

Hildenborough
Hildenborough

12 November 2015

TM/15/03345/FL

Proposal: Demolition of former school buildings (part of which are occupied by the Raphael Medical Centre for Class C2 care use and part of which are vacant) and redevelopment with a two storey building and basement to provide a 28 bedroom specialist care facility with landscaping and car parking

Location: Raphael Medical Centre Coldharbour Lane Hildenborough
Tonbridge Kent TN11 9LE

Applicant: Raphael Medical Centre

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1. Description:

- 1.1 Planning permission is sought for the demolition of the former school buildings and existing care accommodation which occupies the site and its redevelopment with a purpose built two storey building (plus basement) to be constructed around a central landscaped courtyard. The proposed new building would comprise a 28 bedroom specialist care facility, including consulting and therapy rooms and associated medical and communal facilities.
- 1.2 The building layout comprises consulting and therapy rooms, kitchen and office space at basement level, bedrooms and dining space at ground floor level, and a seminar room at first floor level.
- 1.3 The building is designed as a 'D' shaped footprint comprising two 'wings' located around a secure landscaped inner courtyard that will be accessible from basement level. It would have a monopitched roof (sloping up from the building's outer edge towards the internal courtyard) covered in cedar shingles. At the western most part of the building a first floor seminar room would be located within an oval shaped projection that would be visible above the outer D-shaped 'wings'. Flat roof areas (behind the outer mono-pitched roof) and on the first floor projection are to be sedum. It is proposed to clad the ground floor in hardwood timber rain screen cladding, with the elevations broken into smaller sections in order to visually break-up the scale of outer elevations.
- 1.4 The location of the new building would broadly occupy the positioning of the former school buildings, a number of which have been converted and brought into residential care home use by the Raphael Medical Centre (RMC).
- 1.5 Access would be via the existing access from Coldharbour Lane which serves the main RMC complex as well as other private residential properties located on the northern side of the access road. Thirteen additional parking spaces (including 2 disabled spaces) are proposed to serve the new development, in addition to the 17 existing parking spaces in this part of the site which will be retained. A drop-off area is proposed immediately adjacent to the entrance.

1.6 The application is accompanied by a Needs Assessment which was submitted with the original application (in late 2015), together with further supporting justification which was submitted in May and September 2016. These are, in effect, the 'very special circumstances' advanced by the applicant to support its proposals. They can be summarised as follows:

- *The RMC is a recognised specialist centre of excellence with a well-recognised track record in managing complex patients with brain injury. It is the ideal place for a new specialist care facility;*
- *The existing 8-bed special care unit is too small to meet the RMC's needs or run efficiently, whilst some of the former school buildings are now semi-derelict. The proposed new 28-bed unit will be more efficient, provide much needed additional support facilities as well as enabling the continuation of important research and provide training opportunities;*
- *The minimum size of a specialist inpatient rehabilitation unit is a 20 bed care facility, and must include co-located therapy facilities;*
- *The proposed facility would help to reduce bed-blocking in hospitals and long-term health costs and community care costs that are incurred when adequate and early rehabilitation is not available;*
- *The RMC is currently the only service provided in the area able to treat and care for Category A patients (patients with highly complex needs) with the facilities to meet Level 1 (highly complex) and Level 2 (more complex) criteria;*
- *Whilst the applicant accepts that there is no comprehensive NHS data available on brain injury, the RMC's own assessment of neurological rehabilitation facilities within Kent & Medway (based on an increasing population to 2026) suggests there is an undersupply of 140 bed spaces;*
- *The applicant suggests that the existing 8 bed special care unit has been at 100% occupancy, with an average patient length of stay of 7 months 10 days. The RMC's waiting list varies from time to time but is usually about 10 patients at any one time;*
- *The proposed facilities would include much needed X-ray and CT scanners, relieving pressure on the local District General Hospitals;*
- *The proposals are supported by the Kent and Medway NHS and Social Care Partnership Trust specialist consultants [DPHEH – it should be noted that a letter of support has been supplied from a Consultant Neuropsychiatrist working at Sevenoaks Hospital, as opposed to a letter of support on behalf of the NHS/Clinical Commissioning Group per se]. This supporting letter recognises the important work that the RMC currently undertake and highlights the closure of the only service in Kent & Medway that provides inpatient*

neurorehabilitation facilities – that being the West Kent Neurorehabilitation Unit at Sevenoaks Hospital;

- *The geographical location of the site is well placed to accept patients from local and regional hospitals;*
- *The RMC already provides local employment and the proposal would offer new and long-term skilled employment opportunities. In order to be most effective, the proposed facility should be co-located on the current site as to try and establish a new site elsewhere would be very difficult, prohibitively costly and take many years to develop;*
- *The amenity and ambience of the site, comprising some 19 acres of landscaped grounds with a waterfall, gardens, woodland and lake, make it an ideal setting for the acute nature of the RMC's work. The peace and quiet is vitally important and supports patient recovery; and*
- *Support for this planning application is therefore urgently sought to enable the RMC to continue to provide its vital and specialised services to help an increased number of patients on the road to recovery.*

- 1.7 A Transport Statement (TS) has been submitted detailing the proposed access to the site via the existing priority junction off Coldharbour Lane which currently serves the RMC. The TS considers trip generation for the proposed new facility compared to that of the extant use of the site as a school. It concludes that the proposed development would likely generate far less trips than the extant use, suggesting that over a typical day the proposed use would generate some 401 less vehicular trips. A Travel Plan (TP) has also been submitted which sets out proposed measures to reduce car usage by visitors and staff, and to encourage more sustainable modes of transport (i.e. public transport, cycling and walking) for staff and visitors.
- 1.8 An Arboricultural Report includes a survey of existing trees within the site. It is proposed to remove a number of trees (8 individual trees, 1 group and a hedge) to accommodate the proposed development. Of these trees to be removed, one is considered to be of significant value (a mature Wellingtonia) in arboricultural terms. The submitted report also sets out tree protection measures to ensure that all other remaining trees within the site are adequately protected during construction works.
- 1.9 The proposals incorporate soft landscape works within the site including understorey planting, grass seeding, native bulb planting and shrub and climber planting. In addition, the inner courtyard would be planted with a mix of herbs, climbers and trees. It is proposed to remove the existing timber close-boarded fencing that screens the site from Coldharbour Lane – this would be replaced with mixed dense indigenous hedging and a low visibility wire fence for security.

1.10 Further reports have been submitted covering ecology, sustainable design and construction, energy efficiency and contamination. A Statement of Community Involvement summarises comments from a locally held exhibition for residents' and local organisations which was undertaken by the applicant in August 2015.

2. Reason for reporting to Committee:

2.1 In light of the significant local interest generated by this application, that the previous application (TM/12/02640/FL) was also reported to Area 1 Planning Committee, and that the proposals representing a significant major development in the Green Belt.

3. The Site:

3.1 The site lies within the Metropolitan Green Belt and open countryside. The rural settlement confines of Hildenborough are located to the immediate south of the application site.

3.2 The RMC and its associated residential care home accommodation (St Michaels Court and Raphael Court) occupy a substantial area of land located on the western side of Coldharbour Lane.

3.3 The application site comprises just under 1.4ha of land immediately abutting Coldharbour Lane which was formally Hardwick Park School and latterly Fosse Bank School. It encompasses a former school building, part of which has been converted by RMC to provide an 8 bed specialist care unit, whilst the remainder of the now dilapidated building has a lawful use as a school. The site also contains one prefabricated school building (mobile classroom) which has a permanent planning permission.

3.4 Residential properties in Hardwick Road are located to the south west of the site and to the north east there are a number of residential properties situated in substantial plots. To the south east (beyond Coldharbour Lane) is open countryside.

3.5 The site is subject to extensive individual and group Tree Preservation Orders (TPO). The St Raphael Medical Centre, a Grade II Listed Building, is situated some 80m to the north west of the application site.

3.6 The site is located in a low probability Flood Zone (Flood Zone 1); a category which comprises land assessed as having a less than 1 in 1,000 annual probability of river or sea flooding.

4. Planning History (relevant):

TM/98/02236/FL Grant With Conditions 26 March 1999

Two prefabricated classrooms

TM/02/01789/FL Approved 8 November 2002

Change of use from educational to residential institution and single storey extensions

TM/12/02640/FL Refuse 23 September 2013

Demolition of the former school buildings (part of which are currently occupied by the Raphael Centre for Class C2 care use and part of which are vacant) and redevelopment with a two storey building (plus ancillary basement) to provide a 44 bedroom specialist care facility together with associated landscaping and car parking provision

5. Consultees:

5.1 Hildenborough PC: Request that the following concerns over the proposed development are taken into account:

- Emphasise the rural setting of the site and the need to maintain the environment for local residents;
- Concerns over the effect on local infrastructure – particularly the increased burden on the drainage system which has resulted in leakage of foul water in the past;
- Although the reduction in building height of this new proposed development compared to the previous application (TM/12/02640/FL) is welcomed, concerns with increase in footprint as well as a section at a height of two storeys. The proposals represent 'inappropriate development' in policy terms;
- Particularly concerned with the loss of an iconic Wellingtonia tree. Request that the Council's tree officer must be fully satisfied that the loss of any trees, but in particular this Wellingtonia, is justified having regard to condition and amenity value;
- Notes that the application argues that traffic generation would be less than that previously associated with the former school. However, considerable doubt must exist as to whether this use would ever recommence and therefore feel that this application should be considered in its own right;
- Traffic generated by the RMC would generate a very different pattern of vehicle movement compared to school use when unlike that for the Medical Centre there would be little movements during weekends and school holiday

times. The rural lane [Coldharbour Lane] is used extensively by pedestrians, cyclists and horse riders and we are concerned for their safety should the volume of traffic be increased by this proposed substantial development resulting in an increase number of staff, visitors and support services accessing the site;

- In the event that the Planning Authority concludes that the proposals do merit a favourable decision the PC would ask that the application be referred to Planning Committee and that robust conditions are imposed on any approval to cover the following matters: -
 - Tree protection and requirement for arboricultural statement and supervision;
 - Provision of satisfactory drainage on and off site;
 - Submission of a construction method statement setting out how all aspects of the construction are supervised to ensure minimal impact on local residents and the area. This should include a regime that will allow residents to report concerns and incidents to those responsible for the site, including during out of office hours;
 - Securing a robust travel plan, including annual monitoring and review over a 5 year period;
 - External lighting designed to minimise impact on local residents and general area;
 - Plant and machinery designed to minimise noise impacts; and
 - A management protocol for the facilities including patient supervision when on and off-site given instances that have occurred locally in the past.

5.2 KCC (H+T): No objections, confirming that the injury crash record on Coldharbour Lane remains good (low) and that the proposals offer significantly lower levels of traffic generation compared to what would be permitted otherwise without the need for a further planning application. Confirms that the proposed car parking arrangements are acceptable, as is the intended use of the existing access of Coldharbour Lane.

5.3 KCC (Heritage): Notes that the site is of archaeological, historic building and historic landscape sensitivity – it is the site of a late post medieval residence known as *Hollanden*. The main building is identifiable on the 1st Ed OS Map and it is set within a range of historic landscapes with formal gardens, glasshouses and extensive nursery to the north east and specimen woodland and formal walkways around. Considers that the application should be supported by detailed historical assessment.

- 5.4 KCC (LLFA): Raise no objection but request a sustainable drainage scheme, based on site infiltration testing, is required by condition. Also request that a condition is imposed preventing the infiltration of surface water drainage into the ground without the express permission of the Planning Authority.
- 5.5 Environment Agency: Has assessed this application as having a low environmental risk and therefore have no comments to make.
- 5.6 Upper Medway Internal Drainage Board: Raise no objection in principle, but request a drainage scheme by condition.
- 5.7 Private Reps: 44 + Site Notice + Press Notice 0X/42R/5S, including a representation from the Hildenborough Village Preservation Society. The main reasons for objection to this application are:
- Major commercial development within a rural Green Belt site which represents 'inappropriate development';
 - Previous reasons for refusal (TM/12/02640/FL) should be upheld;
 - Significant increase in built development within the site (and considers that the temporary school mobile should not be included in any existing floorspace calculations);
 - Increased visual impact through the closer proximity of the new building to Coldharbour Lane and Hardwick Road, together with the increased new building height;
 - Development is contrary to Hildenborough Local Plan;
 - Concern over the loss of the Wellingtonia tree;
 - Traffic concerns arising from proposed vehicle movements and timings, and safety concerns surrounding pedestrian, cyclist and horse rider users within Coldharbour Lane;
 - Increase noise and disturbance from comings and goings which is inappropriate in a residential area;
 - Highway improvements required to Coldharbour Lane – specifically road widening, street lighting, pedestrian pavements and traffic calming measures;
 - The proposed building does not reflect the character or style of surrounding buildings in the local area;
 - Increased light pollution;

- Concerns expressed over patients wandering un-supervised outside of the site;
- Questions the true “need” for this facility in this location;
- Construction concerns, especially resulting from the large basement area;
- Questions why all residents within Coldharbour Lane have not been notified of the application;
- Overlooking concerns of surrounding residential property; and
- Flooding and drainage concerns as a result of the new building;

5.8 5 letters of support, including a petition letter submitted by the ‘Friends and Relatives of Patients Resident at the Raphael Medical Centre’ have been received expressing strong support for the valuable work that the RMC undertakes from its site in Hildenborough and emphasising the need for the new specialist care facilities.

6. Determining Issues:

6.1 Firstly, it is important to consider that this application represents a set of entirely new proposals submitted by the Raphael Medical Centre (RMC) to provide a new 28-bed specialist care facility within its site off Coldharbour Lane in Hildenborough. These proposals do follow on from an earlier application (TM/12/02640/FL) for a markedly different 44-bed specialist care facility on the same site that was refused planning permission at the meeting of the Council’s Area 1 Planning Committee on 12 September 2013. Whilst this earlier refusal does provide a relevant material planning consideration in the determination of this case, it must be stressed that the proposals which are now presented represent an entirely different building design and approach to meet the RMC’s needs. It is, of course, the case that each application must be determined on its own individual merits, having regard to the relevant policies contained in the Council’s Development Plan, together with any other material planning considerations.

Development in the Green Belt:

6.2 The site lies outside of the rural settlement confines of Hildenborough as identified in the Council’s adopted LDF and lies within the Metropolitan Green Belt where restrictive planning policy applies. The Green Belt is a strategic designation intended to (inter alia) check the unrestricted sprawl of large built-up areas and prevent the merging of neighbouring towns into one another.

6.3 TMBCS Policy CP3 states that national Green Belt policy will be applied to proposals within Green Belt land. National Green Belt policy is set out in paragraphs 79-92 of the NPPF. In particular, it identifies that a LPA should regard

the construction of new buildings in the Green Belt as inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances' (VSCs).

6.4 It must first be determined whether the proposed new building could meet any of the exceptions to inappropriate development as set out in paragraph 89 of the NPPF. The most pertinent exceptions relevant to this proposal being:

- *The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; or...*
- *Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

6.5 I recognise that the proposed new specialist care facility building (a C2 land use) is intended to replace existing buildings on the application site and that part of these buildings are currently used as a specialist care unit within a C2 (residential institution) use class. The remaining part of the existing buildings which would be replaced as part of the proposals have a lawful D1 (non-residential institution) use classification associated with their former use as a school. On the basis that the proposals do not simply relate to a pure replacement of an existing building with a new building wholly in the same use class, I am of the opinion that the 4th bullet point exception to inappropriate development (i.e. *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*) cannot be applied in this instance.

6.6 It is also clear that the proposed new specialist care facility building is materially larger than the existing permanent buildings that it would replace. In this respect, and to provide some approximate building dimension comparisons, the height of the proposed new building would be 4.2m to ridge height at ground floor and 7.3m to ridge height at first floor, compared to the existing single storey building ridge height of 5.7m. In addition, the approximate floorspace of the proposed new building would be 3,540 sq. metres (including basement, ground and first floor accommodation), compared to the existing single storey building floorspace of approximately 1,498 sq. metres. These figures indicate not only a physically larger building in first floor height terms, but also a considerably larger replacement building in floorspace terms. In light of this, I can only conclude that the proposed replacement building is *materially larger* than the one it replaces.

6.7 The applicant has advanced the position that the proposed building would represent a footprint increase of 15% over and above the existing built footprint within the application site; however, from my own approximate calculations I would suggest that this is more likely to be a 27% increase in building footprint. It should

also be noted that some question has been raised as to whether the existing mobile classroom which occupies the site should be counted within existing and permanent built development on the site. This existing mobile classroom benefits from a permanent planning permission (SW/6/73/290) and therefore, rightly so, its floorspace should be taken into consideration in respect of the existing built footprint datum for the site. It would also be worth noting at this juncture that another former mobile classroom was removed from the site in 2014 – this particular building only benefited from a temporary consent and, following the service of an Enforcement Notice, was removed from the site during 2014. The building footprint of this former temporary mobile classroom is therefore not included in any existing building footprint calculations.

- 6.8 Turning to the 6th bullet point exception to inappropriate development as set out in NPPF para. 89 (i.e. *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development*), I can conclude that the application site can, in part, be regarded as previously developed land with permanent buildings. However, given the size increases set out above in terms of building floorspace, footprint and overall height, in my view the proposals would clearly have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 6.9 Taking these factors into account, it is my view that the proposal quite clearly falls outside of the relevant Green Belt policy exceptions and, accordingly, it would constitute inappropriate development within the Green Belt, by definition. The NPPF makes it clear (in para. 87) that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to state (in para. 88) that when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt. VSCs will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this case, it is therefore necessary to consider whether the proposed development causes any other harm and whether there are any other considerations relevant to the overall balance that would amount to VSCs.
- 6.10 In addition to the definitional harm caused to the Green Belt by virtue of the ‘inappropriate’ nature of the development, I consider that the physical form of the proposed building – i.e. it being larger than the buildings it replaces in floorspace, footprint and height terms – would result in harm to the openness of the Green Belt in this location. It must be remembered at this juncture that the Government attaches great importance to the Green Belt. The fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their **openness** and their **permanence** [my emphasis added].

- 6.11 The proposed building is designed around a central internal 'D' shaped courtyard, covering much of the existing footprint of both the existing buildings and the hard surfaced area (former playground). The proposed new replacement building would be significantly 'cut-in' to the existing site topography to create the below-ground basement level. The resulting impact is that the proposed building would undoubtedly have a greater internal floorspace (increased from 1,498 to 3,540 sq. metres), it would have a higher ridge height (in part) and would bring the extent of built development closer towards the site frontage with Coldharbour Lane compared with the existing permanent buildings that currently occupy the site. I therefore conclude that the physical size of the replacement building is of a significantly larger scale, and will undoubtedly cause harm to the Green Belt by virtue of an overall reduction in the openness of the Green Belt in this location.
- 6.12 With the above considerations in mind, it is necessary to establish whether very special circumstances exist in this case which outweigh the degree of harm caused by the proposed development by virtue of its inappropriate nature and its physical impact on openness and any other harm identified. In my view, the VSCs hinge on whether there is an actual 'need' for the specialist care facility and then, if the need can be demonstrated, whether it is essential to have a building of this size and in this location in order to satisfy that need.
- 6.13 The application accepts, by its own omission, that there is no quantifiable data available from the NHS, or other independent sources, which could demonstrate a robust case of medical 'need' for the proposed 28 bed specialist care facility. It is this very issue which has delayed the determination of this case (which was submitted back in late 2015) since officers have allowed the applicant a significant additional period of time in which to advance a robust case of 'very special circumstances', focussing on a clearly evidenced case of need for the proposed new facility at this site. Despite a considerable period of additional time being afforded to the applicant for that very purpose, little additional information has been forthcoming. Having been entirely reasonable in allowing the applicant this additional period of time, it is now necessary to determine the application based on the information submitted.
- 6.14 It is appropriate to acknowledge and recognise the valuable work which the RMC undertakes from its existing premises in Hildenborough – I must make it clear that this point is not in dispute in this case, but instead these proposals for a significant expansion at the site must be considered on their own merits and in light of prevailing development plan policy, policy guidance and other material planning considerations. It is simply not possible in planning terms to justify the grant of planning permission for a major new care facility within this Green Belt location on the basis of emotive reasons, or the track record of an applicant in terms of the valuable medical work they undertake.
- 6.15 The applicant has provided supporting information in respect of its claimed 'need' for the new specialist care facility; the key points of which I have outlined at

paragraph 1.6 above. A balanced planning judgement must therefore be made as to whether these justifications are capable of individually, or cumulatively, forming VSCs that override the harm to the Green Belt by reason of the proposed development's inappropriateness, and the any other harm which would result from the proposals.

- 6.16 In this instance it is unfortunate that there is no NHS, or other independently verified data, available which demonstrates an actual bed space 'need' for neurological rehabilitation facilities in the locality. The applicants own needs assessments appears somewhat ambiguous and difficult to quantify to such an extent to *reasonably* or *robustly* rely on an actual clearly evidenced 'need' being demonstrated which could form a VSC when considered against the high-level test afforded to the protection of Green Belt land under the NPPF. I therefore conclude that, in this instance, the applicant has been unable to sufficiently present a justifiable case of need for the new 28 bed specialist care facility which outweighs the degree of harm that I have identified that would arise in this instance.
- 6.17 The supporting documents clearly identify these proposals as an extension and expansion of the existing facilities provided at this site by the RMC, highlighting that there is already a team of existing healthcare professionals at the site who are leading experts in their specialist field of neurological rehabilitation. Moreover, it states that the RMC is the only service provider in the Kent & Medway area to treat and care for Category A patients with the facilities to meet Level 1 and Level 2 complex care needs (i.e. patients with the most profound physical disabilities, cognitive communication disabilities or challenging behaviours). It is suggested that the co-location of facilities at this existing site allows for links to step-down community rehabilitation in a number of self-contained units within the main grounds of the RMC which are used by patients being progressed to independent living with minimal support.
- 6.18 The applicant argues that the extensive grounds (circa 19 acres of landscape grounds) set within the Kent countryside provides an ideal setting for the acute nature of the RMC's work, specifically that the peace and quiet is vitally important in supporting patient recovery, especially in the early stages.
- 6.19 It should however be borne in mind that this proposal is not being made on behalf of the NHS but rather by a service provider who currently provides specialist services to the NHS; the supporting information states that around 95% of the RMC's patients are referred and funded by the NHS and the RMCs work is actively supported by the NHS. In the latter respect, it should be noted that the applicant has included several letters of support by health care professionals, including one from a Consultant Neuropsychiatrist operating in the NHS; it must however be stated that there is no letter of support from a NHS Clinical Commissioning Group per se.

- 6.20 At the time when the previous application was considered (in July 2013), it was concluded that on the basis of the reorganisation of the NHS (post April 2013) the proposals were somewhat premature in their assertions, particularly bearing in mind the complex processes that the NHS health care sector must undergo in the first instance to define need. On that basis, it was concluded that a sufficient case of very special circumstances had not been advanced that would outweigh the substantial degree of harm to the Green Belt that would be caused by the proposed development by virtue of its inappropriate nature, and the clear harm caused to openness by its physical form and the other harm identified as a result of its physicality and the expansion of the use.
- 6.21 The applicant undertook pre-application discussions with the Planning Authority prior to the submission of this application, where officers stressed the importance of demonstrating an overriding case of very special circumstances or to keep the replacement built form to such a level that it could be considered to meet with one of the exceptions to inappropriate development as set out in para. 89 of the NPPF.
- 6.22 In terms of the overall balance of all the factors that determine whether a justifiable claim for very special circumstances has been made in support of the proposal that constitutes inappropriate development and harm to the MGB, I conclude that those matters discussed above do not amount to a sufficient case of very special circumstances which exist in this particular case to outweigh the degree of harm that would arise in this instance.

Development within the countryside:

- 6.23 In addition to the Green Belt designation, it is important to note that in more general terms, the application site forms open countryside, outside the village settlement confines of Hildenborough. Policy CP14 of the TMBCS seeks to limit development within the countryside to a limited number of instances, the most relevant to this case being:
- *Extensions to existing settlements in accordance with TMBCS Policies CP11 or CP12;*
 - *[...] conversion of an existing building for residential use; or*
 - *development required for the limited expansion of an existing authorised employment use; or*
 - *any other development for which a rural location is essential.*
- 6.24 CP11 of the TMBCS states that development will be concentrated within the confines of the urban areas (Tonbridge, the Medway Gap and Walderslade) and that development adjoining these urban areas will only be permitted if there is an identified need and there are not suitable sites within the urban areas.

- 6.25 CP12 of the TMBCS allows for development adjoining the rural confines of (inter alia) Hildenborough provided that there are no alternative suitable sites and where there is a local justification related to the housing, employment, community or social needs of the settlement and its environs.
- 6.26 With this policy context in mind, whilst the proposed facility would arguably result in some increased employment at the site, the proposals could not reasonably be justified as a limited expansion of an existing authorised employment use. Similarly, whilst I do acknowledge the applicant's justification that a tranquil location is *important* in order to assist with patient recovery, it would be difficult to justify in policy terms that a rural/countryside location for the new facility is *essential* under the terms of TMBCS Policy CP14. I do however accept that the applicant does have an element of 'fall-back' in so far as increased C2 care accommodation could, in theory, be created at the site by lawfully converting the existing former School buildings. With that said, it would in no way amount to the scale of development being proposed as part of this scheme within the countryside. Taking these factors into account, I conclude that the proposed development falls outside of the requirements of adopted planning policy relating to development in the countryside.
- 6.27 It is important to remember that the Council, in its role as the Local Planning Authority, is required to determine planning applications in accordance with the Development Plan in force (in this case those policies cited above) **unless** material considerations indicate otherwise.
- 6.28 It is therefore necessary, in this instance, to establish whether any other material planning considerations exist that outweigh the above Green Belt and countryside policy considerations in this particular circumstance.

Detailed assessment of the proposed development:

- 6.29 I am mindful that one of the core principles contained within the NPPF centres on attaching great importance to the design of the built environment, stating that good design is a key aspect of sustainable development and is indivisible from good planning (paragraph 56). Paragraph 58 of the NPPF states that planning decisions should aim to ensure that developments respond to local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. It also stresses that planning decisions should not attempt to impose architectural styles or particular tastes. Paragraph 65 states that planning permission for buildings which promote high levels of sustainability should not be refused because of concerns about incompatibility with an existing townscape if those concerns have been mitigated by good design.
- 6.30 Similarly, TMBCS Policy CP24 requires that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by Policy SQ1

of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:

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

6.31 In considering the overall impact of the proposals on the visual amenities of the rural area, whilst it is noted that the site itself does not fall within one of the character areas as defined by the Hildenborough Character Area SPD (owing to its location within the countryside outside of the built-up confines), it is nonetheless still relevant to have regard to this document insofar as the development relates to the adjoining rural settlement to the south. The SPD recognises that the respective characters of Hardwick Road and Coldharbour Lane are such that there is a general cohesiveness in terms of built form (particularly in Hardwick Road), with a general dominance of landscape over buildings and a private, secluded ambiance being highlighted as features of positive distinctiveness. In light of the policies cited above, it is fundamental that the proposed development, as a neighbouring building, should take into account these characteristics.

6.32 The new building has been designed, from the context of the surrounding landscaping, to appear as a predominantly single storey building – albeit with a two storey element in the central part of the building above the entrance area. In terms of materials, the external surface materials respond positively to the sites rural/wooded landscape. Cedar shingles would cover the outward facing monopitched roof, sitting above an undulating eaves lines. A series of outer ‘bays’ within the ground floor facades would serve to break the building elevations up into a series of smaller elements, thereby reducing the overall sense of visual bulk of the building. Externally, it is proposed to clad the ground floor of the building in hardwood timber rain screen cladding.

6.33 It is my view that through the use of the cutting-in of the building into the existing site topography, the predominantly low-level outer ‘wings’, the detailing of the elevations and the spread of built development within the site, the applicant has been able to demonstrate the successful integration of the proposed building into this rural, wooded landscape without an unacceptable harmful or jarring impact to its prevailing character and street-scene appearance. I would stress that the building design approach in this case is markedly different from the earlier refused scheme (TM/12/02640/FL) where such a conclusion could not be reached.

6.34 A number of trees (8 trees, 1 group and a hedge) would need to be removed to accommodate the proposed development. However, of those trees, one is considered to be of significant value (a mature Wellingtonia) in arboricultural terms, and also in general public amenity terms. This Wellingtonia tree is a

magnificent mature specimen – like a number of others within the site; however this unfortunately falls within the footprint of the proposed building. The remaining landscaping proposals are acceptable and appropriate for this site, including a proposal to remove the existing timber close-boarded fence that forms the front site boundary with Coldharbour Lane and to replace it with mixed dense indigenous hedging. This existing fence currently forms an urbanising feature in what is a rural landscape and therefore its removal and replacement with a native hedgerow would be a positive visual improvement to the locality.

- 6.35 Whilst I have no objection to the removal of the Wellingtonia tree *in principle* – a position that I am mindful was similarly adopted with the previously refused scheme (TM/12/02640/FL), it must be noted that the loss of such a large tree would be at odds with the general established character of the area being one where there is a recognised dominance of landscape over buildings.
- 6.36 In terms of the impacts of the physical building itself on the neighbouring residents, the building is to be located some distance away from the nearest residential properties (approximately 37-39m from the nearest properties to the north east, and 41-64m from the nearest properties to the south). I am satisfied that, based on these distances, the proposed building form and intervening vegetation (much of which will be retained) there would be no unacceptable impact on residential amenity in terms of either loss of privacy or overshadowing.
- 6.37 I recognise that the site does lie outside of the Hildenborough Rural Settlement confines but is located on the periphery of these confines and is not therefore in a *wholly* isolated location. Hildenborough is accessible by a range of public transport services, although the site is some distance from the main line railway station and the centre of community facilities. Whilst patients would clearly require private transportation, there would nevertheless be the opportunities for staff and visitors to access the proposed facility by public transport services.
- 6.38 One of the main concerns raised by the local residents relates to traffic generation. In this respect, it must be remembered that the site was previously occupied by a school (Hardwick Park School and latterly Fosse Bank School), which operated as a special school at one time, and latterly as a private school where pupils tended to be delivered to site by vehicle rather than as a conventional primary school with a proportion of walking pupils from the local catchment area. If that part of the site re-established a lawful D1 use, for which planning permission would not be required, then there would be traffic generation attributed to that use. The presence of an existing lawful use at a site is well established as being the appropriate datum against which to assess any new planning proposals.
- 6.39 In this case, the applicant has demonstrated that the traffic generated by the proposal is likely to be less than the site's lawful use. This conclusion appears entirely reasonable and is accepted both by the Highway and Planning Authorities. KCC (H+T) has assessed the proposals and state that there are no grounds to

warrant a refusal on grounds of traffic generation; the same position previously adopted in respect of the previous proposals (TM/12/02640/FL).

- 6.40 Concerns have also been expressed over the access to the site and that of highway safety on the basis that there are no footways in this part of Coldharbour Lane and that it is used by walkers, children and horse riders. On the basis of the assessment set out in the previous paragraph and that the lawful use of the site could give rise to a greater level of traffic generation there would be no justification for refusing the application on these grounds. In this context, the advice contained in paragraph 32 of the NPPF is most relevant – *i.e. that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*
- 6.41 It is generally accepted that short-term demolition and construction phases associated with a new development do inevitably result in some levels of disruption to nearby residents. In this particular instance, had the proposals been acceptable in all other respects, it would have been entirely reasonable to require details of a construction management plan (covering demolition and construction phases) via planning condition based on the major scale of these development proposals. Informatives could also have been imposed on any consent, covering aspects such as hours of working and deliveries in an attempt to minimise these impacts on residents.
- 6.42 Hildenborough PC and residents have expressed concern over the drainage of the site which is understood to have been an ongoing issue in Coldharbour Lane for some time. Given the scale of the proposals, and on the basis of the technical consultee advice received from KCC (as the Lead Local Flood Authority), a planning condition could have been imposed requiring the submission of a sustainable drainage scheme had the proposals been acceptable in all other respects. I am satisfied that this would have been an entirely acceptable way to deal with this matter and therefore could not form part of a reason for refusal in this instance.
- 6.43 The application site forms part of the wider grounds of St Raphael Centre (former Hollenden Park), a Grade II Listed Building, situated some 80m north west of the proposed buildings location. Paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case the Listed Building). Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance of such an asset can be harmed or lost through alteration of the asset or through development within its setting.
- 6.44 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the LPA shall have special regard to

the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 6.45 KCC (Heritage) has noted that the site forms part of the late post medieval residence known as Hollanden, with the main building set within a range of extensive historic landscapes with formal gardens, glasshouses and extensive nursery to the north east and specimen woodland and formal walkways around. In consideration of this case, the site of the new building generally occupies the footprint currently covered by existing buildings and hard standings – those being used by the RMC and those formally occupied by the school. The application would not, therefore, introduce new built development into a part of the site that is currently undeveloped. It is also worthy of note that the location of the proposed new building is well separated in visual terms from the curtilage and setting of the main listed building through well-established, mature, vegetation, the majority of which would be retained as part of the proposals. On the basis of the location and form of the new development, I am satisfied that the proposals would not give rise to harm to the significance of the heritage asset (the St Raphael Centre) in terms of its setting or in terms of any features of special architectural or historic interest which it possesses. Accordingly, I have no objections to these proposals from a heritage perspective.
- 6.46 The submitted Ecology Survey notes that the results of a 2012 and 2015 bat survey indicate that low numbers of common pipistrelle and brown long-eared bats use locations throughout the roof areas of both the actively used and disused buildings for roosting purposes. The report makes recommendations that a European Protected Species Mitigation licence should be applied for (by the applicant). The report details no evidence of great crested newts or reptiles within the site. I am satisfied that had the proposals been acceptable in all other respects, a condition could have been imposed covering the required ecological mitigation works and that there would have been no objections based on ecological impact.
- 6.47 Like the previous application (TM/12/02640/FL), concern has been raised regarding increased comings and goings from the site at anti-social times and potential concerns about unsupervised patients being allowed to wander freely from the site into the wider local neighbourhood. It is important to consider this matter in some detail as it did form one of the reasons for refusal of the earlier scheme (TM/12/02640/FL), as follows:
- "3. The residents of the area and the adjoining properties now experience material problems and instances arising from the existing use of the site. In the absence of any evidence detailing how extended use would be managed, the proposed expansion of the use has the potential to further exacerbate these problems, to the detriment of the amenities which local residents could reasonably expect to enjoy in a location such as this. As such, the proposal is contrary to the requirements of paragraph 69 of the NPPF, Policy CP24 of the Tonbridge and Malling Borough*

Core Strategy 2007 and Policy SQ1 of the Managing Development and the Environment DPD 2010.

Reason: The Local Planning Authority does not consider that there is any justification, in the circumstances of the present application, for overriding the planning policy objections.”

- 6.48 In terms of the perceived increase in noise/disturbance from the site and the potential for anti-social hours vehicle movements, this would not be a reason to refuse planning permission or a matter which could be controlled through the planning system. I would argue that the proposed comings and goings would be similar to those associated with the existing RMC and am mindful that the datum for such assessment must be made against the site's extant use (i.e. with a mix of C2 and D1 planning uses).
- 6.49 In terms of the supervision of patients within the site, the applicant has provided supporting information which sets out that owing to the severity of patients being looked after within the proposed specialist care unit, staffing levels would be very high (not more than 2 patients per nurse at all times). It also states that patients would not be able to walk freely outside of the RMC grounds, and that any patients that could go out into the community as part of their rehabilitation (i.e. Café 1809, or to local shops) would be accompanied by a care worker. Moreover, it must of course be considered that the very nature of patients that would be treated within the proposed specialist care facility (i.e. those with profound physical or mental disabilities) would be immobile and not able to walk freely within or outside of the RMC grounds. On the basis of the submitted information, and the operational controls in place at the RMC, I consider this previous ground for refusal has been satisfactorily overcome and in this case do not consider that this concern could form a ground of refusal in this instance in the same way that it did previously in respect of the earlier scheme (TM/12/02640/FL).

Conclusions:

- 6.50 In light of the above assessment, I conclude that the proposal constitutes inappropriate development within the Green Belt, which is by definition harmful and would also result in actual harm to the open character and function of the Green Belt owing to the materially larger replacement building. Having considered the other relevant material planning considerations as outlined within this report, I do not consider there to be an overriding set of very special circumstances that would outweigh this degree of harm that I have identified. I have also concluded that these proposals represent a form of development which does not comply with adopted countryside policy set out in TMBCS CP14, and I have not found any overriding material planning considerations which exist in this instance to set aside the requirements of this development plan policy.
- 6.51 It is nevertheless unfortunate that, despite a previous unsuccessful application, pre-application discussions, and a substantial allowance of additional time being

afforded to the applicant to demonstrate a clear supporting case of need for its proposals, a successful outcome cannot be reached in this instance in respect of fundamental Green Belt and countryside policy matters. Whilst I am satisfied that the proposals are acceptable (or could be made acceptable though the imposition of conditions) in a number of other more general planning matters, such as highways and parking, neighbouring amenity and in overall design terms, these are not fundamental overriding material considerations which could weigh heavily in favour of the grant of planning permission in this instance.

6.52 I therefore recommend refusal of planning permission accordingly.

7. Recommendation:

7.1 **Refuse Planning Permission** in accordance with the following submitted details:

Statement MANAGEMENT STATEMENT dated 02.03.2016, Report HERITAGE STATEMENT dated 02.03.2016, Supporting Information NHS AND SOCIAL CARE PARTNERSHIP dated 26.11.2015, Desk Study Assessment 11820 dated 19.10.2015, Planning Statement dated 19.10.2015, Flood Risk Assessment dated 12.11.2015, Transport Statement dated 19.10.2015, Travel Plan dated 19.10.2015, Arboricultural Survey dated 19.10.2015, Design Statement dated 19.10.2015, Ecological Survey dated 19.10.2015, Photograph dated 19.10.2015, Photograph dated 19.10.2015, Photograph dated 19.10.2015, Protected Species Report dated 19.10.2015, Report COMMUNITY CONS dated 19.10.2015, Supporting Information NEEDS ASSESSMENT dated 19.10.2015, Existing Site Plan 290/01 dated 19.10.2015, Existing Elevations 290/16 dated 19.10.2015, Existing Elevations 290/17 dated 19.10.2015, Site Plan 290/18 dated 19.10.2015, Location Plan 290/28 dated 19.10.2015, Proposed Plans 290/19 dated 19.10.2015, Proposed Floor Plans 290/20 Basement dated 19.10.2015, Proposed Floor Plans 290/21 Ground dated 19.10.2015, Proposed Floor Plans 290/22 First dated 19.10.2015, Sections 290/23 dated 19.10.2015, Proposed Elevations 290/24 dated 19.10.2015, Proposed Elevations 290/25 dated 19.10.2015, Proposed Elevations 290/26 dated 19.10.2015, Proposed Elevations 290/27 dated 19.10.2015, Letter 0547/RAP15-4 dated 20.05.2016, Email dated 29.09.2016, Email dated 29.09.2016.

Reasons:

1. The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in paragraphs 89 and 90 of the National Planning Policy Framework 2012. The proposed development comprises inappropriate development which is by definition harmful to the Metropolitan Green Belt. In addition, the materially larger scale of the proposed building (in terms of its increased height, floorspace and footprint) would cause substantial harm to the open characteristics of the site and the openness of the Green Belt in this location. No very special circumstances exist which would be sufficient to outweigh the degree of harm caused to the Metropolitan Green Belt. As

such, the proposed development is contrary to the requirements of Section 9 of the National Planning Policy Framework 2012 and Policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007.

2. The site lies in open countryside, outside the rural settlement confines of Hildenborough where Tonbridge and Malling Borough Core Strategy 2007 Policy CP14 seeks to restrict new development to a limited number of instances. The proposed development does not meet any of these defined exceptions and therefore represents an inappropriate form of major development in the countryside, contrary to the requirements of this policy. There are no overriding material planning considerations which indicate that the provisions of Tonbridge and Malling Borough Core Strategy 2007 Policy CP14 should be set aside in this instance.

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