the public); and Mr Gregg Filmer (on behalf of the applicant)]

AP1 24/11 TM/24/00142/PA - 7 CASTLE STREET, TONBRIDGE

Conversion of ground floor commercial (Class E) to residential (Class C3) to form 3 residential units with additional windows (8-10 Bank Street and 7 Castle Street)

Due regard was given to the determining issues detailed in the report of the Director of Planning, Housing and Environmental Health.

During discussion, concern was raised regarding parking provision, pedestrian access, refuse storage and collection arrangements and lack of light into the premises.

RESOLVED: The planning permission be GRANTED in accordance with the submitted details, conditions and reasons set out in the report of the Director of Planning, Housing and Environmental Health.

[Speaker: Ms R Khan (on behalf of the Applicant)]

MATTERS FOR INFORMATION

AP1 24/12 PLANNING APPEALS, PUBLIC INQUIRIES AND HEARINGS

The report setting out updates in respect of planning appeals, public inquiries and hearings held since they were last reported to the Planning Committee was received and noted.

AP1 24/13 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 8.39 pm

This page is intentionally left blank

(Extraordinary) Area 1 Planning Committee – Minutes of 10 October 2024 – To Follow

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

OB1O6D 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 PD – shops and financial to restaurant (application suffix)
PDVSR	Permitted development PD – shop and sui generis to residential (application suffix)
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

TM/24/01150/PA

Location: 111 Douglas Road, Tonbridge TN9 2UD

Proposal: Erection of a two storey side extension to create a two bedroom dwelling, including reconfiguration of the roof, new dormer windows, internal reconfiguration of the existing dwelling to incorporate a loft conversion and associated access and landscaping works.

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 Planning permission is sought for the erection of a two-storey side extension, to create a two-bedroom dwelling.
- 1.2 This scheme would result in the proposed dwelling being attached to the host dwelling. The dwelling would be the same depth as the host dwelling at 7.5 metres x 5 metres in width. As part of the development proposal, the existing roof of the host dwelling will be removed and replaced with a new half-hipped roof over the newly created semi-detached properties.
- 1.3 The proposal also includes the provision of a dormer window to the rear for both the proposed dwelling and the host dwelling in connection with accommodation being provided within the roof slope.
- 1.4 In regard to the new dwelling, the proposal would provide a kitchen, dinner, lounge and WC on the ground floor, bedroom with ensuite, study/office and family bathroom on the second floor and a further bedroom within the roof space.
- 1.5 The outdoor amenity space would be provided at the side and rear (approximately 4 metres in width to the side x 5 metres in depth to the rear).
- 1.6 The scheme includes the provision of three parking spaces (not including the garage), two for the host dwelling and one car parking spaces for the proposed dwelling. In regard to the proposed dwelling this will be located to the rear of the proposed dwelling.
- 1.7 The current scheme is a resubmission of the previously refused application under reference number 22/01854/FL, which was for the erection of a detached four bed dwelling. This previous application was refused on the following grounds:
 1. The development by reason of its scale, layout and plot coverage would produce an excessively cramped and prominent development, acutely at odds with the

established character of the local area. It would stand in contrary to Policy CP24 of the Tonbridge and Malling Core Strategy, Policy SQ1 of the Managing Development and the Environment Development Plan Document and Section 12 of the Revised NPPF (2021) which together require residential development to be of a high quality design that complements or enhances the character and appearance of the surrounding area.

2. The development by reason of its scale, layout and plot coverage would fail to provide acceptable living conditions for future occupants, with particular regard to the inadequate outdoor amenity provision. It is contrary to paragraph 130 of the Revised NPPF (2021) requiring development to secure high quality design and a good standard of amenity for all existing and future occupants of buildings.
3. The proposal by reason of the substandard dimensions and location of some of the parking spaces provided would be likely result in parked cars overhanging the pavement which would cause irritation and danger to pedestrian using the pavement. It would conflict with Policy SQ8 of the MDE DPD which seeks to ensure the adverse impacts of development on the wider road network is mitigated.
4. Insufficient information has been provided to confirm that trees at the site would not be harmed, and that there would be no harm to biodiversity at the site. The proposed scheme would conflict with policy NE3 of the Managing Development and the Environment Development Plan Document and paragraph 174 of the Revised National Planning Policy Framework (2021) which seeks to protect conserve and enhance biodiversity, whilst contributing to enhancing the natural and local environment.

2. Reason for reporting to Committee:

- 2.1 This application is referred to Committee by Councillor Mark Hood on the grounds of the loss of two established trees with high amenity value is contrary to the general requirement to achieve biodiversity net gain.

3. The Site:

- 3.1 The application site consists of the side garden of no.111 Douglas Road, a two-storey detached property in the built confines of Tonbridge. The garden measures approximately 17 metres long and approximately 10 metres wide and is partly enclosed by brick wall. A short access drive from Douglas Road runs along the eastern site boundary providing access to properties at the rear of the application site.
- 3.2 The surrounding area has a diverse architectural character comprised mainly of traditionally built two-storey detached and semi-detached properties in a wide range of designs and materials with differing setback positions and angles from the road.

Parking on Douglas Road is mostly controlled by double yellow lines and permit parking bays.

4. Planning History (most relevant only):

22/01854/FL - Refuse - 21 October 2022
Erection of a detached four bed dwelling

21/03338/FL - Refuse - 12 July 2022
Two semi detached two bedroom dwellings

21/03230/FL – Refused 17 December 2021
Two semi detached two bedroom dwellings

05/02474/FL - Refuse - 19 October 2005
Three bedroom house and garage

5. Consultees:

5.1 Environmental Health Protection: - No comments received.

5.2 Council's Landscape / Tree Officer: No objection

Comments on removal of the trees:

Trees at the site are not included within a Tree Preservation Order and the site is not within a Conservation Area.

You will note from the Planning history of the site the Council has refused three recent previous development applications that would have had significant implications for the subject trees and has not included them within a TPO during the determination of those cases. Indeed two of the refusals did not mention concerns over the loss of the trees in the reasons for their refusal and the reasons for the latest application refused referred only to concerns over insufficient information and what impact removal of the trees may have on biodiversity.

The Tonbridge Character Areas Supplementary Planning Document (TCASPD – referred to by objectors) was adopted in February 2011. I1 – Douglas Road (West) Area is identified in that document as a Clustered Cul-de-sac Development. It is stated that: "Douglas Road dips towards the west and this development is located on lower ground flanked by the railway line to the north and school playing fields to the west and south. It was built in the 1990s on the site of a former printing works and comprises a series of small closes of detached, attached and semi-detached houses set facing or at an angle to the road, built in red, brown and yellow brick with slate roofs and decorative hanging tiles and bands of brickwork." The document does not specifically identify the trees that are subject of this request (as suggested by one of the objectors to application 24/01150/PA). It does refer to "Bands of trees to the west

and north” of the Character Area, that “The front gardens are unenclosed or semi-enclosed by shrub planting, hedges, low fences and walls”, “short view” of trees along Douglas Road and that “Soft landscaping, amenity area and small scale, partially concealed, communal parking areas have been designed into the scheme, contributing to the area’s leafy, uncluttered character.” Is a locally distinctive positive feature. However, the comments refer to general landscaping rather than the specific Pear trees subject of the request. A TPO was not made at the time Douglas Road and the surrounding environs on the site of the former printing works were constructed.

The applicant/agent for the current application 24/01150/PA has submitted an Arboricultural Survey dated 17th July 2024 in support of the current application. The author of the survey has measured the 2 Pear trees as being about 8-9M in height, with a DBH of 270-280mm and branch spreads of between 3 and 5M. They have stated that the trees are mature of good/fair condition and classified both trees as grade B in accordance with the cascade chart for tree quality assessment at Table 1 of The British Standard BS5837:2012.

The Pear are small trees of reasonable form and condition. They have had little previous treatment (apart from some formative pruning). However, given their situation and close proximity to built form there may be future pressures for treatment to contain their size – which would have a negative impact on their health and appearance.

The Council has given formal consideration as to whether to include the two Pear trees within a new Tree Preservation Order and it was formally determined that the trees are not appropriate for inclusion within an Order given their limited public amenity value and implications of previous planning decisions

It would not be justifiable to refuse this application on tree grounds.

Comments on replacement planting

The proposed site plan submitted indicates that “2 new small narrow form trees of native derived species” are proposed to be planted to offset the loss of the Pear trees. Details of the proposed species have not been provided.

Measurement from the proposed site plan indicates that the space available for replacement planting would be very limited – it would, however, be possible to plant some small trees/large shrubs/climbing plants and there is some space for roadside planting in front of the existing and proposed properties (all within the red line planning site boundary). Some of the best options for the space might not be native (exact details of species, planting size and siting could be required under a condition added to any approval).

5.3 Third Party/Other representations

5.4 There are 11 letters of objection which have been summarised in categories as follows:

Parking:

- Insufficient space for the plans submitted, affecting parking etc
- Limited space for parking and access in this part of the road,
- Street parking a major concern as there is no immediate parking on the street and only showing one space for this dwelling.
- The overflow of cars has already been a nuisance for neighbours nearby.
- This area also is busy during school term time with residents parking in the street and children walking to and from primary school around the corner.

Tree:

- The proposal includes cutting down trees that were protected in the bylaws of this development to help support green ethos.
- Any removal of trees from the property would be an environmental backward step.

Character and Appearance:

- The ascetics will impact on the current look of the estate which has happily been admired for over 34 years.
- This area primarily has 3-4 bedroom family homes, not need a 2 bedroom dwelling squeezed in.
- There is not enough space for the dwelling being proposed.
- The proposed building work will encroach on the adjoining properties and restrict access for them.
- The total of the proposed building changes will create a building out of proportion to adjacent dwellings and be completely out of character with the rest of the estate.
- Whilst this scheme is an improvement on previous applications the design of the roof would appear very bulky in comparison with other properties on the estate

Neighbour Amenity:

- The proposed development will significantly overlook our garden and house, and those of others.
- It will overshadow our front garden and door and block our one remaining outlook
- The proposed plan, the proposed change of roof line and use dormer windows will overlook our garden, and our privacy will be compromised

Other matters:

- There are covenants/restrictions in the title deeds of existing properties on the estate (of which 111 is one), put in to protect residents from developments of this sort.
- The plans submitted do not even appear to address the reasons why the previous application was rejected.

6. Determining Issues:

Policy Guidance

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.

6.2 The Development Plan currently in force for this area comprises:

- Saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP),
- The Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007
- Development Land Allocations DPD (DLA DPD) adopted in April 2008
- Managing Development and the Environment DPD (MDE DPD) adopted April 2010.
- Tonbridge Character Areas Supplementary Planning Document (TCA SPD)
- The National Planning Policy Framework (“NPPF”)
- National Planning Practice Guidance (“NPPG”) and National Design Guide

Principle of Development

6.3 As Members are aware, the Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). Therefore, the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2023) 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.
- 6.4 It has been established that, in the absence of a 5-year housing land supply, the Development Plan is out of date when considering housing developments. For the avoidance of doubt, the Council's latest position statement (December 2023) indicates 4.36-years supply.
- 6.5 The site lies within the built confines of Tonbridge, a designated urban area in Tonbridge and Malling Borough Core Strategy. Policy CP11 of the Tonbridge and Malling Borough Core Strategy (TMBCS) sets out that in accordance with the principles of sustainability, as set out in policies CP1 and CP2, development should be concentrated at the urban areas, where there is the greatest potential for re-use of previously developed land and other land damaged by former uses.
- 6.6 Development in the urban areas can also minimise the need to travel, by being located close to existing services, jobs and public transport. The policy is considered up-to-date, and the proposed development accords with these aims and the requirements of this policy.
- 6.7 In relation to the presumption in favour of sustainable development, regard must first be had as to whether any restrictive policies within the Framework as stated under paragraph 11 d (i), (footnote 7), provide a clear reason to refuse the proposed development. In this case the site falls within the urban area of Tonbridge, and there are no restrictive policies within the Framework (under footnote 7) that would provide a clear reason to refuse the development.
- 6.8 Therefore, in this case paragraph 11 d (ii) is engaged and an assessment of whether there is any adverse impact that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, needs to be undertaken.

Other material considerations in regard to the principle of development

- 6.9 In addition, it must also be noted that whilst the previous applications have been refused, 'no objection in principle' was raised to the erection of a dwelling *per se* on those previous applications. It has already been acknowledged within the previous delegated reports that "*as infill development in an urban area and given the location of the site, future occupiers of the proposed dwellings would enjoy similar access to local services compared to existing dwellings in the urban area. Given these factors, the proposed scheme would comply with policy CP11 and its requirement that development should be located close to existing services, jobs and public transport*".

Matters for Clarification

- 6.10 Third party comments have stated that there are covenants/restrictions in the title deeds of existing properties on the estate (of which 111 is one), put in to protect residents from developments of this sort.
- 6.11 However, planning permission and restrictive covenants are distinct legal concepts that address different aspects of property use and development. Planning permission is a statutory process administered by local planning authorities, while restrictive covenants are private contractual agreements typically found in property deeds. As such a covenant does not prevent or restrict planning permission being granted, and equally the grant of planning permission does not nullify or invalidate any existing restrictive covenants on a property. The removal of the covenant would be a separate legal matter.

Provision of Housing

- 6.12 Paragraph 60 of the NPPF sets out that, to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 6.13 Paragraph 70 of the NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. It adds that LPAs should support the development of windfall sites through policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes. To make effective use of land, Paragraph 124 of the NPPF requires planning decision to promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively
- 6.14 With regard to the above, it is acknowledged that the provision of one dwelling would be considered a small site, however, together with other windfall sites in the Borough, would still make a positive contribution towards the Council's housing supply.
- 6.15 The provision of a new dwelling given the shortage of housebuilding in the Borough is a matter that attracts positive weight in the overall planning balance, but this weight is scaled to the fact that only one dwelling is proposed in the context of the overall housing need in the Borough.

Assessment on Character and Appearance

- 6.16 Paragraph 135 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.

6.17 Development of poor design that fails to reflect local design policies and government guidance on design should be refused as set out in paragraph 139 of the NPPF.

6.18 Policy CP1 of the TMBCS states that all proposals for new development must result in a high-quality sustainable environment. This is expanded upon in sub-paragraph 6.1.5 and includes matters such as making efficient use of land and making a positive contribution to local distinctiveness, character, townscape and the setting of settlements.

6.19 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. In addition, policy SQ1 of the MDE DPD requires development to reflect the local distinctiveness, 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

6.20 Third party comments have raised concerns over the impact of the proposed development on the character and appearance of the area.

6.21 The previous application was refused as it was considered that *“The development by reason of its scale, layout and plot coverage would produce an excessively cramped and prominent development, acutely at odds with the established character of the local area”*.

6.22 In reaching this conclusion the previous report (para. 5.6) noted, *“the proposed (then detached dwelling) would take up a large proportion of the side garden, and would be*

close to both the side elevation of the existing house and access drive leading to houses at the rear of the application site, which having an unusually small outdoor amenity area. This taken together with the location and layout of the parking spaces would produce an excessively cramped appearance and would give the impression the development has been squeezed into the plot rather than being a natural and harmonious infill”.

6.23 This revised scheme, unlike the refused proposal, will be attached to the host dwelling creating a pair of semi-detached dwellings, a house type already found in this neighbourhood. As noted above, as part of the development proposal, the existing roof of 111 Douglas Road (host dwelling) will be replaced with a new half-hipped roof over the newly created semi-detached properties. The proposal also includes the provision of a dormer window to the rear for both the proposed dwelling and the host dwelling.

6.24 The site lies within I – Clustered cul de sac development as set out in the Tonbridge Character Areas Supplementary Planning Document (TCA SPD). The pre-amble notes:

“Whereas development in the 1960s, 70s and early 80s often consisted of houses spaced out evenly along, and facing, the road on a relatively consistent building line, more recent developments in Tonbridge primarily consist of detached or attached houses, with integral or attached garages, set along an uneven building line or at angles to the road. The different roof forms and details often give interesting and varied roofscapes. Properties often front directly onto the pavement/road or shared surface or are set behind a shallow unenclosed front garden of low planting or have traditional metal railings and have private enclosed space to the side or rear. Houses have parking spaces or garages. The steep roofs and more compact form give the development a more enclosed urban character. The urban form is softened by the use of short curved cul-de-sac layouts which keep traffic speeds low and often encourage shared road use for pedestrians and cars. Sometimes the access roads will be cobbled or paved in a contrasting colour to emphasise this shared use. The enclosed cul de sac layouts create a quiet, private character.

The curved street layout combined with the variable building line, also creates a series of enclosed spaces and changing vistas and views which to some extent replicates the ad hoc development found in traditional town and village centres. Whilst a variety of materials and building designs are used, the overall form, materials, scale and character is generally very cohesive.

Properties are finished in a variety of traditional materials with relevance to the Tonbridge and Kent vernacular such as red/orange bricks, weatherboarding, white painted render and hanging clay tiles (sometimes decorative). The designs also incorporate traditional details such as dormer or half dormer windows, arched brickwork over doors and windows, contrasting brick string courses, chimneys, cupolas and ridge tiles. Windows and doors are often well aligned with each other

and the dominant areas of brickwork over glazing gives the facades a robust appearance”.

- 6.25 The Douglas Road (West) area is characterised by a mixed in terms of property sizes, styles and scale. The proposal would align with the TCA SPD, which notes the area comprises a series of small closes of detached, attached and semi-detached houses set facing or at an angle to the road. As such, semi-detached properties are a common feature in the area together with dormer windows. Roof form within the area is varied, with hipped, pitched and gables all prominent in the immediate area. In this respect, the development will assimilate well into the area. Although with a slightly smaller garden than the houses nearby, the proposal would be broadly in keeping with the establish grain, pattern and density of development in this locality, with no undue impact on the local street scene. Unlike the refused schemes, the proposal would retain more spacing with the buildings and roads adjacent and would thereby soften the visual impact arising from its bulk and massing.
- 6.26 The proposed development maintains a similar height and bulk to that in the surrounding area and is no further forward within the street scene than the existing dwelling. The semi-detached nature of the proposed scheme rather than a detached property, means that the property does not present as cramped or prominent feature, but rather as a pair of semi-detached dwellings.
- 6.27 In regard to materials, it is proposed to render the first floor across both properties to the front (with part render return to the east and west elevations). The proposed materials are in keeping with the existing local character. Although the proposal is not considered to represent overdevelopment of the site in its current form, further extensions and outbuildings otherwise permissible by Part 1 of Schedule 2 of the GPDO (2015) in this relatively small plot of land could potentially result in a cramped environment, detract from the character of the site surroundings. Hence, if planning permission is forthcoming, it is recommended the permitted development rights for any further extensions and outbuildings be withdrawn from the new dwelling so as to mitigate the potential harm identified earlier.
- 6.28 Therefore, to conclude on character and appearance, it is considered that the proposal would result in a scheme, that would assimilate well with the overall form and layout of its surroundings, in compliance with paragraph 135 (NPPF), Policy CP24 of the Tonbridge and Malling Borough Core Strategy and Policy SQ1 Managing Development and the Environment Development Plan.

Assessment on Neighbour Amenity

- 6.29 Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 outlines that development by virtue of its design which would be detrimental to amenity will not be permitted. Policy CP1 of the Core Strategy also requires proposals to have regard to impacts on residential amenity.

- 6.30 Paragraph 135 (f) of the NPPF states that planning policies and decisions should ensure that developments 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.
- 6.31 Third party comments have raised concerns in regard to overlooking created by the dormer windows.
- 6.32 The application site is in an urban setting, where existing houses cluster closely together with each other. Moreover, as an infill development surrounded by existing houses there is likely to be an impact on outlook by reason of the presence of a new building. In this case the proposed dormer window in regard to the new dwelling, would look directly at the side flank elevation of 109 Douglas Road, as such views into the rear garden of that property would be limited.
- 6.33 It is acknowledged that the rear dormer within the host dwelling has potential to create a degree of overlooking to 109 Douglas Road and surrounding properties, however, the Council is mindful that in many cases the introduction of dormer windows within rear roof slopes do not require planning permission. Moreover, there are already first floors windows to the rear which look in the same direction as the proposed dormer window.
- 6.34 Considering the proposal in this local context, officers are satisfied, whilst noting the close relationship between the host/proposed dwelling and the neighbouring properties, that on balance the dormer windows proposed are acceptable in terms of their impact on outlook of the neighbours concerned.
- 6.35 Third party comments have also been raised that the proposal will overshadow the neighbours front garden/door and block outlook. Due to the distance of the proposed dwelling from 105, 107 and 109 Douglas Road, coupled with the orientation, officers are satisfied that the proposal would not overshadow or hinder outlook to the neighbouring properties.
- 6.36 Therefore, to conclude on neighbour amenity, the proposal would not harm neighbour amenity and as such accords with Policy CP24 of the Tonbridge and Malling Borough Core Strategy and the aims of the NPPF.

Living conditions

- 6.37 The National Design Guide (2021) sets out that high quality design includes the provision of satisfactory living conditions for future occupiers. For a 2 bed (4 person) dwelling spread over three floors the NDSS requirement is 79m² with 2.0 m² of built in storage. The proposal comprises 94.58 m² and therefore would meet the NDSS.
- 6.38 In addition to the internal standards, consideration must also be given to the provision of adequate and useable outside private amenity space. The host dwelling would see a reduction in garden size, reduced by approximately 100sqm, this being

the garden area currently located to the side of the dwelling. However, whilst the host dwelling would see a reduction in amenity space, the resulting space would still be considered comparable to the surrounding properties and in keeping with the character of the area.

- 6.39 In regard to the proposed dwelling, this would have an amenity garden area of 66.8sqm split (but linked) between the rear and the side of the dwelling. On balance it is considered that this would be acceptable for the size of the dwelling proposed.

Highways and Parking

- 6.40 Paragraph 114 of the NPPF states that, in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, inter alia, safe and suitable access to the site can be achieved for all users. Paragraph 115 adds 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
- 6.41 Policy SQ8 of the Managing Development and the Environment DPD states that development proposals should comply with the adopted parking standards and development proposals will only be permitted where they would not significantly harm highway safety.
- 6.42 Many of the third party representations have raised comments in relation to the existing parking provisions in the area and concerns over the level of parking proposed for the host dwelling and the proposed dwelling.
- 6.43 Interim Guidance Note 3 (2008) is a material consideration in respect of residential parking. For properties in suburban areas, IGN3 advises 1 car parking space per unit for 2 bed properties and 2 spaces for 4+ bedroom houses. (Noting the additional bedroom for the host dwelling). In terms of parking, three spaces are proposed in total (excluding the existing garage): 111 Douglas Road currently has two parking space to the rear of the property together with a garage which are to be retained. However one of these spaces will be afforded to the proposed dwelling, while an additional parking space is proposed to the front of 111 Douglas Road to replace the parking space to rear allocated to the new dwelling.
- 6.44 In regard to the size of the spaces themselves, all spaces are in accordance with required parking standards (minimum 2.5m x 5m) such that vehicles fit adequately. The proposal, if permitted, would materially increase the number of vehicular movements to and from the application site but it would not be significant enough to cause disruption to the flow of traffic along Douglas Road and operation of the local highway network. Being compliance with the parking standards also means the proposal is unlikely to cause displacement of parked vehicles onto the adjacent public highway.

- 6.45 To conclude on parking the proposal would be in line with the interim guidance and as such the proposal would not pose an unacceptable risk to highway safety and would not meet the high threshold set out in the NPPF for refusing an application on highway grounds. A condition should however be imposed to require all areas intended for car parking be appropriately surfaced and drained prior to occupation of the new dwelling. To ensure the vehicular access and car parking area are not obstructed by bins, a scheme detailing the refuse storage and collection arrangement should be secured by way of a planning condition and the approved arrangements should be implemented prior to occupation of the dwelling. In addition, a secured bike storage facility should be provided and the details of which should be submitted to and approved in writing by the local planning authority prior to its first installation. This is to ensure the adopted cycle parking standard is complied with.
- 6.46 In addition, it is also worth noting that the site is highly sustainable. The location of the site is under 10 minutes from Tonbridge Station, which provides regular services towards London and other destinations in Kent including coastal services. There are similarly various bus services available from the Town centre. Future occupiers are clearly not dependent on private vehicles in this location and can utilise active travel methods to reach nearby

Biodiversity

- 6.47 Policy NE2 of the MDE DPD outlines that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced. Policy NE3 of the MDE DPD also states development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in an overall enhancement. Proposals for development must make provision for the retention of the habitat and protection of its wildlife links. The Council will impose conditions, where necessary and appropriate, to minimise disturbance, protect and enhance a site's ecological conservation value, to ensure appropriate management and monitoring and creating new or replacement habitats of enhanced ecological value.
- 6.48 Paragraph 180 of the NPPF advises planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity. Paragraph 186 of the NPPF states if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.49 In regard to biodiversity, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain. However, one of the exemptions is for self build and custom build applications. The Act states that "self-build and custom housebuilding" means the building or completion by –

- (a) individuals,
- (b) associations of individuals, or
- (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals.

6.50 In this instance, the application, falls under this provision as a self-build application. The development is therefore exempt from BNG.

Trees/Landscaping

6.51 Policy NE4 of the Managing Development and the Environment DPD states, amongst other things, that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network as illustrated on the Diagram. This includes provision of new habitats as part of development proposals.

6.52 Paragraph 136 of the NPPF (2023) recognises the importance of trees and states:

“Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.”

6.53 The application is accompanied by an Arboricultural Survey, this notes in order to facilitate the development it is proposed to remove two pear trees located to the front/side of the site. The Arboricultural Survey has afforded these two pear trees ‘B’ categorisation in the survey. This category is defined as *“B – Trees of moderate condition, with minor defects or sub-optimal form but are still of modest arboricultural, landscape or conservation value. Must have a potential life span in excess of twenty years.”*

6.54 The planning statement which accompanies the application (para 6.4.3) acknowledges *“Some harm in the form of visual loss is recognised by the loss of the trees, albeit this is offset by the fact that the trees are non-native and invasive. It is proposed to mitigate against the removal of the trees through planting of 2no. new native trees”.*

6.55 Third party comments have been raised over the loss of the two trees with comments stating that *“they are protected in the bylaws of this development to help support green ethos”* and that *“any removal of trees from the property would be an environmental backward step”.* It is noted that third party comments have referred to the trees being protected under the deeds to the property. However as set out above

any covenant contained within the title deeds of a property would not be a material planning consideration. It is also as noted, that the application has been called to committee in part due to the loss of the trees.

6.56 First, it is important to note that the two Pear trees at the site are not included within a Tree Preservation Order. The Council gave formal consideration as to whether to include the two Pear trees within a new Tree Preservation Order and it was formally determined that the trees are not appropriate for inclusion within an Order given their limited public amenity value and implications of previous planning decisions. The site is also not within a Conservation Area.

6.57 It is also noteworthy that whilst the Council has refused three previous development applications on this site, two of the refusals did not mention concerns over the loss of the trees in the reasons for their refusal. Moreover, in regard to the third (most recent previous application) that was refused, the reason for refusal in regard to the trees, only referred to concerns over insufficient information submitted with the application to demonstrate that the trees would not be harmed, as they were shown in that instance to be retained, and what impact the removal of the trees may have on biodiversity. Unlike the refused application, the current one is supported by an arboricultural survey, which has been assessed by the Council's landscape/tree officer.

6.58 The Council's landscape/tree officer has reviewed the application and makes the following observations:

"The Tonbridge Character Areas Supplementary Planning Document (TCA SPD – referred to by objectors) was adopted in February 2011. I1 – Douglas Road (West) Area is identified in that document as a Clustered Cul-de-sac Development. It is stated that: "Douglas Road dips towards the west and this development is located on lower ground flanked by the railway line to the north and school playing fields to the west and south. It was built in the 1990s on the site of a former printing works and comprises a series of small closes of detached, attached and semi-detached houses set facing or at an angle to the road, built in red, brown and yellow brick with slate roofs and decorative hanging tiles and bands of brickwork." The document does not specifically identify the trees that are subject of this request (as suggested by one of the objectors to application 24/01150/PA). It does refer to "Bands of trees to the west and north" of the Character Area, that "The front gardens are unenclosed or semi-enclosed by shrub planting, hedges, low fences and walls", "short view" of trees along Douglas Road and that "Soft landscaping, amenity area and small scale, partially concealed, communal parking areas have been designed into the scheme, contributing to the area's leafy, uncluttered character." Is a locally distinctive positive feature. However, the comments refer to general landscaping rather than the specific Pear trees subject of the request. A TPO was not made at the time Douglas Road and the surrounding environs on the site of the former printing works were constructed.

The Pear are small trees of reasonable form and condition. They have had little previous treatment (apart from some formative pruning). However, given their situation and close proximity to built form there may be future pressures for treatment to contain their size – which would have a negative impact on their health and appearance”.

- 6.59 In terms of their removal the Council’s landscape/tree officer concludes it would not be justifiable to refuse the application based on the removal of the trees for the reasons as set out above.
- 6.60 It is noted that the proposed site plan submitted indicates that “2 new small narrow form trees of native derived species” are proposed to be planted to offset the loss of the Pear trees. However, specific details of the proposed species have not been provided.
- 6.61 Measurement from the proposed site plan indicates that the space available for replacement planting would be very limited – it would however, be possible to plant some small trees/large shrubs/climbing plants and there is some space for roadside planting in front of the existing and proposed properties (all within the red line planning site boundary) and it is acknowledged that some of the best options for the space might not be native, however exact details of species, planting size and siting could be required under a condition added to any approval.
- 6.62 It is also noted that the proposed site plan indicates a new 1.8 metre high close boarded fence to the front and side of the proposed dwelling. However, given the open characteristic of the area, this being that most dwellings retain an open frontage with only low fencing, soft planting or brick walls marking front boundaries that the provision of a 1.8 metre high fence would not be considered acceptable for the location proposed. However, the finer details of the hard landscaping for the development could be incorporated into the condition suggested by the Council’s landscape/tree officer and as such would not be a reason to refuse the development.

Planning Balance

- 6.63 The LPA acknowledges that it cannot currently demonstrate a 5-year housing land supply. Paragraph 11 of the NPPF states that, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted 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.

- 6.64 As set out above in this report, the proposal would not result in harm to any protected areas or assets and there is no clear reason to refuse the application in accordance with Paragraph 11 (d) (i) above.
- 6.65 In weighing the proposal in the overall planning balance, required by Paragraph 11 (d) (ii), the LPA recognises that there is a housing need and as such significant positive weight should be attributed to housing schemes. This weight is scaled to the fact that only one dwelling is proposed in the context of the Borough's overall housing need.
- 6.66 It is acknowledged that there would be some modest additional benefits to the economy through the construction of the development itself and the subsequent occupation of the dwelling, whose occupants would contribute to the local economy through using local services and facilities. Some of these benefits are temporary and only during the construction works themselves.
- 6.67 It is recognised that there would be no unacceptable impact on character and appearance, neighbouring properties, highway safety or parking provision and the proposal would be acceptable in terms of design and living conditions. However, absence of harm in relation to these matters is not a benefit of the scheme, but rather, weighs neutrally in the planning balance.
- 6.68 To conclude, having regard to the above, in applying paragraph 11 of the NPPF, it is considered that no unacceptable impact arising from the proposal has been identified that would significantly and demonstrably outweigh the potential benefits of the scheme. Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval.

7. Recommendation

Approve subject to the following:

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 91a f of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site Location Plan - Drawing No. TBO241-01

Site Plan – Drawing No. TBO241-02

Existing Floor Plan - Drawing No. TBO241-04

Existing Elevations - Drawing No. TBO241-05

Proposed Site Plan – Drawing No. TBO241-03

Proposed Floor Plans - Drawing No. TBO241-06

Proposed Elevations - Drawing No. TBO241-07

Planning Statement – DHA dated July 2024 ref DHA/33552

Arboricultural Survey – PJC dated 17 July 2024 project ref : PJC/6634/24/01

Rev -

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.

3. All materials used externally shall accord with the approved plans.

Reason: In the interests of visual amenity.

4. Hard and Soft Landscaping:

- a) A scheme of hard and soft landscaping, including details of all boundary treatments any existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping, shall be submitted to the Local Planning Authority for written agreement within 1 month of the commencement of the development hereby permitted.
- b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.
- c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no development falling within Class(es) A, B, D and E of Part 1 of Schedule 2 to the said Order shall be carried out without the prior consent in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over future development on the site and to avoid harm to visual and residential amenity that could otherwise occur without such restrictions.

6. The proposed dwelling shall not be occupied, until the areas shown on the submitted layout as vehicle parking spaces (including the proposed space for

the host dwelling) 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.

7. Prior to the occupation of the proposed dwelling hereby approved details in regard to the provision of cycle parking/storage shall be submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details and maintained and retained at all times thereafter.

Reason: In the interest of highway safety.

8. The development hereby approved for the new dwelling shall not be occupied until a scheme for the location and storage of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

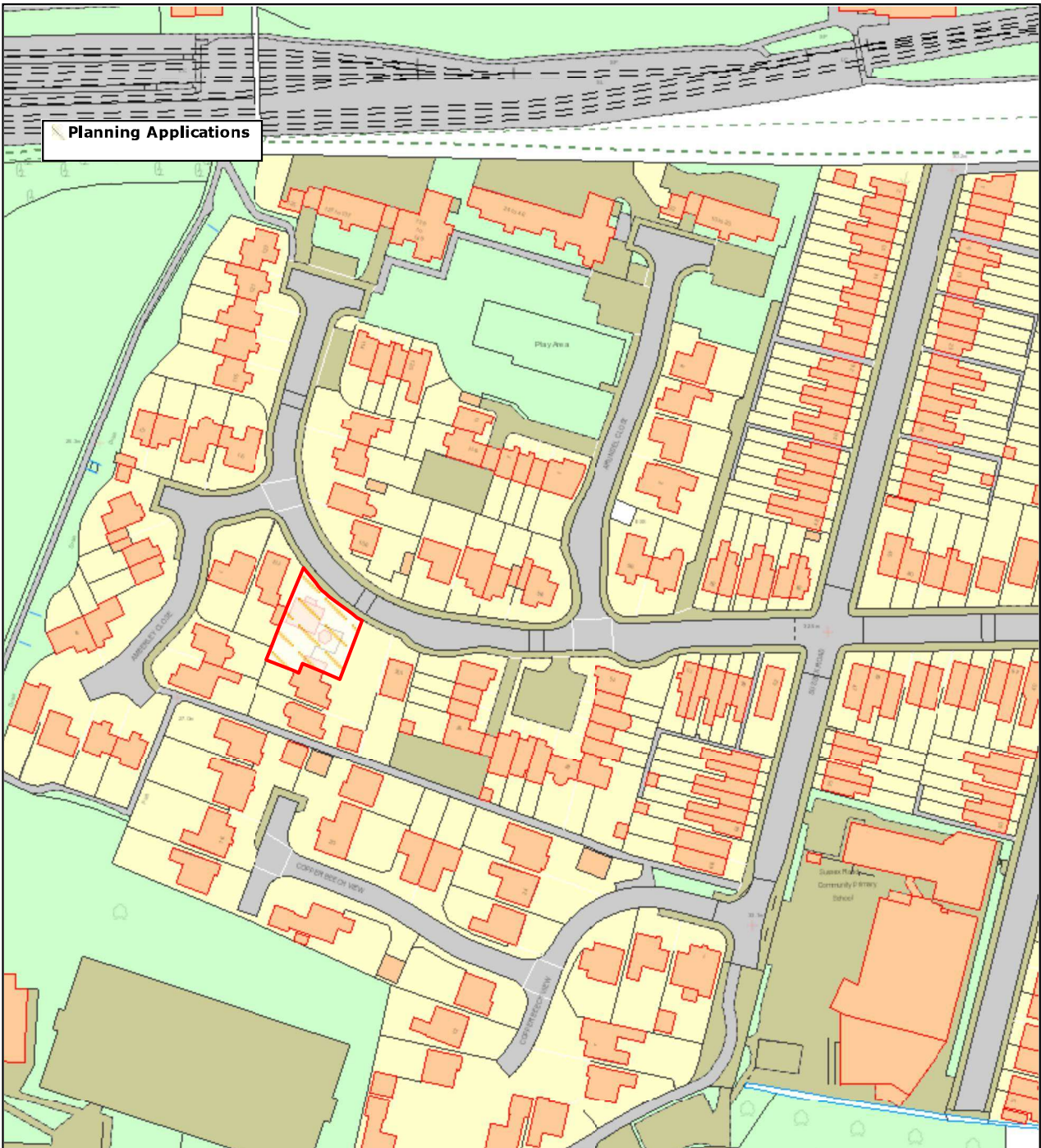
Informatives.

1. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
2. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to email to addresses@tmbc.gov.uk. To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
3. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

4. During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.
5. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. It is recommend that bonfires not be had at the site.

Contact: Susan Field

This page is intentionally left blank



Planning Applications 24/01150/PA

Scale: 1:1250



Tonbridge & Malling Borough Council
 Gibson Building, Gibson Dr
 Kings Hill, West Malling
 ME19 4LZ
 Tel.: +44 1732 844522



Date: 3/10/2024 17:05

©Crown Copyright and database rights 2022 Ordnance Survey
 100014703.

This page is intentionally left blank

Tonbridge

TM/23/00796/FL

Location: The Vicarage, Church Street, Tonbridge, TN9 1HD

Proposal: Erection of one dwelling with incidental ground works and access

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 Permission is sought for a new detached dwelling in the rear garden of 'The Vicarage'. This application is essentially the fourth renewal of a planning permission first granted in 2012 (TM/11/02395/FL). The three previous renewals are: (TM/14/01866/FL), (TM/16/03629/FL), and (TM/20/01147/FL). The latest permission granted in 2020 was still extant at the time of submission, however, was not implemented and has since expired during the course of this application.
- 1.2 The proposed dwelling house would be accessed from Church Street through an existing car park by removing part of a wall. The access drive would run parallel to an existing garage block to the south serving the block of flats and run adjacent to the garden of The Vicarage.
- 1.3 The dwelling is designed as a 1.5 storey pitched-roof barn running east to west with two single storey "outriggers" stretching out into the garden to the north and south. The living accommodation is on the ground floor with a guest bedroom, and three further bedrooms are proposed on the first floor. The exterior of the new house is proposed as timber weatherboarding over a brick base. The single storey elements have green roofs with a zinc horizontal cladding panel.
- 1.4 Parking is proposed for 4 cars; 2 surface spaces within the driveway area and 2 spaces within a detached car port building.
- 1.5 A revised site location plan was submitted during the course of the application which corrected the red boundary line of the site to accord with the actual ownership boundary of the land. This increased the width of the southern boundary of the site from 4m to 8m. At the same time, the location of the proposed access driveway was amended to enable the retention of the existing Copper Beech and Cherry Laurel trees situated adjacent to the southern boundary of the site. A reconsultation on the revised plan was undertaken in August 2024.

2. Reason for reporting to Committee:

- 2.1 The application has been called in by Councillor Anna Cope on the grounds of impact to the Tonbridge Conservation Area and impact on existing trees.

3. The Site:

- 3.1 The Vicarage is located off Church Street in the Tonbridge Conservation Area and adjacent to the Church of St Peter and St Paul. The property is set back from the road with the Church Parish Office located in the adjacent Coach House building to the west. Parking for the church is situated to the south west within a private car park.
- 3.2 The application site is located to the rear (east) of The Vicarage. To the north of the site is the Grade II listed boundary wall of the churchyard, with the Grade II* listed church beyond. To the south is a post-war flat development known as 'New Court' with a row of garages running along the boundary with the site.
- 3.3 To the east is the scheduled ancient monument (SAM) (the Fosse), a Medieval town wall. Then beyond, to the east, at a lower level to the site is Cedars; an 18th Century property set in a large plot with a mature vegetation screen along the boundary with the site.
- 3.4 Officers have carried out two separate site visits prior to reaching a recommendation on this application, given the level of public interest. Members of the Planning Committee have also carried out a site visit.

4. Planning History (relevant):

20/01147/FL

Approved - 05 August 2020

Erection of one dwelling with incidental ground works and access

16/03629/FL

Approved - 12 May 2017

Erection of new dwelling (resubmission of previous applications TM/11/02395/FL and TM/14/01866/FL)

14/01866/FL

Approved - 13 August 2014

Proposed new dwelling (resubmission of application TM/11/02395/FL)

11/02395/FL

Approved - 13 February 2012

Erection of new dwelling

5. Consultees:

- 5.1 TMBC Tree Officer:

The site is within the Tonbridge Conservation Area.

Trees at the site have been assessed for possible inclusion within a new TPO and it has been formally determined that it would be inappropriate to include those trees within a new Order.

The proposed scheme to allow for the retention of the Copper Beech tree and submitted an “Arboricultural Report, Tree Survey, Arboricultural Impact Assessment & Tree Protection Plan” by The Mayhew Consultancy Ltd dated June 2024 which demonstrates that provided appropriate precautions and methodologies are utilised it is possible to retain the Copper Beech as part of the amended scheme.

It would not be justifiable to refuse this application on tree grounds subject to pre-commencement conditions for the submission and approval of details of tree protection and method statement, hard and soft landscaping, levels and services in relation to trees.

I would also support restriction of Permitted Development rights.

5.2 TMBC Environmental Health:

Contaminated Land

No comment

Environmental Protection

No objection. Informatives recommended regarding hours of working during demolition and construction and to recommend that bonfires not be had at the site.

5.3 TMBC Waste Services:

Guidance provided on the bins required to serve the development.

5.4 KCC Archaeology:

The site lies very close to the Scheduled Monument of part of The Fosse or medieval town walls (Kent SAM 136). I recommend Historic England is consulted with regard to the implications of this development on nearby archaeology and the setting of The Fosse.

Although some evaluation works on the site did not reveal extensive significant archaeology, and I note the proposed groundworks are reduced, there is still potential for remains to survive on this site. In view of the proximity of the church and medieval Fosse wall, I suggest there is still potential for archaeological remains to be impacted by this development.

In terms of buried archaeology, I suggest there is still a need to fully assess the potential for archaeological remains and recommend pre-commencement conditions for the submission and approval of a programme of archaeological work in

accordance with a written specification and timetable, and details of foundations designs and any other proposals involving below ground excavation.

5.5 KCC Ecology:

We have reviewed the information submitted by the applicant and advise that sufficient ecological information has been provided.

We note the possible presence of badgers on-site. Mitigation measures for badgers and nesting birds should be implemented as recommended by the ecology report, and secured by condition should planning permission be granted.

We also note that the ecology report indicates that all trees are to be retained within proposals. We do however note that the new access road and parking may impact upon the root protection areas of the nearby trees, but that no arboricultural report has been uploaded to the planning portal. We recommend consultation with the tree officer in order to establish if potential impacts to trees are a concern, and to ensure that trees are not adversely affected by proposals.

Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 174 and 180 of the National Planning Policy Framework (NPPF) 2023, biodiversity should be maintained and enhanced through the planning system. As such, if planning permission is granted, we advise the conditions relating to ecological mitigation and ecological enhancement are included.

5.6 Neighbours:

Objections were received from 114 separate properties on the following grounds (as summarised):

- Loss of parking spaces to existing church car park in order to provide access to the development
- Loss of community space for church events in the garden of The Vicarage
- Amended boundary of site is not accurate and encroaches onto ownership of The Vicarage
- Current proposal has increased the size of the new dwelling's garden compared to original planning permission granted in 2012
- Earlier applications were granted in part to fund the repairs to the Vicarage but this has never happened
- Removal of trees including the Copper Beech tree to provide the access
(Officer comment: the Copper Beech tree is now proposed to be retained)

- Potential harm to retained Copper Beech tree by use of access driveway for construction traffic and installation of services and utilities
- Application cannot comply with Condition 9 (tree protection) of previously approved application
- There is a watercourse within 20m of the development
- No details have been provided in relation to utilities and drainage
- Impact on surface water drainage through reduction in green space
- Proposal does not provide an enhancement for biodiversity
- Potential impact on an existing badger sett
- An archaeological survey should be required
- Potential impact on Scheduled Ancient Monument – The Fosse
- Proposal is not in keeping with the conservation area
- New development such as a cul-de-sac will undermine historic value of the area
- Proposal not in keeping with the pattern of development
- Increased noise and disturbance from an increase in population
- Increased noise and disturbance to residents during construction
- Overlooking and loss of light to properties in Church Street
- Overlooking of The Vicarage
- Overlooking of new dwelling from surrounding properties
- Overprovision of parking for new dwelling would be provided
- Proposed new dwelling would not be affordable
- One new dwelling is not sufficient to overcome harm
- Proposal is too high density
- Overdevelopment of the site

6. Determining Issues:

Principle of Development

- 6.1 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 (2023) 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.

- 6.2 It has been established that, in the absence of a 5-year housing land supply, the Development Plan is out of date when considering housing developments. For the avoidance of doubt, the Council's latest position statement (December 2023) indicates 4.36 years supply.
- 6.3 With regard to the application of the presumption in favour of sustainable development, regard must first be had as to whether any restrictive policies within the Framework as stated under paragraph 11 d i., (footnote 7), provide a clear reason to refuse the proposed development.
- 6.4 The footnote to paragraph 11 defines 'the policies' as mentioned above to include those relating to a number of protections and constraints. Included in this list are designated heritage assets.
- 6.5 The site lies within the Tonbridge Conservation Area and has potential to affect the setting of listed buildings, not least the Church of St Peter and St Paul which is Grade II* listed and The Cedars to the east which is Grade II listed. The wall running along the northern boundary of the site where it adjoins the church grounds is also recorded Grade II listed and the Fosse, the remains of the Medieval Town Wall, along the eastern boundary separating The Cedars from the application site is a Scheduled Ancient Monument (SAM).
- 6.6 Consideration of the potential impacts of the scheme in relation to heritage assets should therefore be considered in the first instance.

Impact on heritage assets under Paragraph 11 d i.

- 6.7 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPAs to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which it possesses, whilst Section 72 of the Act requires LPAs to pay special attention to the desirability of preserving and enhancing the character of conservation areas.

- 6.8 Paragraph 200 of the NPPF states that LPAs should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.9 Paragraph 203 requires LPAs to take account of, amongst other things, c) the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 205 meanwhile states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.10 Lastly, Paragraph 208 of the NPPF states that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.11 As has already been set out above in this report, this proposal is for a fourth renewal (fifth application) for a new dwelling on land to the east of The Vicarage. All of the previous applications were approved and impact on designated heritage assets was not a reason to refuse the applications.
- 6.12 The previous Officer Report from 2020 acknowledged the Conservation Officer's concerns. In particular, it was considered that the application site contributes positively to "an oasis of green space in contrast to the dense High Street". The Conservation Officer considered that the proposal would result in less than substantial harm (in NPPF terms) and took further issue with the design. Officers disagreed with these assertions, considering the proposal to be appropriate in spatial terms and considering the design to be of a high quality contemporary design that incorporates traditional materials. It was therefore asserted that the proposal would not cause harm to the character and appearance of the Tonbridge Conservation Area and that it would not harm the setting of any nearby listed buildings.
- 6.13 Notwithstanding that some 3 and a half years have passed, nothing has materially changed in terms of the potential impacts on heritage assets. As set out in the previous report, The Fosse SAM is located around 5.5m from the proposed dwelling at the nearest point and around 1m from the proposed car port. No concerns were raised by Historic England and KCC Archaeology have not objected as part of this current application. They have however suggested two 'standard' archaeology pre-commencement conditions (conditions 4 and 5) for the submission and approval of a programme of archaeological works and details of the foundation design and any other below ground excavation, to ensure that any archaeological remains on site are preserved and properly examined and recorded. A further condition (condition 13)

would be imposed to remove all permitted development rights relating to extending the footprint of the proposed new property and outbuildings, to ensure that works close to the Fosse could be controlled in the future.

- 6.14 In light of the fact that nothing has materially changed, and that significant weight should be given to the fact permission has been granted four times previously, officers find no new grounds to oppose this application on heritage grounds.
- 6.15 The proposal is therefore considered acceptable when assessed against the NPPF taken as a whole. The proposals would preserve the character and appearance of the conservation area and would preserve the setting of the nearby listed buildings. As such, the LPA has discharged its statutory duty under Section 66 & 72 of the Planning (LB & CA) Act 1990.

Conclusion on Paragraph 11 (d) i. and principle of development

- 6.16 The proposal would preserve the character and appearance of the Tonbridge Conservation Area and would preserve the setting of nearby listed buildings. After carrying out the Paragraph 11(d) i. exercise and subsequently concluding that there are no “restrictive policies” in the NPPF which provide a clear reason for refusal, the application must therefore be considered against paragraph 11 (d) ii. of the NPPF and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The remainder of this report therefore considers the remaining detailed matters.
- 6.17 With regard to the principle of development, Policy CP1 of the Core Strategy states, amongst other things, that development will be concentrated at the highest density compatible with the local built and natural environment mainly on previously developed land and at those urban and rural settlements where a reasonable range of services is available and where there is the potential to be well served by sustainable modes of transport. Best use will be made of the existing housing stock.
- 6.18 Policy CP11 of the Core Strategy adds that development will be concentrated within the confines of urban areas, which includes Tonbridge. Tonbridge is itself considered to be one of the most sustainable locations in the Borough for new development given the access to services and facilities available within the town. The proposal within the built-up part of Tonbridge is therefore acceptable in principle.

Provision of housing

- 6.19 Paragraph 60 of the NPPF sets out that, to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

- 6.20 Paragraph 70 of the NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. It adds that LPAs should support the development of windfall sites through policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes.
- 6.21 With regard to the above, it is acknowledged that the provision of one new dwelling would be considered a small site and, together with other windfall sites in the Borough, does make an important contribution to housing supply. As already mentioned above, it is a material consideration in this case that permission for a single dwelling has been granted four times previously. This in itself is a matter to be attributed significant weight.
- 6.22 The provision of a new dwelling given the shortage of house building in the Borough is a matter that attracts significant positive weight in the overall planning balance, but this weight is scaled to the fact that only one dwelling is proposed in the context of the overall housing need in the Borough.

Impact on the character and appearance of the site, streetscene and local area

- 6.23 Policy CP1 of the Core Strategy (2007) states that all proposals for new development must result in a high-quality sustainable environment. This is expanded upon in subparagraph 6.1.5 and includes matters such as making efficient use of land and making a positive contribution to local distinctiveness, character, townscape and the setting of settlements.
- 6.24 Policy CP24 of the Core Strategy is also applicable and states, inter alia –
1. All development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings.
 2. All development should accord with the detailed advice contained in Kent Design, By Design and Secured by Design and other Supplementary Planning Documents such as Village Design and Planning Briefs and, wherever possible, should make a positive contribution towards the enhancement of the appearance and safety of the area.
 3. Development which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement or the countryside will not be permitted.
- 6.25 Policy SQ1 of the Managing Development and the Environment DPD (2010) is concerned with the Borough's Landscape and Townscape Protection and Enhancement. It has the following to say of relevance with respect to new development -

1. Proposals for development will be required to reflect the local distinctiveness, condition, and sensitivity to change of the local character areas as defined in the Character Area Appraisals SPD.
 2. All new development should protect, conserve and, where possible, enhance:
 - (a) the character and local distinctiveness of the area including its historical and architectural interest and the prevailing level of tranquillity;
 - (b) the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.
- 6.26 Again, as already explained in the previous report, the proposal would sit comfortably within its setting and is therefore acceptable in spatial terms. Dwellings here are set within spatial plots and the proposal would respect that layout. The design and materials have been considered acceptable previously, subject to conditions for the submission and approval of details and samples of external materials and finished floor levels (conditions 3 and 10), and this remains the case. Whilst the threshold for high-quality design has increased in recent years, the proposal would still comply with the intentions of the NPPF and good design generally.
- 6.27 It is not considered that the proposal would be harmful in design terms, nor would it harm the character and appearance of the site, streetscene or local area. As such, the application accords with Policies CP1 and CP24 of the Core Strategy, Policy SQ1 of the MDE DPD and complies with the NPPF in this regard. This absence of harm attracts neutral weight in the overall planning balance.

Impact on residential amenity

- 6.28 Paragraph 135 (f) of the NPPF states that planning policies and decisions should ensure that developments 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. Policy CP1 of the Core Strategy also requires proposals to have regard to impacts on residential amenity.
- 6.29 As set out above, some concerns have been raised with regard to a loss of privacy. The dwelling has been designed so that the only windows facing The Vicarage would be high-level in the gable ends of the dwelling. The concerns relating to the loss of trees and vegetation and therefore a change in the relationship between The Vicarage and the block of flats to the south has been considered previously. Nothing has materially changed which would lead to the LPA now considering there to be substantial harm, such that it would warrant refusal of the application. A significant change in stance in this regard would be considered unreasonable behaviour by the LPA.
- 6.30 The design, positioning, orientation and separation distances involved means that there would not be undue harm on neighbouring properties in this case. The

concerns regarding an increase in noise as a result of an increase in population attract very limited weight. There is no guarantee that a family with young children would end up occupying the dwelling and the LPA has no reasonable grounds to control this via a planning condition. In any case, the proposal is within a built up area where some background noise is to be reasonably expected in this case.

- 6.31 Officers have visited the site and the boundary with The Cedars adjacent to the SAM appears to be much denser and well established than is shown in the applicant's photos. It is not considered that any undue harm would occur to The Cedars.
- 6.32 As such, it is not considered that the proposal would result in any such significant harm that the application could reasonably be refused in relation to neighbour impacts. This absence of harm attracts neutral weight in the overall planning balance.

Living conditions of future occupiers

- 6.33 The plans suggest that the habitable rooms within the dwelling would have an adequate outlook and access to natural light. There would be no concerns with overlooking from neighbouring properties given the orientation of the dwelling and positioning of the proposed windows. The proposed garden would also appear adequate for a dwelling of this size. Again, concerns have not previously been raised in this regard.
- 6.34 It is acknowledged that the garden of The Vicarage would appear to be made smaller as a result of this proposal, however, it is understood that the application site is no longer within the ownership of The Vicarage, as has been demonstrated by the applicant's agent. This is discussed in more detail below.

Impact on highway safety and parking provision

- 6.35 Paragraph 114 of the NPPF states that, in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, inter alia, safe and suitable access to the site can be achieved for all users. Paragraph 115 adds 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.
- 6.36 Neighbours have objected to the loss of car parking within the existing car park serving the church to facilitate the access driveway to the proposed dwelling. The applicant's agent has stated that the existing car park. The majority of the carpark falls outside the red line but remains within the ownership of the site. The access driveway would result in the loss of two parking spaces within the car park. Whilst this may be considered significant to local residents this is a private car park and the number of spaces provided with the car park falls outside planning remit. It is not therefore considered that a reason for refusal could be substantiated in this regard.

- 6.37 The proposal would not pose an unacceptable risk to highway safety and would not meet the high threshold set out in the NPPF for refusing an application on highway grounds.
- 6.38 It is acknowledged that the provision of 4 parking spaces would be an overprovision. The Council's Parking Standards only require two parking spaces. However, given the concerns set out by neighbours, any insistence on lesser parking would mean additional cars and visitors to the site would need to park on the street. This is counter-productive to the concerns raised by local residents. An overprovision is considered acceptable in this instance as the site would still comprise a substantial amount of soft landscaping in any case. Again, this did not form a reason to refuse the previous applications. The provision of the vehicle parking spaces prior to occupation of the dwelling would be secured by condition (condition 8), as would the provision of the service road which provides access to the dwelling (condition 14).

Impact on ecology

- 6.39 Policy NE2 of the MDE DPD outlines that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced. Policy NE3 of the MDE DPD also states development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in an overall enhancement. Proposals for development must make provision for the retention of the habitat and protection of its wildlife links. The Council will impose conditions, where necessary and appropriate, to minimise disturbance, protect and enhance a site's ecological conservation value, to ensure appropriate management and monitoring and creating new or replacement habitats of enhanced ecological value.
- 6.40 Paragraph 180 of the NPPF advises planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity. Paragraph 186 of the NPPF states if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.41 Following concerns raised by neighbours, the applicant was asked to carry out an ecological survey with particular regard to badgers. The site visit confirmed what appeared to be a sett and the occupant of The Vicarage was advised not to cut the grass or vegetation around this sett. Following receipt of the survey, KCC Ecology were consulted. They noted that the survey indicated it was not an active sett but that it could not be confirmed with any certainty because the tunnels extend into the grounds of The Cedars, of which they could not gain access. KCC Ecology raise no objections to the proposal, subject to conditions. One of these conditions is that the sett must be re-surveyed within 3 months prior to commencement and some form of

assurance provided (condition 6). The outcome of this further survey will then influence the mitigation that is required, if necessary.

- 6.42 The applicant will also be required to deliver biodiversity enhancements which is standard practice. KCC have set out in their comments examples of typical enhancements that are supported. This is again, to be conditioned (condition 7).

Impact on Trees

- 6.43 Policy NE4 of the Managing Development and the Environment DPD states, amongst other things, that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network as illustrated on the Diagram. This includes provision of new habitats as part of development proposals.

- 6.44 Paragraph 136 of the NPPF (2023) recognises the importance of trees and states:

“Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.”

- 6.45 The submission proposes to retain the Copper Beech tree. This approach is different from the previous consents in which the tree was proposed to be removed. The retention of the tree has been supported by Officers. It however should be emphasised that given the planning history, it would not be reasonable or justifiable to refuse the application on removal of this tree, or any others within the site.

- 6.46 The Council has also given formal consideration as to whether to include the Copper Beech and Walnut trees within a new Tree Preservation Order and it was formally determined that the trees are not appropriate for inclusion within an Order. The Tree Officer highlighted that if the Council considered that the Copper Beech and Walnut trees were appropriate for inclusion within a TPO (i.e. it was expedient in the interests of public amenity), then an Order should have been made prior to granting any planning consent – bearing in mind the duty under Section 197 of The Act which state:

- 6.47 *“It shall be the duty of the local planning authority—*

(a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and

(b) to make such orders under section 198 [Power to make tree preservation orders] as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.”

6.48 Pre-commencement conditions would be attached to require the submission and approval of details of tree protection and a method statement for the entire site (condition 11), an appropriate and detailed scheme of landscaping and boundary treatment (condition 9), details of levels including those relating to the no dig construction of the access driveway (condition 10), and details of services in relation to trees (condition 12), to ensure that the trees to be retained are protected during the construction of the proposed development.

Climate Change

6.49 Paragraph 158 of the NPPF requires Development Plans to take a proactive approach to mitigating and adapting to climate change. Paragraph 154 encourages new development to avoid increase vulnerability to the range of impacts associated with climate change. Where new development is proposed in vulnerable areas, care should 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.

6.50 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.

6.51 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.

6.52 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.

Land contamination

6.53 Given the location of the site next to a historic graveyard, there is the potential for land contamination at the site. A contamination condition (condition 15) is therefore recommended to ensure that if significant deposits of made ground or indicators of potential contamination are discovered, the works cease until an investigation/remediation strategy has been approved by the Council.

Other matters

6.54 Local residents have also raised concerns with the loss of the site for garden parties and other events hosted by the church. The applicant has demonstrated that they own the land, albeit there are no fences erected to show that the site has been separated from The Vicarage. It appeared from the site visit that the occupant of The Vicarage was maintaining the land such as mowing the lawn etc.

6.55 It is not clear whether the applicant and the occupant of The Vicarage have an informal agreement in place, but in any case the land is privately owned and the church does not therefore have an automatic right to use the land for its purposes without the landowners consent. Officers cannot therefore attribute any weight to this argument and the evidence suggests that there is no loss of a local community asset in this case, as the land is privately owned.

Planning balance

6.56 The LPA acknowledges that it cannot currently demonstrate a 5-year housing land supply. Furthermore, the policies in the emerging Local Plan cannot currently be attributed weight, given the early stage of the Plan. Paragraph 11 of the NPPF states that, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted 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.

6.57 As set out above in this report, the proposal would not result in harm to any protected areas or assets and there is no clear reason to refuse the application in accordance with Paragraph 11 (d) i. above.

- 6.58 In weighing the proposal in the overall planning balance, required by Paragraph 11 (d) ii., the LPA recognises that there is a housing need and as such significant positive weight should be attributed to housing schemes. This weight is scaled to the fact that only one dwelling is proposed in the context of the Borough's overall housing need. It is acknowledged that there would be some modest additional benefits to the economy through the construction of the development itself and the subsequent occupation of the dwelling, whose occupants would contribute to the local economy through using local services and facilities. Some of these benefits are temporary and only during the construction works themselves.
- 6.59 Officers consider it appropriate to attribute significant weight to the fact that planning permission has been granted at the site for a single dwelling four times previously. This must be considered in reaching a decision on the application otherwise the LPA would be at risk of challenge for unreasonable behaviour.
- 6.60 It is recognised that there would be no significant impact on neighbouring properties, heritage assets, ecology, highway safety or parking provision and the proposal would be acceptable in terms of design and living conditions. However, absence of harm in relation to these matters is not a benefit of the scheme, but rather, weighs neutrally in the planning balance.
- 6.61 Therefore, having regard to the above, in applying paragraph 11 of the NPPF, it is considered that the adverse harm arising from the proposals would not significantly and demonstrably outweigh the potential benefits of the scheme and so the application should be approved.

7. Recommendation:

7.1 **Approve** subject to the following:

Conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Proposed Elevations 0116_PLN_01; Proposed Floor Plans 0116_PLN_00 Rev. E; Arboricultural Report (prepared by The Mayhew Consultancy Ltd, dated June 2024); Design and Access Statement (prepared by Niche Architects LLP, dated May 2020); Ecological Appraisal (prepared by FPCR Environment and Design Ltd, dated October 2023); Letter from Howard Sharp and Partners, dated 20/05/2020; Letter from Howard Sharp and Partners, dated 11/09/2024.

Reason: To ensure that the development is carried out in accordance with the plans and documents hereby approved.

3. No development, other than the demolition of any buildings, removal of hard standing, ground investigations or site survey work, 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 the character and appearance of the existing building or the visual amenity of the locality.

4. No development, other than the demolition of any buildings, removal of hard standing, ground investigations or site survey work, shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

5. No development, other than the demolition of any buildings, removal of hard standing, ground investigations or site survey work, shall take place until details of foundation designs and any other proposals involving below ground excavation have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation in situ of important archaeological remains.

6. Within 3 months prior to commencement, a pre-works update walkover will be undertaken by a suitably qualified ecologist to re-assess the status of the on-site badger sett. Following the updated walkover and any necessary badger activity monitoring surveys, details of the results, any necessary mitigation, licensing, and compensation requirements will be submitted to and approved in writing by the Local Planning Authority prior to the onset of works. Mitigation measures will include necessary precautionary working methods for the protection of all retained habitats and protected species that could be affected by site clearance and construction works. The works shall be carried out in accordance with the approved details for the full duration of the construction period.

Reason: To ensure the protection of protected wildlife species.

7. Prior to completion, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. These details will be based on the Ecological Appraisal by FPCR Environment and Design Ltd

dated October 2023. The approved measures will be implemented and retained thereafter.

Reason: To ensure the protection of wildlife species.

8. The use shall not be commenced, nor the premises occupied, until the area shown on drawing 0116_PLN_00 Rev. E 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.

9. a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is commenced.
- b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.
- c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within ten years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development.

10. a) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.
- b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation.

11. a) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a site specific arboricultural method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority. The tree protection plan and arboricultural method statement shall be based on and expand upon the principles contained within the "Arboricultural Report, Tree Survey, Arboricultural Impact Assessment & Tree Protection Plan" by The Mayhew Consultancy Ltd dated June 2024, and include finalised details relating to the whole site/development (including, but not limited to, full details of proposed treeworks and protection measures and techniques to prevent/minimise damage to retained trees during installation of the services).

b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

12. a) No development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with details approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, D, E, and F of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In order to control all works that are in close proximity to the adjoining Scheduled Ancient Monument ['The Fosse'].

14. The dwelling hereby permitted shall not be first occupied until the service road which provides access to it has been constructed in accordance with the approved plans.

Reason: To ensure the safe and free flow of traffic to/from the new dwelling house.

15. (a) If during development, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

Informatives:

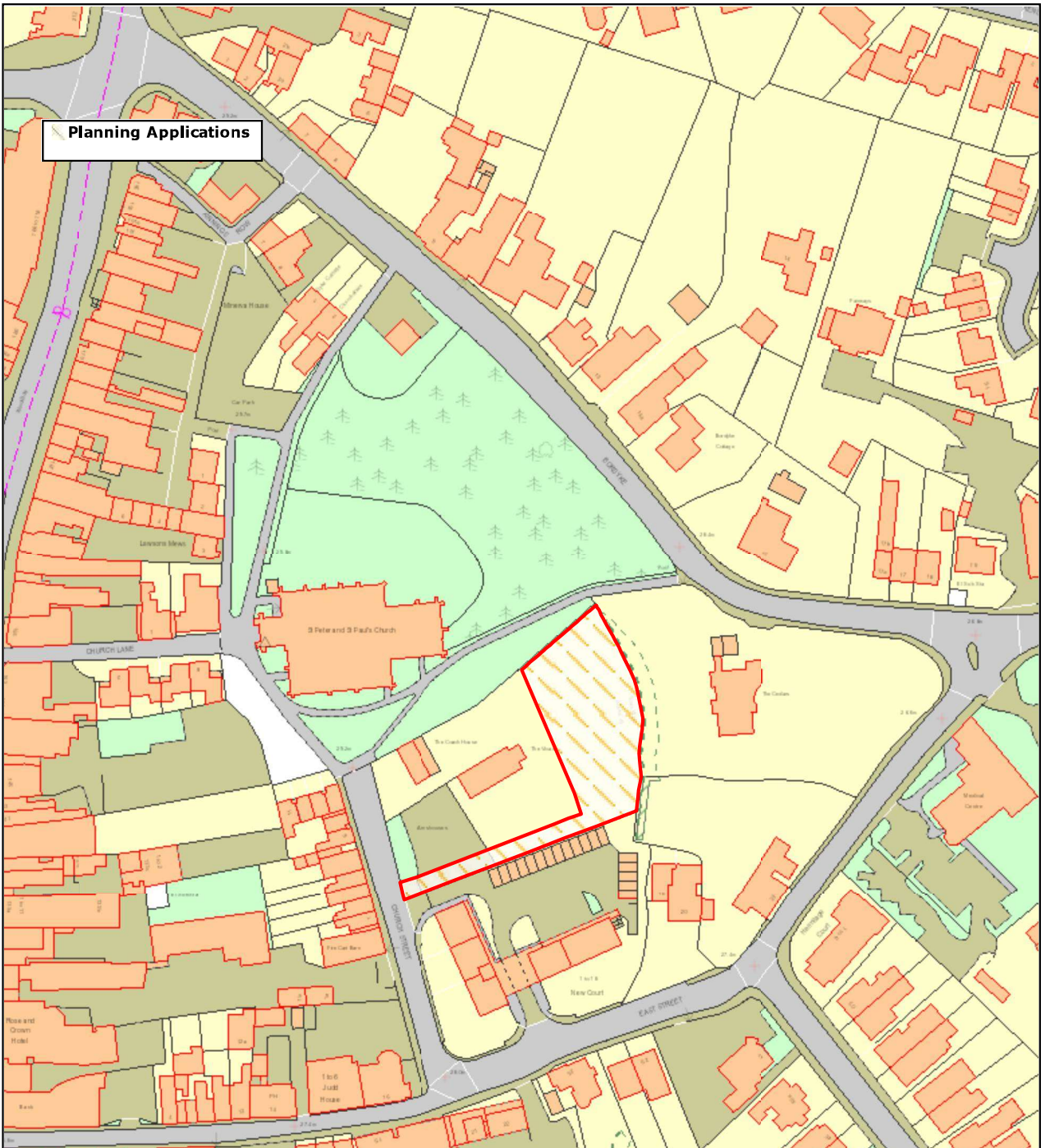
1. The applicant is advised to contact Historic England with regard to any permission that maybe required for work in close proximity to the Ancient Monument ['The Fosse'].
2. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmbc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
3. The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
4. The applicant is advised that the Local Authority operates a back edge of public highway refuse collection service. Bins should therefore be moved to the boundary of the site close to the public highway for use on collection day.
5. The applicant is reminded that land contamination risk assessment is a step by step process. During the course of the risk assessment process set out in the above

condition(s) it may become clear that no further work is necessary to address land contamination risks. Where this is agreed to be the case the condition(s) may be discharged by the Local Planning Authority without all the steps specified having been completed or submitted for formal approval. In all cases, written confirmation should be obtained from the Local Planning Authority confirming that the requirements of the condition(s) have been met. The Local Planning Authority would like to take the opportunity to remind the applicant that it is their responsibility to ensure the site is safe and suitable for its end use.

6. The Local Planning Authority will not accept any liability for remediation works.
7. To avoid undue disturbance to neighbours, during the demolition and construction phase, the hours of working (including deliveries) shall be restricted to Monday to Friday 07:30 hours - 18:30 hours. On Saturday 08:00 to 13:00 hours, with no work on Sundays or Public Holidays.
8. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. The applicant is therefore advised to prohibit fires on site during the development stage of this project.
9. Appendix 1 of the Ecology Officer's comments provides some generic (non-exhaustive) information regarding the most common enhancements we see proposed. To provide a view regarding the potential ecological benefits of any project, in line with relevant legislation and planning policy, we require sufficient detail to be submitted. Without sufficient detail we are unable to provide an opinion regarding the suitability of any proposed measures. Suitable detail may include the provision of information such as:
 - The proposed target species;
 - Make and model of any boxes;
 - Location information such as height, aspect, surrounding habitat;
 - Detailed planting schedules; and
 - Relevant basic management necessary to ensure the habitat is suitable for the target species.

Contact: Charlotte Meynell

This page is intentionally left blank



Planning Applications 23/00796/FL

Scale: 1:1250



Tonbridge & Malling Borough Council
 Gibson Building, Gibson Dr
 Kings Hill, West Malling
 ME19 4LZ
 Tel.: +44 1732 844522



Date: 3/10/2024 17:03

©Crown Copyright and database rights 2022 Ordnance Survey
 100014703.

This page is intentionally left blank

Agenda Item 8

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

This page is intentionally left blank

Agenda Item 10

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