

**Tonbridge**  
Judd

**1 September 2017**

**TM/17/02468/FL**

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Proposal: Demolition of existing building and erection of a new 3 storey medical centre incorporating a retail pharmacy, with associated parking and landscaping

Location: Tonbridge Teen And Twenty Club River Lawn Road Tonbridge Kent TN9 1EP

Applicant: Assura HC Limited

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**1. Description:**

- 1.1 Planning permission is sought for the demolition of the existing Teen and Twenty building and redevelopment of the site with a new medical centre and pharmacy and the provision of associated parking and landscaping to be operated by Tonbridge Medical Group (TMG).
- 1.2 TMG currently operates from 64 Pembury Road and 9 Higham Lane. The application submission explains that TMG has outgrown these facilities which are now considered to be unsatisfactory for modern healthcare provision. The applicant considers that this site represents an opportunity for bringing the existing surgeries together whilst also enabling the enhancement and expansion of primary care services.
- 1.3 The submission explains that the existing surgeries cover 150 appointments per day of approximately 12 minutes each. It is envisaged that the new medical centre would allow for an increased capacity of up to 225 appointments per day in the coming years and as the local population increases.
- 1.4 The intention is to secure a planning permission that allows for 24/7 opening of the medical centre, although it is not envisaged that this will be utilised in full. The pharmacy is proposed to open 7 days a week, from 7am – 8pm.
- 1.5 It is proposed that the new medical centre would employ 29.9 full time equivalent staff members including clinical, support and pharmacy/dispensing staff.
- 1.6 The proposed development would comprise a mix of D1 and A1 uses. The medical centre (D1) would consist of 1271sq.m of floor space and a collocated pharmacy (A1) of 150sq.m.
- 1.7 The development is proposed to be set over three floors. The ground floor level would provide the car parking area, plant equipment servicing the building and pharmacy itself. The first floor would accommodate consultancy rooms, nurse treatment rooms, patient waiting areas, general offices, storerooms and WCs. The second floor would accommodate external consulting rooms intended to be

dedicated to specialist appointments and staff only spaces such as meeting rooms and offices.

- 1.8 The building is proposed to be constructed from a range of materials including brickwork, render and timber cladding. The use of contrasting materials is intended to delineate different elements of the building visually. The windows and doors are proposed to be of powder coated aluminium.
- 1.9 Since the original submission was made, the parking layout has been amended. A total of 22 car parking spaces are proposed on site:
- 6 spaces reserved for staff within the site;
  - 16 for patients including two disabled bays (blue badge holders only);
  - 5 leased spaces on adjacent (TMBC owned) car park – staff parking only;
  - 2 motorbike bays;
  - 1 ambulance bay to site frontage;
  - Cycle storage (10 bikes).
- 1.10 Access into the pharmacy is intended to be independent from the medical centre for operational reasons.
- 1.11 The capacity of the site limits the ability to provide substantial landscaping within its boundary although the plans do indicate soft landscape planting at certain points at the edges of the site.
- 1.12 It is proposed to remove a large Horse Chestnut tree located immediately adjacent to the existing building on land known as the River Lawn which is owned by TMBC and lies within the Conservation Area. The relative merits of the removal of this tree are discussed in detail in the assessment that follows, but in terms of the necessary procedures to follow concerning the potential prospect of removing the tree, I would advise Members of the following:
- 1.13 Section 211 of the Town and Country Planning Act 1990 establishes an offence of carrying out activities on protected trees. The section then sets out what the defences would be to such an offence. By s.211 (3) it is a defence for a person, against a charge under s.211 (1), if (paraphrasing) (a) they serve notice of their intention to carry out activity on a protected tree, with sufficient particulars to identify the tree in question; and (b) the act is then carried out with the LPA's consent.
- 1.14 In the present context, the tree identified as T4 on the "proposed site plan" drawing is identified as being proposed to be removed, which satisfies the requirement of s.211(3)(a).

1.15 In the circumstances therefore, there is no requirement to receive a separate notice from the applicant under s.211 concerning the removal of the tree; the planning application documents and planning permission, in the event that it is granted, would satisfy the requirements of the section.

1.16 In support of the planning application, the following documents have been submitted. These have been referred to and discussed where applicable and necessary within the assessment that follows:

- Arboricultural report prepared by Lloyd Bore dated June 2017;
- Transport Statement prepared by MLM Consulting Engineers Limited;
- Car park management plan prepared by MLM Consulting Engineers Limited;
- Travel Plan prepared by MLM Consulting Engineers Limited (updated version provided January 2018);
- Planning Statement prepared by Savills (UK) Limited) dated July 2017;
- Design and Access Statement prepared by Building Ideas Architects dated August 2017 (updated and amended December 2017);
- Statement of Community Involvement prepared by Savills (UK) Limited dated August 2017;
- Flood Risk Assessment prepared by Thomasons Civil and Structural Engineers dated April 2017;
- Ecological Impact Assessment Report prepared by Lloyd Bore dated December 2016;
- BREAAAM report prepared by Sustainable Assessments Limited dated August 2017;
- Transport Technical Note prepared by MLM Group dated 20 December 2017.

1.17 Since the original submission was made, amendments and additional information have come forward addressing matters of design, external materials, flooding, groundwater contamination, finished floor levels, resilience measures and parking provision. It is on the basis of these amendments and additional supporting information that the following assessment and recommendation is made.

1.18 For the avoidance of any doubt, matters concerning land ownership are not material to the consideration of the application. However, I can confirm that formal Notice in accordance with Article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 has been served on the landowner and that is all that is required.

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

- 2.1 In order to consider the impact of the proposed development on the functioning of the town centre, in particular given the balance to be struck between diverging and significant considerations.

**3. The Site:**

- 3.1 The existing building was, until recently, used as a community centre (Use Class D2). The Teen and Twenty uses have now been relocated and the building is currently vacant. The building itself is a large, two storey flat roofed structure constructed predominately from red brick with some corrugated cladding on certain elevations.
- 3.2 The site lies within the Tonbridge Conservation Area and Flood Zone 3a.
- 3.3 A public right of way runs alongside the river to the north of the application site in an approximate east – west direction. The Tonbridge Racecourse lies beyond the river to the north and most immediately contains an enclosed bowling green, tennis courts and play area. Dense vegetation along the river bank combined with established landscaping and tree lines within the sportsground itself limit wider views of the application site from the north.
- 3.4 To the south/south-west of the application site lies a Council owned public car park, beyond which there is a terrace fronting onto Avebury Avenue containing commercial (A1 and A5 uses) at ground floor level with residential accommodation above. The buildings are three-storey with shallow pitched roofs. These units are serviced to the rear from the public car park and views from the application site are predominately towards areas of bin storage, air conditioning units and mechanical ventilation systems.
- 3.5 To the north-east of the application site lies the River Lawn, an open grassed area planted with a series of trees. This piece of land is intersected by pathways (not adopted public rights of way).
- 3.6 On the opposite side of River Lawn Road, to the south-east of the application site, there are a variety of uses including further car parking, offices and residential. The rear elevations of buildings fronting the High Street are also visible.
- 3.7 The buildings in the immediate vicinity are constructed from a variety of materials including red and brown bricks and tiles, light render, tile hanging and weatherboarding.
- 3.8 There are no nearby listed buildings that would fall to be affected by the proposals; the nearest to the north being Tonbridge Castle (a significant distance away) and 73 High Street (on the opposite side of the High Street).

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

- 4.1 Various historical planning applications relating to the original development of the site and its subsequent use, none recent or relevant to the current planning application.

**5. Consultees:**

- 5.1 KCC (H+T): The first floor comprising 13 consulting rooms and 3 nurse treatment rooms; the second floor comprising 3 external services consulting rooms, 1 tele-health room, 1 minor operations room and 1 recovery room. The development includes associated group meeting rooms, office and reception areas. It is expected that the medical centre will be staffed by 13 clinical staff and 23 admin/management staff (the same level of staffing at the existing Pembury Road and Higham Lane Surgeries); although the Transport Statement notes that if all consulting/treatment rooms were occupied, staffing levels could reach 43. The ground floor comprises 22 car parking spaces, 6 for staff and 16 for visiting patients, 2 motorcycle spaces, 10 cycle parking spaces and a pharmacy. Five additional car parking spaces are to be leased for use by staff at the western end of the adjacent public car park.

- 5.1.1 It is clear from these figures that the majority of staff will need to get to work through a variety of means such as walking, bus, cycling, car lift/share, parking further afield and then walking, etc. A Travel Plan submitted by the applicant recognises this and the town centre location of this proposal improves the opportunities for other means of travel to be satisfactorily undertaken. In any event the restraints imposed by the application and the surrounding roads will require staff to make suitable arrangements.

- 5.1.2 It is also clear, particularly when looking at the additional survey work undertaken at The Vines Medical Centre in Maidstone, that the 16 parking spaces to be provided for patients will not in itself be sufficient to meet demand. Again the opportunities for using other town centre car parks, obtaining a lift from a relative or getting a taxi will need to be brought into play. Use of public transport or cycling by patients who are unwell would be a lesser effect. As observed at The Vines in Maidstone I would expect that some in car waiting will be observed at River Lawn Road and its adjacent car parks. It is also anticipated that adjustments in behaviour through patient experience will also occur over time, such as making use of other car parks at Bradford Street, River Walk and Angel Lane, or seeking alternative means and adjusting appointment and departure times accordingly. It is noted from looking at the trip rate profiles of surgeries that these peak at mid-morning (10:30am-11am) with a smaller peak mid- afternoon ~ 4pm.

- 5.1.3 Whilst this medical centre proposal is considered significant in scale for a development of its type generating an attraction accordingly, it is well placed in that it is proposed in a cul-de-sac road and a town centre location. It is not considered that the proposal will inhibit strategic traffic movements, or create an

undue road safety impact. It is expected that some in car waiting in River Lawn Road and its adjacent car parks will be observed although as discussed it is also expected that this will reduce over time as patients get used to using the centre and the centre develops its management practices.

5.1.4 On behalf of this authority I write to confirm that it is not considered that a highway reason for refusal could be sustained and that I have no objection to this proposal. The following conditions are recommended:-

- Submission of a construction management plan for approval prior to commencement.
- Provision of measures to prevent the discharge of surface water onto the highway
- Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
- Completion and maintenance of the access and ambulance bay shown on the submitted plans prior to the use of the site commencing.
- Submission of a £5,000 fee to the highway authority, prior to completion, to assist monitoring and development of the Travel Plan.

*[DPHEH – this is an arrangement between the applicant and KCC and is not a matter that can be secured by planning condition]*

5.1.5 Planning permission does not convey any approval for works within the highway for which a statutory licence or formal agreement must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: [www.kent.gov.uk/roads\\_and\\_transport.aspx](http://www.kent.gov.uk/roads_and_transport.aspx) or telephone: 03000 418181) in order to obtain the necessary Application Pack.

5.1.6 Informative: 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. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners.

Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

5.1.7 The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

5.2 KCC (PROW): Encourage the applicant to improve sections of the footpath around the application site.

5.3 EA: Original Comments:

5.3.1 Objection. The site is located in flood zone 3 (high risk). The proposed site plan (ref: 1410-P02 (Planning) and proposed ground floor plan (ref: 1410-P03) demonstrate the intention to place the plant room on ground floor level. This poses the risk of power outages during a flood event, which would significantly impact upon the users of the building, and hinder the building's function as a health care centre. The layout as it stands would not be safe and therefore we object to the proposals. We will maintain this objection until revised drawings have been submitted, showing the plant room has been relocated to the first floor.

5.3.2 Overcoming our flood risk objection: In order to overcome our objection, the applicant should submit revised drawings showing the plant room is no longer at ground floor level. Once acceptable detail of the plant location have been provided, we will remove our objection. We will also include the condition that flood resilient and resistant measures are used on the ground floor, as suggested in Flood Risk Assessment Ref: C12238 Rev.1 (dated, 21 April 2017).

5.3.3 This site is on an extremely sensitive setting, being located within a Source Protection Zone 1 for a public water supply abstraction. We object to the proposed development because there is insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable.

5.3.4 There are two strands to this objection. These are that:

- We consider the level of risk posed by this proposal to be unacceptable.
- The application fails to provide assurance that the risks of pollution are understood, as a preliminary risk assessment (including a desk study, conceptual model and initial assessment of risk) has not been provided. It requires a proper assessment whenever there might be a risk, not only where the risk is known.

- 5.3.5 Overcoming our groundwater & contaminated land objection: The applicant should submit information to address our concerns listed above; to ensure that the site is appropriately assessed to deal with risks associated with historic contamination including those posed to controlled waters within the underlying aquifer.
- 5.3.6 If the current applicant has authorisation from the author(s) of previous documents to submit them in support of the current application this may provide sufficient information to enable us (the Environment Agency) to remove our objection. Otherwise new assessments must be provided.
- 5.3.7 Previous uses of the site may have left contamination which could impact on the proposed development, or cause it to impact on the environment. An assessment into the past uses of the land/buildings and any potential risks arising from the buildings/grounds for the proposed end use and wider environment should be carried out prior to the change of use and/or development works proposed.
- 5.3.8 The minimum requirement that should be provided by an applicant is the report of a desk study and site reconnaissance (walk-over). This will, in some cases, be sufficient to develop a conceptual model of the source of contamination and pathways by which it might reach vulnerable receptors as well as the means by which the identified pollutant linkages can be broken. While they may provide a useful indication of the possible presence of contamination, the commercial searches provided on the internet will not be sufficient to establish the presence or absence of contamination.
- 5.3.9 All investigations of land potentially affected by contamination should be carried out by or under the direction of a suitably qualified competent person and in accordance with BS10175 (2001) *Code of Practice for the Investigation of Potentially Contaminated Sites*. The competent person would normally be expected to be a chartered member of an appropriate professional body (such as the Institution of Civil Engineers, Geological Society of London, Royal Institution of Chartered Surveyors, Institution of Environmental Management) and also have relevant experience of investigating contaminated sites.
- 5.3.10 Advice on the assessment and development of land affected by contamination is contained in guidance published by the British Urban Regeneration Association (BURA), the National House Building Council (NHBC) and the Environment Agency. The BURA Guide includes checklists for the desk study, site investigation and remediation.

Additional Comments – groundwater and contaminated land (dated 06 November 2017):

- 5.3.11 Controlled waters are particularly sensitive in this location because the proposed development site is located within a Source Protection Zone 1 for public water safety. Without conditions the EA would object to the proposal in line with paragraph 109 of the NPPF because it cannot be guaranteed that the



development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution. Conditions and informatives are recommended to address this along with technical advice setting out how to address these.

Additional Comments – flood risk (dated 06 November 2017):

5.3.12 No objections based on the additional information provided but suggest conditions. The applicant states that they intend to use flood resilient and resilience measures to protect the ground floor plant room as described in the Additional Information letter (ref SC/HH/C1238/001, dated 18 October 2017). This may be acceptable provided that all measures stated are used and revised drawings are submitted.

Condition – The development hereby permitted shall not be commenced until such a time that: revised drawings of the plant room with flood protection measures in place have been submitted and approved by the EA and that flood resistant and resilient measures are to be used across the ground floor as suggested in the FRA

Additional Comments – finished floor levels (FFLs) (dated 18 January 2018):

5.3.13 Objects due to unacceptable FFLs for the ground floor entrance, pharmacy and plant room. The applicant proposes a FLL of 22.50m AOD for the facilities located on the ground floor. This is below the current 100 year flood level (22.74m AOD), posing a significant risk of internal flooding. The proposed FFL is also lower than the existing building which has a threshold level of 22.75m AOD, as shown on the existing site plan (ref: 1410-P01 dated June 2017). Having a FFL lower than existing would not be acceptable. The applicant must demonstrate that FFL for the pharmacy building and associated entrance are set at a minimum of 22.75m AOD i.e. the present day 100 year flood level. Flood resistant and resilient measures must be used across the ground for as suggested in the FRA to accommodate increased flood risk as a potential consequence of climate change. This includes flood barriers for all entrance ways, to be implemented as part of a flood management plan.

5.3.14 The applicant has chosen to locate the plant room at ground floor with a concrete bund as flood protection. The design of the bund as demonstrated in the plant room general arrangement drawing (no. 50 dated December 2017) shows a top of bund level of 23.2m AOD. We acknowledge this would protect against the 100 year floor under present day conditions; however flooding would be possible under the 100 year plus climate change (35%) which would see a level of 23.62m AOD, potentially causing power failure and disruption. It is essential that the plant room is protected to a minimum of 23.65m AOD to mitigate this risk. This can be achieved by a combination of raising the floor level and installing the concrete bund of sufficient height. The objection will be maintained until such a time that revised levels have been submitted to and approved by the EA.

5.3.15 Overcoming the objection – the development shall not be commenced until such time that the applicant has submitted the following:

- Revised plans showing the plant room is protected to a minimum of 23.65m AOD to allow for climate change;
- Revised plans demonstrating FFLs are a minimum of 22.75m AOD for the entrance, pharmacy and plant room;
- Flood resistant and resilient measures are implemented across the ground floor, with flood barriers incorporated for all doorways;

5.3.16 A comprehensive flood management plan, detailing flood warnings, evacuation plan and flood barrier implementation/storage to be approved by the EA.

Final comments – finished floor levels (FFLs) (dated 07 February 2018):

5.3.17 No objection. The applicant has submitted revised drawings demonstrating how they intend to protect the Plant Room from flooding. Plant Room General Arrangement Drawing (reference C12338 ZZ 00S 0050 Rev B Dec 17) demonstrates that the plant room will be protected to a level of 23.65m AOD, using a reinforced concrete bund wall. This is sufficient for us to remove our objection. A removable flood barrier will be installed in the doorway to the plant room in times of flooding which must protect to the same level as the bund.

5.3.18 Conditions are recommended to require the flood resistant and resilience measures are implemented across the ground floor with flood barriers incorporated for all doorways. A comprehensive flood management plan, detailing flood warnings, evacuation plan and flood barrier implementation/storage should be submitted prior to the building becoming operational.

Additional Comments – finished floor levels (dated 31 January 2018):

5.3.19 We note the change in Finished Floor Levels (FFLs) shown in the Proposed Ground Floor Plan (ref: 1410-P03(B) date January 2018). The pharmacy and entrance are demonstrated to have FFLs of 22.75m AOD which satisfies one of the requirements requested in our previous letter reference KT/2017/123348/03-L01, and must be adhered to.

5.3.20 However there is no evidence that the Plant Room will be sufficiently protected to the level required. In previous discussions with the architect, it was stated the Plant room will be protected to the required level of 23.65m AOD using raised floor levels and a Bund. This should be conditioned in the application as it is essential this is achieved. We are able to remove our objection providing the following conditions are met

5.3.21 The following shall be submitted for written approval by the local planning authority:

- Revised plans are submitted showing the Plant room is protected to a minimum of 23.65mAOD to allow for climate change.
- Flood resistant and resilient measures are implemented across the ground floor, with flood barriers incorporated for all doorways.
- A comprehensive flood management plan, and flood barrier implementation/storage.

Reasons: To reduce the risk of flooding to the proposed development and future occupants.

5.3.22 We would also expect your Authority's own emergency planners and the emergency services to demonstrate that they are content with the lack of safe, dry access during extreme flood conditions.

5.3.23 You may wish to impose a condition requiring a flood evacuation plan. We would suggest that a further advisory is attached to the decision notice to recommend that the occupants are registered with our Flood Warning Service.

5.4 KCC (LLFA): No objection to the proposed development, but would recommend that since the surface water drainage proposal is fully reliant on discharge to a Southern Water surface water sewer, their approval and capacity check should be sought at the earliest opportunity.

5.4.1 Also, since the site is located in Flood Zones 2/3 and Groundwater Protection Zone 1, consultation with the Environment Agency will be required.

5.4.2 Should your authority be minded to grant permission to this development, we would recommend that conditions be imposed requiring details of a sustainable surface water drainage system to be submitted and approved by the LPA.

5.5 Southern Water: Please note that no development or new tree planting should be located within 3m either side of the centreline of the public sewer and all existing infrastructure should be protected during the course of construction works.

5.5.1 No new soakaways should be located within 5m of a public sewer.

5.5.2 Due to changes in legislation that came into force on 01 October 2011 regarding the future ownership of sewers it is possible that sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before

any further works commence on the site. The applicant is advised to discuss the matter further with Southern Water.

5.5.3 Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the applicant or developer.

5.5.4 We request that should planning permission be granted, an informative be attached concerning the application process and capacity checks.

5.5.5 It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order:

- Adequate soakaway or infiltration system;
- Water course;
- Where neither of the above is practicable, sewer.

5.5.6 Southern Water supports this stance and seeks through appropriate planning conditions to ensure that appropriate means of surface water disposal are proposed for each development. It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is required.

5.5.7 We request that should planning permission be granted, a condition requiring details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the LPA in consultation with Southern Water.

5.5.8 The proposed development would lie within a Source Protection Zone as defined by the Environment Agency's Groundwater Protection Policy. Southern Water will rely on consultations with the EA to ensure the protection of the water supply source.

5.6 KFRS: No representations received to date.

5.7 Kent Police: Having reviewed the online plans and documentation, the applicant/agent has considered crime prevention and has attempted to apply the seven attributes of CPTED in their Design and Access Statement and Planning Statement, however to date we have received no communication from the applicant/agent and there are other issues that may need to be discussed and addressed including a formal application for BREEAM and Secured by Design if appropriate.

5.7.1 There is merit in pre-application meetings prior to submission of any planning application and by meeting with us and discussing issues such as Crime Impact

Statements (CIS) and any formal applications for this scheme such as BREEAM, Secured by Design (SBD) and SBD National Building Approval Scheme need to be addressed and agreed.

5.7.2 I would be grateful if you could draw the applicant's attention to the Kent Design Initiative (KDI) which will also assist them with crime prevention and community safety. I would welcome a meeting with the applicant/agent to discuss crime prevention in more detail and any notes from a meeting/consultation may be passed back to the planning officer dealing with the application as part of my full response.

5.7.3 If the applicant fails to contact us, this may have an effect on the development with regards to SBD and BREEAM, as awarding these items retrospectively can prove difficult and costly. This could also have knock on effects for the future services and duties of the community safety unit.

5.7.4 Whilst I have no major concerns regarding the proposal, it may be useful to discuss the following with the applicant/agent should planning permission be granted, I appreciate some of these points may be considered planning detail:

- SBD/BREEAM requirements;
- Access control measures in general;
- Access control measures for the second stair core on the eastern side of the building in particular;
- CCTV and alarm provision for both staff safety and security;
- Pharmacy security;
- Lighting;
- Boundary treatments – I note the 1.8m railings and security shutters being proposed and fully support these as appropriate security measures;
- General security.

5.7.5 If planning permission is granted and no contact has been made to the crime prevention design advisors by the applicant/agent, then we would suggest an informative be included to ensure that crime prevention is addressed effectively.

5.8 Private Reps: 26 + site and press notices/4X/20R/1S:

Objections:

- Loss of existing facility which should have been maintained;

- Loss of surgery within Higham Ward;
- Proposed building is larger than the existing building;
- Area unsuitable for development on this scale;
- Unattractive building, not dissimilar to existing building in appearance only larger;
- Building is unimaginative and the prime location merits high quality design, not another bland, bulky box;
- Loss of tree and impact on root systems of other nearby trees could be damaging;
- Inadequacies of submitted tree report
- Increased flood risk in the area, removal of natural drainage would make the problem worse;
- Inadequate drainage and sewerage in the area;
- Access arrangements for ambulances are inadequate;
- Lack of parking provision for patients;
- Parking in the local area is already stretched;
- Patients will not want to use public transport;
- Additional traffic will increase congestion in the area;
- Impacts on air quality when taken with other development in the area;
- Increased delivery vehicles – roads are not suitable for large vehicles;
- Suggestion of preferred site elsewhere in the town – Sainsbury's car park for example;
- Duty to improve air quality;
- Health risks arising from additional pollution generated;
- Removal of community facility;
- No need for another pharmacy given proximity of site to Boots;
- Object to the sale of River Lawn and processes involved;

- Amendments are for the better but are matters of detail, overall design remains of a low standard, unworthy of the site.

Supports:

- Facility greatly needed;
- Central location ideal;
- Great improvement on current building

General comments:

- Question how many parking spaces will be supplied with electric car charging points;
- Pleased to note security railings included;
- Application has been made to KCC PROW concerning rerouting of footpath

**6. Determining Issues:**

Principle of proposed development and relevant policy considerations:

- 6.1 The site lies within the urban confines of Tonbridge, within the designated Central Area as defined by the TCAAP. It forms part of the defined secondary retail area within the central area. A number of policies contained within the adopted Development Plan are directly applicable and are to be considered within the context of this proposed development.
- 6.2 In the broadest terms, policy CP1 of the TMBCS states that development should be concentrated at the highest density compatible with the local built and natural environment mainly on previously developed land and served by sustainable modes of transport. Policy CP11 goes on to state that development should be concentrated in urban areas where there is greatest potential for the re-use of previously developed land. The policy also recognises that development in urban areas can minimise the need to travel by being located close to existing services, jobs and public transport.
- 6.3 This site is occupied by an existing building and associated hardstanding and therefore constitutes previously developed land for the purposes of applying the above policies. It is centrally located within the defined town centre, in close proximity to existing services and transport links. As such, the redevelopment of this site as proposed in the broadest of terms accords with policies CP1 and CP11 of the TMBCS.
- 6.4 The proposed redevelopment would notably result in a change of use of the land from D2 to a mix of D1 and A1 use classes. This results in the loss of the “Teen

and Twenty Club”. Policy CP26 of the TMBCS seeks to protect community services and supports the loss only when there are alternative facilities to meet identified needs.

- 6.5 In this respect, it must be recognised that the existing building is now vacant, with the Club having already been relocated to new facilities within the town centre (the Angel Centre). This is a somewhat unique situation insofar as the Council as landowner had the ability to ensure the Club had an alternative facility within the town centre secured before this planning application came forward for consideration. Clearly, the details of those specific arrangements are not material to the consideration of the planning application in their own right. However, it is material to note that the community facility afforded by the Teen and Twenty Club itself is not to be lost through the redevelopment of this site, but rather it has been relocated elsewhere in the town although more generally the site would cease to be available for D2 purposes as a result of this redevelopment taking place. Albeit the development would offer a different type of facility, it would nonetheless be a facility for the benefit of the community, providing a consolidated, purpose built medical centre within the town centre providing enhanced facilities to the local population which actually contributes to the provision of such facilities and in this respect should be welcomed in terms of general provision and meeting the needs of the community. As such, I do not consider there to be any conflict with the requirements of CP26 of the TMBCS or the wider aims of the NPPF in terms of providing for community facilities.
- 6.6 I am aware that the land immediately adjacent to the application site is designated as an Asset of Community Value (ACV). Such designations are material considerations to the determination of planning applications. However, the application is clearly defined as being outside of the ACV designation and the development has no bearing on the ACV as a consequence.
- 6.7 Turning to the specific allocations relevant to the application site itself, TCAAP policy TCA11 sets out a number of sites which are allocated for a mix of town centre uses (with the primary uses specified in respect of each site) including retail (A1, A3, A4 subject to policies TCA3, TCA4, TCA6, TCA7 and TCA8), business/commercial, community, cultural, leisure, hotel and residential use. The policy states that these sites should be developed in accordance with the criteria identified in respect of each site and all general policy requirements, including any necessary contributions towards the provision of recreation, education and other community facilities.
- 6.8 The allocation TCA11(f) of the TCAAP relates specifically to the Teen and Twenty Club (for the avoidance of any doubt, the allocation actually goes wider than just this building as it encompasses some buildings on the opposite side of River Lawn Road too). It states that the site allocated as a whole is suitable for primarily residential development at a density appropriate to a town centre location (30 dwellings), with the potential for retail or commercial floor space at ground floor



level in accordance with policy TCA7 (which requires integration with the riverside environment, high quality design and public realm enhancements) subject to:

- the identification and provision of an alternative facility for the use of the Teen and Twenty Club and other users of that building;
- provision of a landmark building as identified on the Proposals Map;
- public realm enhancements at River Lawn and River Lawn Road in accordance with policy TCA10;
- retention of public parking; and
- contributions towards the improvement of off-site sewerage capacity.

6.9 Clearly the development proposed on a portion of the allocated site does not propose residential development as envisaged by the Action Plan at the time of adoption. Although it is acknowledged that this allocation is generally encouraging of residential development primarily here, it recognises the potential for other uses too. It is equally important to recognise that the wider allocation set out in the TCAAP (or indeed any smaller proportion of it) has not come forward in any guise since adoption back in 2008 almost ten years ago which is notable.

6.10 One of the core planning principles set out at paragraph 17 of the NPPF is that planning should take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

6.11 Paragraph 70 goes on to state that in order to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;
- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and
- ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

- 6.12 Although adopted before the publication of the NPPF, its positive emphasis and general approach can be seen contained within the TCAAP. At paragraph 7.6.3 it sets out plainly that within the confines of the Central Area, different uses will be finely woven to ensure that variety and interest permeate throughout. It states that a mix of possible town centre uses is identified for each allocation to include: A1 retail (all formats), A2 professional services, A3 restaurants, etc., A4, leisure, B1 business and residential use, but the range of uses is not meant to be exclusive. It expressly recognises that other town centre uses may be appropriate and will be considered on their merits within the context of the other policies of the Plan.
- 6.13 Equally, the TCAAP acknowledges that a vibrant, active and safe town centre will only be achieved through an appropriate mix and balance of complementary uses which cater for the widest possible range of social, economic and cultural activities. It states that this should ensure the town centre is an appealing environment during the daytime and evening. Linked to this, policy TCA2 expressly states (inter alia) that within the Central Area planning permission will be granted for uses which support the regeneration of the Town Centre including, on identified sites, retail, business, leisure, cultural and community activities, entertainment, health services, education, offices, food and drink outlets and residential use.
- 6.14 As such, in the broadest of terms, the development strategy unpinning the TCAAP centred on addressing the future development needs and potential of the Central Area, including proposals to achieve a diverse range of activities to enhance choice and vitality for all sections of the community; and mixed-use development to work towards a more sustainable pattern of land use and activities in the centre.
- 6.15 TMG is an established community facility that exists elsewhere within the town and clearly has a need to develop and modernise in the ways the proposed development would allow for. The provision of a new consolidated facility within the town centre would undoubtedly accord with the thrust of paragraph 70.
- 6.16 The proposed use for a medical centre in a new, purpose built building would overall be of benefit to this part of the town centre in terms of encouraging activity and vitality – part of the overarching strategy of the TCAAP at its inception – whilst providing a consolidated, modern community facility. These are material considerations which generally weigh in favour of the proposed development.
- 6.17 Overall, whilst the development now proposed for this site is different from that originally envisaged through the allocation in the TCAAP that does not automatically preclude alternative forms of acceptable development from taking place (as expressly noted within the action plan itself). This combined with other key material considerations, not least the emphasis upon providing a cohesive mixed use community as a thread throughout the action plan itself and latterly through the requirements of the NPPF, weighs in favour of the principle of development as proposed being deemed acceptable in these circumstances.

- 6.18 Returning to the specific requirements set out within the TCA11(f) allocation (notwithstanding the acknowledgement that in terms of land use this proposal diverges from that allocation in land use terms), the provision of an alternative facility for the use of the Teen and Twenty Club has been addressed earlier within this report and the remaining requirements (bullet points 2 – 5 above) will be addressed where appropriate in the assessment that follows.
- 6.19 In terms of other policy requirements, policy CP23 of the TMBCS sets out that the policy for Tonbridge Town Centre is to provide for a sustainable development pattern of retail, employment, housing and leisure uses, and a range of other services to regenerate and enhance the vitality and viability of the Town Centre. It then goes on to set out a number of specific ways by which this can be achieved although in terms of principle, the introduction of the medical centre and pharmacy to this part of the town would serve to enhance the vitality of the town centre, being the core aim of CP23 for the reasons set out above.
- 6.20 The site also falls within the defined secondary retail area of the town, the function of which is addressed through policies TCA5, TCA6 and TCA7 of the TCAAP. In general terms, these policies seek the retention of A1 uses to ensure the retail function of the area. This part of the town centre actually contains a mixture of uses. The proposed development would not involve the loss of any retail use; in fact it would introduce an element of retail through the inclusion of the new pharmacy into the building. As such, overall I do not consider the scheme to conflict with the aims of the secondary retail area designation.
- 6.21 In light of these considerations, it is recognised that the vitality of the Tonbridge Town Centre as a whole rests with the creation of a vibrant mixed use town centre, rather than necessarily requiring a mixture of uses to be contained within each individual site that comes forward for development or to rely so predominately on residential uses coming forward to create such vitality in support of that aim. The principle of the redevelopment of this site for the uses proposed is broadly acceptable in principle on this basis.

*Visual impact, landscaping and heritage assets:*

- 6.22 In addition to the requirements of the policies already cited above insofar as they relate to quality of development, policy TCA1 of the TCAAP requires that development within the central area of Tonbridge satisfies a tranche of requirements, including providing a well-designed, animated frontage adjoining all streets and public spaces. It also requires that the design of a new development, including scale, layout, orientation, external appearance and materials suitably respects the character of the part of the town centre in which it is situated. Additionally, the TCAAP outlines specific “site design components” for a number of key sites allocated for development. Policy SD5 deals (inter alia) with this site, setting out that any development coming forward should include active frontages with River Lawn Road and the adjacent open space, consider the possibility of

providing for a “landmark building” and consider improvements to the adjacent public footpath to the north (reaffirming the policy position of TCA10 and TCA11).

6.23 More generally, TMBCS policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:

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

6.24 A key material consideration which supports the development plan in these respects is that another of the core principles contained within the NPPF centres on the need to always seek high quality design. 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. The NPPG recognises that achieving good design is about creating places, buildings, or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations. Good design responds in a practical and creative way to both the function and identity of a place.

6.25 In terms of the CA designation in particular, 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 Conservation Area of which this site forms a part). 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.

6.26 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that there is a general duty when carrying out any functions under the Planning Acts with respect to any buildings or other land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

6.27 This site occupies a prominent plot along River Lawn Road. The existing buildings in the immediate locality range between 2 and 3 storeys in height. However, the 2 storey buildings in situ within the vicinity, for example the gym opposite, to some extent appear larger given their particular bulk and design characteristics. A variety of materials and external treatments are evident within the locality.

- 6.28 In this case, the initial design focus was quite clearly set around a need for the building to adhere to a certain format in terms of medical provision and the associated space standards arising therefrom. Consequently, the design adopts a “form follows function” approach which is to say out of necessity the building relates primarily to its intended purpose. What follows from that, once matters concerning height and scale relative to the surrounding built environment have been established, is a need to ensure that the external treatment of the building is handled in a way that does not cause visual harm when viewed against the policies set out above.
- 6.29 In these respects, it is clear from representations received that some may have preferred an alternative scheme to come forward for the site in visual terms. However, the NPPF is clear in this respect; planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness (paragraph 60).
- 6.30 As such, it is necessary to judge the final scheme as submitted on its own merits in light of the prevailing policy context set out above, in particular a need to consider whether the scheme preserves or enhances the character and appearance of the CA.
- 6.31 With this in mind, it should firstly be acknowledged that the existing building is unattractive and is a detracting feature within the CA, as identified in the CAA itself. In a general sense the proposed replacement building is a marked improvement in visual terms over the existing situation. As identified above, the proposed redevelopment of the building represents an avowedly functional solution to design but one which incorporates an appropriate level of detailing through relief in the elevations and a careful use of a variety of materials in order to ensure it is acceptable in visual terms. Unfortunately the stark simplicity of the 2-D drawings submitted tend to obliterate the level of detailing and thought that has gone into the design in order to bring this about. However, additional information has since been forthcoming which details this in a more informative way and provides for a more thorough impression of how the building would appear three dimensionally, and crucially how it would be experienced in real terms from street level.
- 6.32 The siting and scale of the building overall follows that of the existing building and in this respect, and in particular the subsequent relationship it has with existing vistas towards the site, would be preserved. Specifically, long views of the site from the sportsground to the west into the CA will be largely unchanged as the physical characteristics and intervening features – the tennis courts, Bowling Green, established trees and the route of the river – interrupt any longer views and are all to remain. The proposed building, given its height and the fact that the top floor is proposed to be recessed, would not appear to be any more prominent or

visible when viewed from this vantage point. Equally, the view from the bridge down towards the site would change insofar that it would be met by a *different* building, but one of comparable scale and form but of a significantly improved quality particularly in terms of materials to be used and quality of finish. I consider that the resultant view from the bridge arising from the development taking place would create a clear enhancement to the appearance of the CA.

- 6.33 In terms of the River Lawn Road street scene, the replacement building would be closer to the back edge of the pavement than the existing building, contributing to the creation of a more active street scene which would be assisted further by the inclusion of a slight curve in the front elevation, allowing for longer views of the frontage from along River Lawn Road itself. Additionally, the use of timber louvres within the frontage at ground floor level assists in softening the visual impact of what might otherwise have appeared as a rather stark or uninviting space. This is a theme that is carried forward in other elevations of the building at car park level. This represents an overt enhancement to the appearance of the street scene and CA.
- 6.34 The rear elevation of the proposed building is less articulated in terms of external treatments and as a result appears more stark than the other elevations. Given the relationship of this elevation to the public realm (the public footpath) I would suggest that further detailing be incorporated here to improve the appearance of this elevation. This has been agreed with the applicant and can be secured by planning condition. To be clear, that is not to say that in its current form the appearance of this elevation renders the development unacceptable. Indeed, that is not the case particularly when considering the appearance of the rear elevation of the existing building, the lack of wider views of this part of the site from the north and the test being to either preserve or enhance the CA. However, there is an opportunity for improvement to be made and that should be pursued in a positive manner.
- 6.35 The use of appropriate, high quality materials can make a valuable contribution to the quality of a building. In this case, specific attention has been given to the palette of materials as a way of ensuring that a suitable amount of visual variation and relief can be incorporated into the building given that there are limitations in providing this through its actual form as a result of its intended use and the inherent limitations therein. I consider that the materials to be utilised would contribute greatly to the overall quality of the building and would undoubtedly result in visual enhancement given what currently exists but in a way that would not jar with the immediate surroundings given the variety of materials that already exist. Much of this will be attributed to the precise nature of the finish of the materials, down to the way the elevations are clad to provide the necessary depth and articulation to break up the form in an acceptable manner. The execution of this finish can be adequately addressed through planning condition and I would suggest that this could be secured through a requirement that sample panels be

provided for formal approval to ensure the precise nature of this detail is controlled.

- 6.36 This is also true of the proposed recessed windows within the side elevations of the building in particular. This will no doubt provide a distinct relief to the form of the building overall but, again, the precise nature of how this will be practically applied should be addressed through planning condition.
- 6.37 I am aware that reference is made within the TCAAP allocation (TCA11(f)) to the provision of a “landmark building” on this site. The TCAAP did not however indicate what form this might take or why it might be particularly important to include such a feature within this site specifically. In general terms, whilst this might be immediately associated with the provision of a particularly tall or contemporary building, the plain English meaning could be interpreted as simply being a prominent building of some sort that serves a guide or providing a distinguishing feature marking a site or location. This interpretation sits squarely with the more general rhetoric contained within the TCAAP which sets out that proposals coming forward within the Central Area should be punctuated by “landmarks” in key locations allowing people allowing people to easily and comfortably find their way around the town centre (paragraph 7.1.1). I consider that this will adequately be achieved through the design characteristics of the building, particularly the way in which the front elevation would relate to River Lawn Road. Moreover, the use of the building as a medical centre for the community would, in my view, give it some status as a landmark of sorts in any event.
- 6.38 The proposed loss of the Horse Chestnut tree (T4) on the adjacent land is clearly of local concern and a material consideration in balancing the issues in this case. The tree is large and occupies a prominent position in the immediate locality. The submitted arboricultural report sets out as follows:
- “Tree growing in grass area adjacent to car park and existing building. Branches overhang site. Obvious signs of bleeding canker causing splitting of bark, bark fissures and bleeding. Previously reduced to south leaving large wounds. Life expectancy reduced by symptoms of bleeding canker but high amenity value.”*
- 6.39 The report concludes that the tree should be categorised as a Category C2 tree. Category C trees are explained as being “those of low quality and value: currently in adequate condition to remain until new planting could be established (a minimum of 10 years is suggested), or young trees with a stem diameter below 150 mm”. The (2) dimension to the categorisation identifies that the tree has mainly landscape value (rather than arboricultural or cultural).
- 6.40 As part of the assessment undertaken, liaison with the Council’s Landscape Officer has taken place. The Landscape Officer has reviewed the submitted report alongside their own inspections of the tree and has advised that the report is appropriate and the findings are concurred with. Specifically, they advise that the

trees have been surveyed in accordance with BS 5837;2012 'Trees in relation to demolition, design and construction – Recommendations.' In particular respect of the horse chestnut (T4), I am advised that there are there are obvious signs of bleeding canker causing the bark to split, bark fissures and dark staining from bleeding. Additionally, large old wounds on the side of the present building's car park have resulted in the crown being unbalanced. Furthermore, I am advised that the tree would still have high amenity value in the summer, when in leaf. However, the presence of the bleeding canker will limit its safe retention in this situation. Bleeding canker can result in branch failure, and ultimately death of the tree. Due to the presence of the disease and limited life expectancy of the tree, removal is considered to be justified in arboricultural terms.

- 6.41 The landscape officer goes on to note that it would not be appropriate to plant a tree of this potential size so close to the new building although it is suggested that another tree is planted on open space within the vicinity to compensate for its loss.
- 6.42 I have no doubt that the loss of the tree will be notable in visual terms but this must be balanced against the wider benefits arising from the development of this site in the way proposed. Given the conclusions drawn about its relative longevity, I consider that the loss of the tree is justified and would not cause such harm to the character or appearance of the CA or locality more generally to justify refusal on such grounds.
- 6.43 In drawing this conclusion, I am mindful that the suggestion has been made that alternative planting could be required or a contribution sought for such planting in order to mitigate the loss of this tree. Guidance in this respect is clear insofar that paragraph 203 of the NPPF states that LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 206 sets out that conditions should only be imposed where they are necessary; relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects. Any proposed condition that fails to meet any of these tests should not be used. This applies even if the applicant suggests it or agrees on its terms or it is suggested by the members of a planning committee or a third party.
- 6.44 Equally, in the event that contributions are sought to mitigate certain impacts, section 122 of the CIL Regulations applies, which states that planning obligations must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
- 6.45 A replacement tree could not be planted in a location that would give rise to direct mitigation of its loss. As such, particularly when considering the balanced conclusion that the loss of the tree would not be unacceptable or so visually harmful to justify the refusal of permission, the requirement to directly provide or



contribute towards providing a replacement tree elsewhere would not meet the requirements of the tests set out above and therefore is not justified.

- 6.46 Other trees within the vicinity, outside of the application site, are to be retained and measures for their protection are included within the submitted report. These measures should be secured by planning condition in the event that permission is granted.
- 6.47 The capacity of the site provides only limited opportunities for new planting within its boundaries. However, a landscape masterplan has been submitted which indicates where new shrub and tree planting can be accommodated. Most notably, 4no. *Mulus trilobata* are proposed to be planted along the edge of the south west boundary (along with low level shrub planting) which will provide some softening to this boundary which is welcomed in visual terms.
- 6.48 The MDE DPD recognises that if not properly controlled, insensitive artificial lighting can cause harm to residential amenity, the built environment and the sky at night. Equally, good quality lighting can make a valuable contribution to the design, efficiency, ambience and sense of place. Any external lighting has the potential to make either a positive or negative contribution to the local environment. I would suggest that in order to ensure that the impact is wholly positive, full details of any external lighting be submitted by requirement of condition if approval is given.
- 6.49 In light of this assessment, I consider that the proposed development would be of a standard that would accord with the requirements of the various qualitative elements of the relevant development plan policies and overall would represent a clear enhancement to the appearance of the CA.

*Public realm enhancements:*

- 6.50 Policy TCA10 of the TCAAP states that within the Tonbridge Central Area the Borough Council will, either itself or jointly with developers, promote proposals to enhance the public realm to improve the appearance and accessibility of the Town Centre. It states that proposals for development will be required to satisfy all of the following criteria:
- a) provision of full 24 hour public access to public spaces;
  - b) provision of high quality paving materials and well designed, co-ordinated street furniture to include lamp stands, seating, litter bins, public transport stops, signage, and cycle stands;
  - c) provision of pedestrian and cycle routes that are clear and direct with crossing points that correspond with desire lines in accordance with an adopted Cycling Strategy; and

d) provision should be made for servicing retail and business premises where necessary in a way that is unobtrusive and does not provide a barrier to pedestrian access.

The policy also sets out that enhancements to the public realm will be promoted in a number of locations including the PROW to the north of the Teen and Twenty site. As already established, the TCAAP allocation TCA11 (f) also sets out a requirement for public realm enhancements.

6.51 Whilst the site itself is self-contained and by its very nature does not provide for wider public access through it, the development taking place does provide for an opportunity to seek improvements to the adjacent public realm as required by the policy. In particular, there are opportunities for providing opportunities for visual cohesiveness and improvements to connectivity to the public footpath which runs alongside the river to the north of the site, enhancing the relationship of the site with the public realm and also promoting activity and use of the footpath by users of the medical centre and also the wider community.

6.52 Liaison with KCC (PROW) combined with my own observations of the footpath in question lead me to conclude that such enhancements would most readily include improvements to surfacing, lighting, boundary treatments and the cutting back of vegetation. I am satisfied that this would most appropriately take the form of a contribution secured through a planning obligation in order to meet the requirements of these policies.

*Layout and security:*

6.53 Overall, the layout of the development is reflective of the nature and size of the site itself. Vehicular and pedestrian access is proposed to be taken directly off River Lawn Road, which separates entrances to the building for the medical centre and pharmacy for security and Secure by Design reasons in addition to logistical ones concerning opening hours.

6.54 The TCAAP identifies that the "Riverside Gardens" (also known locally as River Lawn) adjacent to the application site is underused and can feel threatening, particularly during the evening and at night. This could be diminished to some extent through natural surveillance arising from the redevelopment of the application site, its subsequent use in addition to the improvements to be sought to the public right of way as set out above.

6.55 The representations made by Kent Police are noted and I have received confirmation from the planning agent that the applicant met with the Kent Police Designing Out Crime Officer on Wednesday 24 January 2018. During discussions, matters of design and safety of the scheme were explored, including car parking, cycle storage, external lighting, refuse storage, boundary treatment and windows / doors. In addition, the need and opportunity for safety features such as internal alarms and the inclusion of CCTV cameras at the site was examined. Such

engagement is positive and accords with the suggestions put forward by Kent Police in their representations.

Residential amenity:

- 6.56 Policy CP24 of the TMBCS requires that development be designed in such a way that respects the site and its surroundings. More generally, one of the core principles contained within paragraph 17 of the NPPF sets out that a good standard of amenity for all existing and future occupants of land and buildings should be sought.
- 6.57 The proposed building is to be located in effectively the same position as the existing building with its overall scale remaining broadly comparable (with the top floor being recessed to reduce scale). The nearest residential uses are contained on the upper floors of the units to the south-west of the application site, fronting Avebury Avenue, with a public car park sited in between. A distance of around 13m separates the rear elevation of the Avebury Avenue units and the side elevation of the proposed building although the upper floors are recessed creating additional separation. Equally, the nearest buildings to the south-east are separated by River Lawn Road itself.
- 6.58 In addition, it should be noted that the end use of the building has meant that the position and size of windows have been carefully designed to ensure the privacy of patients themselves.
- 6.59 I consider that this relationship, particularly given the current relationship that exists, is acceptable in amenity terms.
- 6.60 Equally, given the town centre location of the site, the nature of the proposed use would not give rise to any harmful impact on amenity arising from levels of activity in and around the site.

Highway safety and parking provision:

- 6.61 Policy SQ8 of the MDE DPD states that
1. Before proposals for development are permitted they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided.
  2. Development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.
  3. Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a

significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.

4. Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.

5. Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied.

6.62 Additionally, policy TCA12 of the TCAAP (insofar as it is relevant to this development) states that the mix of town centre development will be aimed at reducing the need to travel and each development site will be required to bring forward proposals that are complementary to the Transport Strategy. The emphasis will be on measures to support sustainable forms of transport.

6.63 Paragraph 32 of the NPPF requires that planning decisions take into account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

6.64 It is accepted that the car park to be provided within the site itself is not large and will not accommodate all patients who may wish to use it at any given time. However, the site is located within a town centre location, within a short distance of public transport links. The application is accompanied by a travel plan which indicates how staff and patients will be encouraged to utilise alternative modes of transport.

6.65 In this respect, it is appreciated that there is a general consensus amongst local residents that a medical centre should be served by a greater amount of on-site parking to cater for patients who are too ill to walk, cycle, use public transport or indeed utilise the surrounding public car parks. However, the capacity of the site limits its ability to accommodate additional patient parking beyond that now proposed and the scheme must therefore be assessed on that basis. Within the context of the adopted policy and NPPF requirements, the site occupies a sustainable and central location where the use of alternative modes of transport can be maximised for staff and patients who are able to do so. The effectiveness

of the travel plan in ensuring such opportunities are maximised, thus reducing the reliance of the private car, will depend largely on how it is carried forward and monitored by TMG. The Travel Plan sets out that a group/forum should be established to facilitate the appropriate level of monitoring going forward. Such a forum should include TMBC and KCC officers together with responsible persons from TMG such as the practice manager and/or travel plan coordinator, Ward Members and a suitable representative from any relevant residents group. This can be secured by planning condition and should be initially instigated for a period of 12 months, subject to review.

6.66 For those patients and staff who will need to rely on private car journeys, the site is well located in close proximity to a number of short and long stay car parks, with those in the most immediate vicinity as follows:

- Bradford Street car park – 68 spaces, max stay 4hrs
- Lower Castle Field car park – 261 spaces, max stay 23hrs
- River Lawn Road car park – 17 spaces (5 to be taken by re-development of Teen & Twenty) max stay 4hrs
- Lamberts Yard car park – 15 spaces, max stay 4hrs
- River Lawn Road (on-street) – 11 spaces, max stay 2hr

6.67 The submitted car park management plan sets out that whilst there would be no charging regime for the car park that matter would be subject to review and monitoring in association with the travel plan. Equally, it establishes that staff spaces will be allocated and marked up and the leased spaces within the adjacent car park would be controlled through demountable bollards. The allocation of staff spaces would be established through criteria based assessment set out within the management strategy. This is centred on the specific duties of the staff, their relative need for immediate access to vehicles and any personal circumstances that make car travel essential. It is explained that patient parking will be on a “first come, first served” basis and would only be for the duration of the visit to the centre. There is no firm detail as to how this will be directly enforced to avoid a scenario whereby patients finish their appointments but remain parked in the car park in order to visit other establishments within the town other than an explanation that site management will either take the form of staff patrolling on-site or a management company, enforcement through ticketing in certain circumstances (cited as being if cars are incorrectly or inappropriately parked). The plan also sets out that management would be reviewed once on-site baseline travel surveys have taken place – 1 year after commencement of the use and then every two years after that. Again, management of the car park would most usefully be considered by the forum to be established.

- 6.68 The Travel Plan also sets out that a car share scheme will be established and that 6 no. season tickets for long stay parking in the town will be purchased initially for a 12 month period (subject to review as part of the monitoring regime).
- 6.69 In making this assessment, I am also mindful of the fact that the site is currently occupied by a vacant building with an extant D2 (leisure and entertainment) use. The pre-existing use of the site for this purpose clearly attracted vehicle movements and a need for parking. Limited parking provision exists within the site as it currently stands and therefore it is reasonable to conclude that users of the building made use of the public car parks within the vicinity of the site.
- 6.70 I am equally aware that localised problems exist in respect of on-street parking and that holders of business permits make use of on-street parking bays to an extent that some local residents consider to their detriment, reducing on-street capacity for their own needs. Whilst business permits allow for holders to park on street, unrestricted, they do not allow holders to park in the nearby car parks in such a manner and therefore capacity within those car parks is not reduced via the provision of business permits. It is envisaged that the majority of users of the medical centre would use these car parks as necessary and the situation causing concern in respect of the issuing of business permits is not determinative in this case. Indeed, I understand that separate consideration is being given to the implications of the issuing of business permits by the Technical Services team. That is, of course, the correct forum for initiating any change on the part of the residents rather than through the planning process.
- 6.71 I acknowledge that for developments elsewhere in the town, legal agreements have been entered into effectively setting down a covenant that new occupiers would not be eligible for parking permits. These have all been in connection with residential schemes but I have turned my mind to whether the same approach could be adopted in the case of business permits for staff here. However, more recently a High Court judgement has held that such obligations are not valid under the terms of Section 106 of the Act. As a result, it would not be possible to adopt such an approach here. The applicants should instead be strongly encouraged to require staff to use the nearest long stay public car parks as part of their travel plan (where alternative modes of transport are not possible).
- 6.72 In terms of the development providing for a safe and suitable access to the site, the technical aspects of the access arrangements into the site have been confirmed by KCC (H+T) as acceptable.
- 6.73 Consideration has also been given as to whether deliveries to the site could reasonably be controlled by planning obligation or condition to ensure they are undertaken in a way that does not cause an obstruction to the highway (subject to meeting the necessary statutory and policy tests), for example whether or not the types of vehicle could be restricted in some way. However, because effectively the way in which deliveries take place would fall beyond the direct scope of control of

the applicant, such planning restrictions would not meet the necessary tests. I would however suggest that more informally, the introduction of the forum described above might actually have the ability to address any issues that might emerge on a discursive basis, albeit outside of the control of the planning system itself.

- 6.74 The central location of the site and its ability to be served by public transport combined with the proximity of public car parks for those making journeys by private car would mean that despite the limited size of the car park on site, there would not be an unacceptable adverse impact on highway safety arising from the development. Ultimately, the NPPF sets a test that a refusal of planning permission on transport grounds should only happen where the residual cumulative impacts of development are severe, which has not been found to be the case in this instance. Given the assessment above and the conclusions that the impacts arising from the development would not be significant (3<sup>rd</sup> bullet point of paragraph 32 of the NPPF), it is not considered necessary to require improvements to the local transport network.
- 6.75 Notwithstanding this conclusion, it is accepted that there will be some practical and logistical implications arising from both the demolition and construction phases of this development which may have an impact on the local highway network. With this in mind, I consider that it would be necessary in these circumstances to seek via planning condition a scheme setting out a detailed plan and programme for the demolition of the existing building and the construction of the new building to ensure that both elements take place practically in a way that does not cause any harm to the safe and free flow of traffic.

*Flooding and drainage:*

- 6.76 Paragraph 6.2.29 of the TMBCS recognises that some redevelopment sites within the built-up areas, including in the central area of Tonbridge, are likely to be identified for redevelopment, or will come forward as windfalls, within areas which are at medium to high risk of flooding, such as this. In these cases, the TMBCS sets out that the economic, social, environmental and regeneration benefits of redevelopment have to be weighed, as part of the PPS25 sequential test (since replaced by the NPPF and the associated technical guidance), against the actual risk of flooding. In these locations it states that the aim should be, in consultation with the EA, to minimise and manage any flood risk in the detailed design of such developments. In association with this, policy CP10 states that within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development. Development which is acceptable (in terms of PPS25) or otherwise exceptionally justified within areas at risk of flooding must:

(a) be subject to a flood risk assessment; and (b) include an appropriately safe

means of escape above flood levels anticipated during the lifetime of the development; and (c) be designed and controlled to mitigate the effects of flooding on the site and the potential impact of the development on flooding elsewhere in the floodplain.

- 6.77 The NPPF and associated technical guidance has replaced PPS25 as cited in the policy above. The requirements for application of the sequential and exceptions tests are carried forward in these documents which are important material considerations. The location of the site within Flood Zone 3a and the nature of the use of the site being categorised as “more vulnerable” for the purpose of applying the requirements of the NPPF means that both tests must be applied in this instance.
- 6.78 The aim of the Sequential Test is to guide new development to areas with the lowest risk of flooding. The development should not be permitted if there are ‘reasonably available sites appropriate for the proposed development’ in areas with a lower probability of flooding. If, following application of the Sequential Test, it is not possible for the development to be located in zones with a lower probability of flooding then the Exception Test can be applied.

- 6.79 The FRA sets out that

*“...as the site is for an established GP surgery serving a large portion of Tonbridge, a central location with access to improved transport links off High Street is a requirement for its effectiveness. This location will provide more residents of Tonbridge with access to improved facilities. The building requirements to meet current NHS design standards as well as those for Part M of the building regulations to satisfy patient accessibility eliminate many other sites / existing buildings and lead toward the need for a bespoke new build design solution. Redevelopment of this central site located off High Street strongly supports the redevelopment efforts to revitalise the town centre. The Tonbridge SFRA by Mott MacDonald (Doc. 227741/01/A, August 2006) outlines the importance of redevelopment within the town with appropriate flood mitigation measures. This is the only site reasonably available to the owner.”*

- 6.80 It is clear that TMG have been seeking to identify a new site for consolidation of their activities for some time, indeed the FRA cites 10 years, going on to explain that this site represents the only viable and deliverable location. The specific location of this development is key to its importance and therefore it is not possible to use an alternative site.
- 6.81 For the Exception Test to be passed, it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh the flood risk, and a site-specific FRA must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce the overall flood



risk. Both elements of the Exception Test must be satisfied for development to be permitted.

6.82 The FRA states that:

*"The proposed development will provide valuable community benefit by increasing the capacity and quality of primary care premises to the local community and as such outweighs flood risk in accordance with paragraph 102 of the NPPF."*

6.83 The FRA includes a series of mitigation measures and strategies to appropriately manage flood risk.

6.84 Representations received from the EA and KCC (LLFA) have been set out in some detail within Section 5 of this report.

6.85 Members will see that in particular liaison with the EA throughout the course of this application has been extensive. To summarise, the EA originally raised objections on the grounds that the plant room was proposed to be located at ground floor level. Upon the receipt of further information in this respect, the EA removed its objection and recommended a series of conditions be imposed on any permission granted. Subsequently, the applicant submitted further information in an attempt to remove the necessity for such conditions which resulted in the EA reaffirming its objections on the grounds of flood risk given that the latest information provided appeared to show inadequate finished floor levels at ground floor level and insufficient information concerning the protection of the ground floor plant room in the event of a flood occurring. Subsequently, additional information has been provided to overcome these objections, and the EA has since confirmed that no objections are raised subject to conditions.

6.86 Ultimately, the conclusions reached are that the development can be undertaken in an acceptable manner subject to the imposition of appropriate conditions which have been reflected in the recommendation.

6.87 As set out in the preceding section, a plan setting out the demolition and construction phases of the development is considered necessary in ensuring the safe and free flow of traffic in River Lawn Road and I would suggest that there would be associated benefits in ensuring the development was not undertaken in a manner that could adversely affect flood or surface water, for example through the open storage of demolition waste or building materials. This is therefore, another reason pointing to the necessity of a planning condition governing these aspects of the development.

*Other environmental considerations:*

6.88 Policy NE3 of the MDE DPD addresses impact of development on biodiversity, requiring that any impacts arising from development on biodiversity or the value of wildlife habitats be mitigated appropriately through planning conditions. More

generally, paragraph 109 of the NPPF recognises that the planning system should contribute to and enhance the natural and local environment through a number of means and more specifically at paragraph 118 by requiring that when determining planning applications, LPAs aim to conserve and enhance biodiversity by applying a number of principles including mitigation of impacts where harm from a development is identified.

- 6.89 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity.
- 6.90 The submitted Ecological Impact Assessment provides an assessment of the site and its immediate surroundings in order to establish any habitats of principle importance and the presence of any protected species. It concludes that there are no habitats of principle importance within the site or adjacent to it. Surrounding off-site habitats (non-protected) comprise amenity grassland, public footpaths and trees. There is no indication provided within the assessment that protected species would be impacted by the proposed development other than features being present that could be used by bats for roosting and foraging.
- 6.91 The report concludes that the only additional survey or mitigation work required is in respect of bats where a suggestion is made to ensure lighting is kept to a minimum.
- 6.92 As set out earlier, the TCA11 (f) allocation relevant to this site sets out a requirement that contributions towards the improvement of off-site sewerage capacity should be sought. Clearly, this requirement relates to a wider site allocation than the application site that has now come forward and for a different nature and scale of development than that envisaged by the allocation itself. Moreover, SWS has been consulted on the application and has suggested planning conditions can be imposed. I consider that the prevailing circumstances which are material in this case negate the need for a contribution to be sought within the terms set out in TCA11. In any case, SWS has requested a series of conditions and informatives be imposed on any permission granted.
- 6.93 Paragraphs 120 and 121 of the NPPF address how planning decisions should be made within the context of contaminated land. Paragraph 120 specifically notes that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. Paragraph 121 goes on to state that planning decisions should also ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation.
- 6.94 The application is accompanied by a ground investigation report which addresses matters of contaminated land and groundwater and this has been scrutinised by

the EA as statutory consultee. The representations made by the EA have been set out within Section 5 of the report and a series of planning conditions are recommended to ensure the site is suitable for its end use.

- 6.95 Policy CC1 of the MDE DPD states that all proposals for new development, building conversions, refurbishments and extensions will be required to incorporate passive design measures to reduce energy demand. Proposals will be required to be well insulated and air tight and designed to take advantage of natural light and heat from the sun and use natural air movement for ventilation, whilst maximising cooling in the summer. Various strategies for achieving this are contained within the policy.
- 6.96 The policy goes on to set out requirements for residential development and certain types of commercial development, albeit not including D-class uses. In any event, the planning submission is accompanied by a BREEAM pre-assessment report and accompanying methodology which concludes that the current baseline strategy in respect of the development achieves all mandatory standards associated with a BREEAM rating of excellent which leads me to conclude that the scheme in general terms accords with the overarching objectives of policy CC1 despite it not setting out any specific requirements for this specific type of development.
- 6.97 Policy CC2 states that for redevelopment proposals, where demolition forms part of a new build process, and also for new build proposals, the ICE Demolition Protocol will be required to be followed to maximise the potential for the re-use of demolition waste. It also requires that Site Waste Management Plans, when required, must include procedures for minimising waste produced on site as well as sorting, re-using and recycling the waste that is produced and that proposals for development will not be permitted unless they incorporate adequate space for the storage of recyclable and non-recyclable waste, where different waste streams can be segregated and collected.
- 6.98 Clearly the nature of the proposed use will mean that waste produced once operational will be dealt with and disposed of in the proper way and there will be rules governing the disposal of medical and associated waste in any event. In terms of waste arising from the demolition process itself, the planning condition requiring a demolition method statement could reasonably include a requirement that storage and disposal of demolition waste be addressed as part of the methodology, thus addressing the requirements of this policy.
- 6.99 Turning to air quality considerations, the southern portion of the High Street is designated as an AQMA. Although the site falls well outside this designation, regard must be had as to whether the development when taken individually or cumulatively with other developments in the vicinity would impact upon the AQMA and policy SQ4 of the MDE DPD applies. This requires that:

(a) the proposed use does not result in a significant deterioration of the air quality of the area, either individually or cumulatively with other proposals or existing uses in the vicinity;

(b) proposals would not result in the circumstances that would lead to the creation of a new Air Quality Management Area;

(c) proximity to existing potentially air polluting uses will not have a harmful effect on the proposed use; and

(d) there is no impact on the air quality of internationally, nationally and locally designated sites of nature conservation interest or appropriate mitigation is proposed to alleviate any such impact.

#### 6.100

Additionally, paragraph 124 of the NPPF states that planning decisions should ensure that any new development in AQMAs is consistent with the local air quality action plan. Indeed, the Environment Act 1995 (part IV) placed a duty on Local Authorities to review and assess their local air quality through the process of Local Air Quality Management. Members will be aware that the Council has a draft Air Quality Action Plan (dated 2011) which although accepted by DEFRA at that time has since undergone consultation with stakeholders including Highways Authorities (from KCC and the Highways Agency) and other departments within the Council. As such, the Council is in the process of drafting an Air Quality Action Plan, which will outline the approach to air quality improvement within the Borough over the next five years. It is anticipated that this will be published later this year. Additionally, it should be noted that the Air quality Plan for nitrogen dioxide, published by national government in 2017, selected 29 local authorities to produce actions plans, based on modelling and a series of national NO<sub>2</sub> monitors. TMBC was not one of these authorities and, as such, we are not currently required to produce a plan, and will not have access to the funding set aside for such production. As such, currently the Council is meeting its statutory obligations. The proposed introduction of the Clean Air Act, which is due to be debated in parliament later this month, may impose new obligations on local authorities going forward. If this is the case, there may be a need to amend the action plan in due course.

#### 6.101

For the purposes of decision making, the draft Plan has only limited weight at this current time. However, broadly it discusses various schemes for improving air quality, expressly mentioning the importance of requiring travel plans for new developments and improvements to pedestrian and cycle routes. Such measures are to be secured through this development and as such can be said to broadly accord with the principles the draft Plan is seeking to put forward. In addition, the Kent and Medway Air Quality planning guidance provides information on quantifying air quality impacts from new developments. TMBC has not adopted

this guidance for determination purposes but nevertheless it does provide a useful framework against which developments can be assessed to establish likely impact. Liaison with the Council's Environmental Protection Officer in this respect specifically indicates that the development would not give rise to a significant impact and as such standard mitigation measures only need apply. Specifically, the site lies some distance from the designated AQMA which is focused around the southern end of the High Street and Vale Road roundabout. Intervening buildings predominately fronting the High Street separate the application site from the AQMA in physical terms and, as the crow flies, the edge of the site is located a distance of approximately 59m away from the edge of the AQMA. The scheme proposed would not be of a nature or scale that would give rise to a significant deterioration in air quality within the area, taken both individually and cumulatively, particularly when considering that the site is not free from development and that an extant use which would have attracted traffic movements in any event is already present. There is therefore no conflict with adopted policy in this respect.

6.102

In connection with likely cumulative impacts arising, I am aware that the redevelopment of Enterprise House nearby has taken place and must be taken into account. The application proposing the conversion and change of use of the gym at 2 – 12 Avebury Avenue (our reference TM/17/02820/FL) was withdrawn and no determination was made. It is therefore not a committed development to be taken into account when addressing likely cumulative impacts. Similarly, the adjacent "River Lawn" area is not subject to any applications for development at this time. There are no other developments within the vicinity that are committed that require consideration within this context.

6.103

It should be noted that had an adverse impact (either individually or cumulatively) been evidenced, consideration would need to have been given to whether any measures would be required to mitigate that impact. In this respect, I am mindful of the recent High Court case (*Gladman Developments Ltd v SSCLG & CPRE (Kent)* [2017] EWHC 2768 (Admin.)) in which Gladman Developments Ltd, sought to quash the decision of the Planning Inspectorate to refuse planning permission for 140 new homes in Newington, Kent on matters of air quality impact and associated mitigation measures. In the simplest of terms, this case centred on mitigation of the identified adverse effects on the designated Newington and Rainham AQMAs. The developer had proposed a fund, calculated in accordance with the DEFRA damage cost analysis model, however it was found there to be no evidence of the likely effectiveness of the indicative mitigation measures to reduce private petrol and diesel vehicles, and thus reduce NO<sub>2</sub> emissions. In terms of practical application of the judgement at hand, I can advise that where adverse impacts on air quality are identified, calculations for contributions can be made, but thought should be given to demonstrating how the financial contribution will translate into practical measures to tangibly reduce emissions. As no such

adverse impacts have been evidenced in this case, it is not necessary to pursue such measures further.

Planning obligations:

6.104

As set out earlier within the assessment, a contribution will be required towards public realm enhancements in accordance with policy TCA10 of the TCAAP. The applicant has confirmed agreement to the principle of making such a contribution and officers are currently working out a methodology for calculating the precise sum. This needs to be in accordance with the tests set out in the CIL Regulations (Sections 122 and 123).

6.105

Effectively, this could either be taken as a standalone contribution for limited works to a section of the public realm, for example the stretch of footpath which runs to the rear of the site alongside the scout hut to the bridge or pooled with a maximum of four other contributions for public realm enhancements to allow for wider works to a more extensive section of public realm here. The latter will of course be dependent on whether any developments come forward which trigger the same policy requirement and a robust assessment of the particular circumstances and material considerations that might be involved in any such case. The legal agreement can be suitably worded to address either eventuality to allow for flexibility whilst ensuring compliance with the relevant policy.

6.106

The work to finalise this position is currently still being undertaken and any progress made will be duly reported as a supplementary matter to Members at APC1. This is reflected in the recommendation that follows.

Conclusions:

6.107

It is clear that consideration of this case requires a careful balance between various issues to be struck. On one hand there is the central thrust of TCAAP in encouraging the regeneration of the town centre, with the aim of promoting a vibrant mixed use community, along with the provision of a much needed modern facility, the manifest improvements to the built environment, the associated enhancements to the appearance of the Conservation Area and more generally the visual amenities of the locality arising from the provision of a high quality, well detailed modern building in place of what currently exists and the opportunity to secure wider public realm enhancements in an area where it has been established they are needed in both visual and social terms. Conversely, there must be an awareness that the development now proposed has diverged from the original development allocation set out within the TCAAP, a single but prominent large tree will need to be removed to facilitate the development, and there is local concern

that the development will give rise to increase in parking demand within the immediate area and wider town.

6.108

My conclusion is that on balance the development would bring about significant and wide ranging benefits that would clearly outweigh the divergence from policy allocation and the loss of the tree. Furthermore, local concerns regarding parking and traffic implications can be addressed through planning condition as can a number of other detailed and technical matters which are discussed in full within the preceding assessment. I therefore recommend that planning permission be granted subject to the applicant entering into a legal agreement securing a contribution towards public realm improvements and a tranche of conditions controlling various aspects of the development, as follows:

**7. Recommendation:**

- 7.1 **Grant planning permission** in accordance with the following: The development shall be carried out in accordance with the following plans and documents: Location Plan 1410-P00 received 01.09.2017; Existing Site Plan 1410-P01 received 01.09.2017; Proposed Site Plan 1410-P02 B received 26.01.2018; Proposed Ground Floor Plan 1410-P03 B received 26.01.2018; Proposed First Floor Plan 1410-P04 B received 26.01.2018; Proposed Second Floor Plan 1410-05 B received 26.01.2018; Proposed Roof Plan 1410-P06 B received 26.01.2018; Proposed Elevations 1410-P07 B received 26.01.2018, Site Sections 1410-P10 A received 01.02.2018; Materials Schedule 1410-P11 sheet 1 received 22.12.2017; Materials Schedule 1410-P12 sheet 2 received 22.12.2017; Materials Schedule 1410-P13 sheet 3 received 22.12.2017; Design and Access Statement (Revision C) prepared by Building Ideas Architects received 22.12.2017; Design and Access Statement Addendum prepared by Building Ideas Architects received 22.12.2017; Arboricultural Report (reference 4026-LLB-RP-AB-0001-S4-P02) prepared by Lloydbore received 01.09.2017; Tree Survey Plan 4026\_DR\_001 received 01.09.2017; Landscape MasterPlan 4026\_DR\_003 prepared by Lloydbore received 01.09.2017; Transport Statement prepared by MLM received 01.09.2017; Technical transport note prepared by MLM received 22.12.2017; Travel Plan prepared by MLM received on 01.02.2018; Car Park Management Plan prepared by MLM received 01.09.2017; Planning Statement prepared by Savills received 01.09.2017; Statement of Community Involvement prepared by Savills received 01.09.2017; Ecological Impact Assessment (4026\_RP-001) prepared by Lloydbore received 01.09.2017; Planning Stage Pre-Assessment tables prepared by SAL received 01.09.2017; Planning Stage Pre-Assessment Report prepared by SAL received 01.09.2017; Flood Risk Assessment (Reference C12238 Rev 1) prepared by Thomasons received 01.09.2017; Ground Investigation Report (Report No. 17.03.011) prepared by Listers Geo received 20.10.2017; Plant Room General Arrangement C12238-ZZ-00-S-50-B received 01.02.2018; Drainage Layout C12238-TH-00-XX-DR-C-1001 Rev A prepared by Thomasons received 14.12.2017; Letter from Thomasons (reference

SC/HH/C12238/004) Received 01.02.2018; Engineering Statement on Proposed Pilling prepared by Thomasons received on 01.02.2018; Additional Investigation letter (reference MX/cw/17.03.011a) prepared by Listers Geo) received 01.02.2018; Summary Report of Soil Investigation (reference C12238) prepared by Thomasons and received on 20.10.2017; Letter from Thomasons (reference SC/HH/C12238/001) received 20.10.2017, subject to the following:

7.2 The applicant entering into a legal agreement covering the provision of a contribution towards public realm enhancements in accordance with policy TCA10 of the Tonbridge Central Area Action Plan (adopted April 2008); and

7.3 The following conditions:

**Conditions:**

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

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

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

Location Plan 1410-P00 received 01.09.2017; Existing Site Plan 1410-P01 received 01.09.2017; Proposed Site Plan 1410-P02 B received 26.01.2018; Proposed Ground Floor Plan 1410-P03 B received 26.01.2018; Proposed First Floor Plan 1410-P04 B received 26.01.2018; Proposed Second Floor Plan 1410-05 B received 26.01.2018; Proposed Roof Plan 1410-P06 B received 26.01.2018; Proposed Elevations 1410-P07 B received 26.01.2018, Site Sections 1410-P10 A received 01.02.2018; Materials Schedule 1410-P11 sheet 1 received 22.12.2017; Materials Schedule 1410-P12 sheet 2 received 22.12.2017; Materials Schedule 1410-P13 sheet 3 received 22.12.2017; Design and Access Statement (Revision C) prepared by Building Ideas Architects received 22.12.2017; Design and Access Statement Addendum prepared by Building Ideas Architects received 22.12.2017; Arboricultural Report (reference 4026-LLB-RP-AB-0001-S4-P02) prepared by Lloydbore received 01.09.2017; Tree Survey Plan 4026\_DR\_001 received 01.09.2017; Landscape MasterPlan 4026\_DR\_003 prepared by Lloydbore received 01.09.2017; Transport Statement prepared by MLM received 01.09.2017; Technical transport note prepared by MLM received 22.12.2017; Travel Plan prepared by MLM received on 01.02.2018; Car Park Management Plan prepared by MLM received 01.09.2017; Planning Statement prepared by Savills received 01.09.2017; Statement of Community Involvement prepared by Savills received 01.09.2017; Ecological Impact Assessment (4026\_RP-001) prepared by Lloydbore received 01.09.2017; Planning Stage Pre-Assessment tables prepared by SAL received 01.09.2017; Planning Stage Pre-Assessment Report prepared by SAL received 01.09.2017; Flood Risk Assessment



(Reference C12238 Rev 1) prepared by Thomasons received 01.09.2017; Ground Investigation Report (Report No. 17.03.011) prepared by Listers Geo received 20.10.2017; Plant Room General Arrangement C12238-ZZ-00-S-50-B received 01.02.2018; Drainage Layout C12238-TH-00-XX-DR-C-1001 Rev A prepared by Thomasons received 14.12.2017; Letter from Thomasons (reference SC/HH/C12238/004) Received 01.02.2018; Engineering Statement on Proposed Pilling prepared by Thomasons received on 01.02.2018; Additional Investigation letter (reference MX/cw/17.03.011a) prepared by Listers Geo) received 01.02.2018; Summary Report of Soil Investigation (reference C12238) prepared by Thomasons and received on 20.10.2017; Letter from Thomasons (reference SC/HH/C12238/001) received 20.10.2017

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

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes G, J or M; of Part 3; of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of maintaining the vitality and function of this part of the town centre.

- 4 Prior to commencement of any works on site, arrangements for the management of demolition and construction traffic to and from the site (including but not limited to hours of operation and deliveries of materials to the site) shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

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

- 5 Prior to the commencement of development a demolition method statement shall be submitted to and approved by the Local Planning Authority (including but not limited to a strategy for storing demolition waste on site and how it will be disposed of) and the demolition works thereafter undertaken will be in strict accordance with the approved details.

Reason: In order to prevent any harmful impact on the flood plain during construction of the development and in the interests of general amenity and highway safety.

- 6 All materials used externally shall accord with the approved plan numbers 1410-P11, 1410-P12, 1410-P13 and the associated approved material samples.

No above ground development shall take place until sample panels have been constructed on site demonstrating (where applicable) the colour, texture, bond,

pointing, and fixtures of all brickwork, cladding and external treatments of the building and approved by the Local Planning Authority. The sample panels shall be retained on site until the details have been approved by the Local Planning Authority and the development undertaken in strict accordance with the approved details.

Reason: In the interests of visual amenity and to ensure the quality of the development that takes place.

- 7 No above ground development shall take place until full detailed plans and sections of all proposed windows at a scale of 1:20 together with details of proposed finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in strict accordance with the approved details.

Reason: In the interests of visual amenity and to ensure the quality of the development that takes place.

- 8 Notwithstanding plan number 1410-P07 Rev. B, no above ground development shall take place until details of the external treatment of the northern elevation of the building hereby approved have been submitted to and approved by the Local Planning Authority. The development shall thereafter be undertaken in strict accordance with the approved details.

Reason: In the interests of visual amenity and to ensure the quality of the development that takes place.

- 9 No external lighting shall be installed in connection with the building until such details have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: In the interests of visual amenity and biodiversity.

- 10 The use of the development hereby approved shall not commence until the areas shown on the approved layout (Drawing 1410-P02 B) as staff and patient parking and turning areas have been provided, surfaced and drained. Thereafter these areas 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 these areas.

Reason: In the interests of highway safety.

- 11 The use of the development hereby approved shall not commence until the vehicular accesses and routes within the site and any associated engineering operations have been constructed in accordance with plan number 1410-P02 Rev. B.

Reason: In the interests of highway safety.

- 12 The measures for implementation and monitoring arrangements as set out in the Travel Plan (Reference 618753-MLM-ZZ-RP-TP-002, received on 01 February 2018) and Car Park Management Plan (Reference 618573-MLM-ZZ-RP-TP-003, received on 01 September 2017) hereby approved shall be fully adhered to.

Reason: In the interests of the proper management of traffic and highway safety and in order to encourage more sustainable modes of transport to/from the site by staff and visitors.

- 13 The use of the development hereby approved shall not commence until the 10 cycle parking spaces for staff and visitors as shown on plan number 1410-P02 Rev. B have been provided on site. Thereafter, the installed cycle parking facilities shall be retained at all times for the life of the development hereby permitted.

Reason: In order to encourage more sustainable modes of transport to/from the site by staff and visitors.

- 14 The existing trees and shrubs shown on the approved plan (Drawing 1410-P02 B) other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of five years.

Reason: In order to protect the appearance and character of the site and locality.

- 15 The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

Reason: In order to protect the appearance and character of the site and locality.

- 16 The scheme of landscaping and boundary treatment shown on the approved landscape masterplan (Drawing 4026\_DR\_003) shall be carried out in the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or plants which within five years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In order to protect the appearance and character of the site and locality.

- 17 The development hereby approved shall be undertaken in strict accordance with the Recommendations for Mitigation and Enhancement as set out in the Ecological Impact Assessment prepared by Lloyd Bore Ltd (Reference 4026\_RP\_001, dated 13 December 2016) and received by the Local Planning Authority on 01 September 2017.

Reason: In the interests of conserving biodiversity.

- 18 No above ground development shall take place until a detailed sustainable surface water drainage strategy has been submitted to and approved by the Local Planning Authority. The detailed drainage scheme shall be based on the recommendations of the report entitled Flood Risk Assessment prepared by Thomasons (reference: C12238 Revision 1, dated 21 April 2017) and shall demonstrate that surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

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

- 19 The use of the building hereby approved shall not commence until details of the implementation, maintenance and management of the sustainable drainage scheme (as approved pursuant to condition 18) have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented and

thereafter managed and maintained in accordance with the approved details.  
Those details shall include:

- (i) a timetable for its implementation; and
- (ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

- 20 The development hereby permitted shall not be first occupied or first brought into use until details of a Flood Management and Flood Evacuation Plan including means of safe access and egress to/from the site shall be submitted to and approved by the Local Planning Authority. Thereafter, the approved Flood Evacuation Plan shall be implemented as approved at all times for the life of the development hereby permitted.

Reason: To ensure safety in times of flood.

- 21 The use of the building hereby approved shall not commence until works for the disposal of foul and surface water drainage have been provided on the site to serve the development, in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of pollution prevention.

- 22 No development shall be commenced other than as required as part of any site investigation works until a remediation strategy to address the risks associated with contamination of the site has been submitted to and approved by the Local Planning Authority. The strategy must include:

1) A preliminary risk assessment which has identified all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.

2) A site investigation based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected including those off-site.

3) The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of pollution prevention

- 23 The use of the building hereby approved shall not commence until a verification report demonstrating the completion of the remediation strategy and its effectiveness has been submitted to and approved by the Local Planning Authority. The report shall include results of sampling and monitoring undertaken in accordance with the approved verification plan.

Reason: In the interests of pollution prevention.

- 24 If, during development work, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: In the interests of protection of the environment and harm to human health

- 25 No infiltration of surface water drainage into the ground shall take place without a scheme having first been submitted to and approved by the approval of the Local Planning Authority. Any such works shall be undertaken in strict accordance with the scheme approved.

Reason: In the interests of pollution prevention.

- 26 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect controlled waters, including ground water.

**Informatives:**

- 1 With regard to the demolition and construction phases of the development, the applicant is asked to take all reasonable steps to mitigate any impact upon surrounding residents. With this in mind, they are strongly encouraged to apply for a Section 61 Control of Pollution Act 1974 'prior consent' notice to regulate working hours/methods. It is recommended that you contact the Environmental Health Pollution Control Team on [pollution.control@tmbc.gov.uk](mailto:pollution.control@tmbc.gov.uk) in advance of the commencement of works to discuss this further. The applicant is also advised to not undertake construction works outside the hours of 08.00 -18:00 Mondays to Fridays, 08:00-13:00 on Saturdays and to not undertake works on Sundays, Bank or public holidays. Furthermore, arrangements for the management of demolition and construction traffic to and from the site should be carefully considered in the interests of residential amenities and highway safety. With regard to works within the limits of the highway and construction practices to prevent issues such as the deposit of mud on the highway, the applicant is encouraged to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181 at an early time.
- 2 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
- 3 The applicant is reminded that no development or new tree planting should be located within 3m either side of the centreline of any public sewer and all existing infrastructure should be protected during the course of construction works.
- 4 There should be no new soakaways located within 5m of a public sewer.
- 5 The applicant is advised that it is possible that sewers now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on the site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)
- 6 The applicant is reminded that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for this development, the applicant should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

- 7 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically and that the permitting status of any proposed on site operations are clear. If in any doubt, the Environment Agency should be contacted for advice at an early stage. The Environment Agency recommends that the applicant refers to their position statement on the Definition of Waste: Development Industry Code of Practice and their website for further information.
- 8 Contaminated soil that is, or must be, disposed of is waste and therefore its handling, transport, treatment and disposal is subject to waste management legislation which includes the Duty of Care Regulations 1991, Hazardous Waste (England and Wales) Regulations 2005, Environmental Permitting (England and Wales) Regulations 2010 and the Waste (England and Wales) Regulations 2011. Developers should ensure that all contaminated materials are adequately characterised chemically and physically in line with British Standard BS EN 14899:2005 and that the permitting status of any proposed on site operations are clear. If in any doubt, the Environment Agency should be contacted for advice at an early stage.
- 9 The applicant is reminded that if the total quantity of waste material to be produced or taken off site is hazardous waste and is 500kg or greater in any 12 month period, they will be required to register with the Environment Agency as a hazardous waste producer.
- 10 The applicant is encouraged to make provision for electric vehicle charging points within the development.
- 11 The applicants is advised that due regard should be had to the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition and Construction.
- 12 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. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
- 13 The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street



Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](mailto:addresses@tmbc.gov.uk). To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

Contact: Emma Keefe