

**Wrotham**

**24 October 2018**

**TM/18/02268/FL**

Wrotham, Ightham And  
Stansted

Proposal: Demolition and redevelopment of existing buildings to provide 38 residential units with associated parking, refuse and cycle storage

Location: St Georges Court West Street Wrotham Sevenoaks Kent TN15 7DN

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**1. Description:**

- 1.1 Planning permission is sought for the demolition of the existing development known as St Georges Court and the redevelopment of the site to provide a total of 38 residential units with associated parking and landscaping.
- 1.2 The buildings would be a mixture of detached, semi-detached and terraced housing along with one flatted building which will be located centrally within the site. All of the proposed buildings will be two-storey in scale. Materials proposed to be utilised include red brick, dark weatherboarding and tiles.
- 1.3 The single block of flats is proposed to provide a total of 12 x 2 bed units, centrally located to the front of the site, fronting onto West Street. Each flat is proposed to have its own street level entrance door and private amenity space. This building would be surrounded to the west, east and north by rows of two and three bed terraces. The northern edge of the site is to be occupied by semi-detached and detached units at a lower density.
- 1.4 The proposed development would provide for a total of 38, 2 and 3 bed units. Of the units, 10 are proposed to be allocated for affordable rent, owned and managed by Clarion Housing Group with the remaining being built out as intermediate low cost home ownership. The affordable rent units would all be 2 bed houses, located on the eastern side of the site, with the remaining homes spread across the 2 and 3 bed houses and flats.
- 1.5 The residential units are proposed to be served by a total of 62 car parking spaces, of which 57 will be allocated to the residents, with the remaining spaces for visitor use. Two cycle spaces per unit have also been incorporated into the layout.
- 1.6 Vehicular access to the site will remain from West Street. A further pedestrian access from West Street into the development is also shown to be provided.
- 1.7 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:

- Planning Statement prepared by Savills dated September 2018;
- Design and Access Statement prepared by BPTW Partnership dated November 2018;
- Preliminary Ecological Appraisal prepared by GreenLink Ecology Ltd dated June 2018; Tree Survey Report prepared by GreenLink Ecology Ltd dated June 2018;
- Transport Statement prepared by Paul Mew Associates dated September 2018;
- Phase 1 Desk Study prepared by Albury S.I Ltd dated May 2015;
- Phase 2 Report on Site Investigation prepared by Albury S.I Ltd dated November 2015;

1.8 This submission follows on from a previously refused scheme for the redevelopment of the site and the construction of 60 units. Having undertaken a Members' Site Inspection, APC2 refused planning permission for that earlier scheme for the following reasons:

*The proposed redevelopment within a rural settlement does not comply with policy CP13 of the Tonbridge and Malling Borough Core Strategy 2007 and there are insufficient material considerations to justify the setting aside of that policy.*

*The proposed footprint, scale, bulk and massing of the new buildings results in an overbearing appearance which is also out of character with the street scene. The proposal is therefore contrary to policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.*

1.9 The Planning Inspector subsequently dismissed an appeal lodged against that refusal. The considerations made by the Inspector in reaching that decision are a material consideration in the assessment of this planning application and it is necessary to establish whether the previous reasons for refusal have been successfully overcome having particular regard to the prevailing circumstances now extant. These will be referred to in the assessment that follows as appropriate.

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

2.1 Given the recent history of the site.

## **3. The Site:**

3.1 The site lies within the rural settlement confines of Wrotham. The site and Wrotham as a whole is washed over by the AONB. Wrotham Conservation Area is

beyond the Courtyard Gardens development to the east; it does not abut the site but lies about 75m away.

- 3.2 The site measures 0.94 ha and currently accommodates 2 storey building previously in use as sheltered housing comprising 57 dwellings.
- 3.3 The built form is concentrated in the centre of the site with grass banks, trees and hedges at the periphery. There are currently 28 parking spaces.
- 3.4 The land is generally upwards sloping south-east to the north-west.
- 3.5 There are mature trees mainly on the southern frontage to West Street and on the western boundary to public footpath MR236 that runs adjacent to Mountain Close and Goodworth Road towards the primary school. The majority are protected under a Tree Preservation Order 16/00011/TPO confirmed on 19 September 2016.
- 3.6 The boundary to Courtyard Gardens comprises a 1.6m high concrete panel wall. A well-maintained hedge belonging to Courtyard Gardens currently screens much of the existing buildings from the amenity areas serving those neighbouring properties.
- 3.7 To the east are over 55's dwellings at Courtyard Gardens and the dwellings and garage courts of 111-116 West Street: ground levels are similar to the application site along the common boundary. There is hedge approximately 4m high belonging to Courtyard Gardens along much of the western boundary.
- 3.8 To the north is a boundary of concrete panel fencing with the bungalows of Childs Way set at levels 133.3m to 132.7m OD. On average, these bungalows have ground levels 1.2m higher than the ground level of the application site, which is set down in the NE corner. There is almost a full Leylandii hedge along that boundary in the gardens of Childs Way, screening most of the gardens of these neighbouring bungalows. Beyond the bungalows are conventional 2 storey houses in Childs Way, which are on rising land.
- 3.9 To the south beyond West Street itself are pairs of semi-detached houses. These are generally 24m from the edge of the site but at a lower land level. Some have hardstanding for parking in their frontages.

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

TM/15/03051/FL	Refuse	18 November 2016
	Dismissed on appeal	14 September 2017

Demolition of the existing housing to be replaced with new residential flats and houses, with associated ancillary buildings, parking and amenity space: 5

apartment blocks 2-3 storeys in height consisting of 9 X 1 bed and 43 X 2 bed units; 6 X 2 bed houses and 2 X 3 bed houses with private garden amenity space

**5. Consultees:**

5.1 PC: No objections

5.2 KCC (H +T): Confirmation that it is not considered that the impact of this proposal could be described as severe. The car parking proposed is in accordance with standards. On behalf of this authority I confirm that subject to the following conditions I have no objection to this proposal:

- Submission of a Demolition and Construction Management Plan for approval before commencement of any development on site to include the following: 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 shown on the submitted plans prior to the use of the site commencing.

5.3 KCC (PROW): Public Right of Way MR236 runs along the western boundary of the application site and should not affect the application.

5.4 EA: Original comments: Objections raised on the grounds that the application failed to provide assurance that the risks of pollution to controlled waters are acceptable, or can be appropriately managed. Recommends refusal on that basis.

Further to additional information being submitted, subsequent comments were provided as follows:

5.5 Objection can be removed subject to the imposition of planning conditions. The Phase 1 Desk Study by Albury S.1. Ltd (ref: 15/10432/JM) dated May 2015, and the Phase 2 Site Investigation by Albury S.I. Ltd (ref: 15/10432/A/JM) dated November 2015 have been reviewed. We feel that, in general they have been carried out in line with relevant guidance and the analysis of risks and liabilities detailed in the reports are agreed in principle. The investigation reports have identified a low risk of contamination at the site and no remediation has been recommended. Although no significant contamination has been discovered by the site investigation, there is always the possibility that previously unsuspected

contamination may be encountered during construction. Conditions should therefore be imposed.

- 5.6 KCC (LLFA): Original comments: Unfortunately no surface water drainage strategy has been provided for the proposed development. We would therefore recommend the application is not determined until a complete surface water drainage strategy has been provided for review. Further information requested.

Further to liaison with the LLFA, subsequent comments were provided as follows:

- 5.7 We have reviewed the information submitted and whilst our previous comments still apply (23 November 2015), we would also recommend the following information is provided as part of detailed design:

- Information to support any key design inputs (e.g. greenfield and post-development run-off rate calculations, existing and/or proposed impermeable area plan).
- Final full network calculations and model details to demonstrate the drainage system's operation and performance for the critical duration 1 year, 30 year, 100 year +20% and 100 year +40% storm intensities.
- Where there is any exceedance of the drainage network above the 30 year event, an exceedance plan should be provided illustrating where exceedance occurs and the extent and depth of flooding. Exceedance must be controlled within the site boundary.
- As per our SuDS policy 4, for brownfield sites, and unless demonstrated to be reasonably impracticable, we would expect a 50% reduction in the peak runoff rate from that of existing.
- Should your local authority be minded to grant permission for this development, we recommend the following conditions:
- Condition: Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

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

- Condition: No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

5.8 SWS: Comments provided regarding the need for the developer to ensure the location of public sewers is established.

5.9 KFRS: The means of access is considered to be satisfactory

5.10 KCC (Economic Development): Contributions sought towards primary and secondary education.

5.11 Private Reps: 99 + site and press notices/0X/17R/0S. Objections raised on the following grounds:

- Overdevelopment and not in keeping with the area;
- More imposing on the environment and denser than other housing in the area;
- Impact on roosting bats;
- Lack of parking and associated impacts on on-street parking;
- Increased levels of traffic;
- Concern about who will have responsibility for the maintenance and upkeep of protected trees;
- Need for elderly accommodation within the village remains;

- Applicant should prove there is a need for this type of accommodation in the village;
- Lack of school places in the area;
- Increase in noise;
- Existence of restrictive covenants  
[DPHEH – this is not a material planning consideration]

**6. Determining Issues:**

*Preliminary matters:*

- 6.1 Members will be aware that a restrictive covenant exists on the application site and it is clear from the representations received that this remains a locally sensitive issue. For the avoidance of any doubt, the existence of the covenant is not a material planning consideration and simply cannot be a matter upon which a decision on the planning application can be made. Similarly, the preference of some to ensure the site remains for elderly person's accommodation in some guise is not material but rather whether the specific scheme now put forward is acceptable in light of the adopted development and other material considerations. As such, these matters will not form any further basis of the assessment that follows.
- 6.2 Whilst the previous Inspector's decision is a material consideration in the determination of this application, it is important to note that circumstances have changed since this decision was made, in particular the publication of the new NPPF in July 2018 and the absence of a five year housing land supply when measured against our objectively assessed need. This means that, where still relevant to do so, reference has been made to the judgements of the previous Inspector but the relevant policy framework has already moved on from the context in which that decision was made.
- 6.3 Members will be aware that the Council has now submitted its Local Plan for examination by the Secretary of State. The policies contained within the plan at this time (pending examination) carry only limited weight. In any event, there are no policies contained within the Plan that seek to resist development of this nature in locations such as this.

*Principle of proposed development and relevant policy considerations:*

- 6.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF at paragraph 12 asserts that it '*does not change the statutory status of the development plan as the starting point for decision making. Proposed*

*development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise’.*

- 6.5 Policy CP13 of the TMBCS states that new development within the confines of identified rural settlements (including Wrotham) will be restricted to minor development appropriate to the scale and character of the settlement. In the case of redevelopment or change of use of an existing building, development will only be proposed in the LDF, or otherwise permitted, if: the overall trip generation is projected to be lower than that associated with the former use; or if there is some significant improvement to the appearance, character and functioning of the settlement; or there is an exceptional local need for affordable housing in terms of Policy CP19.
- 6.6 In the absence of a five year supply of housing, it is necessary to apply the presumption in favour of development as set out in paragraph 11 of the NPPF. Firstly this means giving consideration to whether policy CP13 is out of date for the purposes of decision making and thus whether there is conflict between the requirements of the policy and the requirements of the NPPF.
- 6.7 In all respects, the NPPF seeks to maximise opportunities for the supply of housing in appropriate locations that can contribute towards supply and maintain and enhance the vitality of existing communities. Continuing to concentrate new housing development within identified and established settlement confines such as this (and therefore also conforming with development plan policy CP13 in the broadest of terms) wholly accords with this aim.
- 6.8 However, it should be noted that policy CP13 of the TMBCS sets out a requirement for either a reduction in trip generation resulting from a proposed development when compared to the former use of the site or “significant improvements” to the appearance, character or functioning of the settlement before planning permission can be granted. These requirements are not replicated within the policies contained within the Framework and therefore this element of CP13 does not conform within the NPPF and cannot be relied upon in the absence of a five year supply. (I would mention however that this revised scheme does actually accord with the specific requirements for net gains in any event.)
- 6.9 As such, returning to the need to apply the presumption in favour of sustainable development, the scheme proposes new housing development on a previously developed site within an existing identified settlement in accordance with the policies contained within the NPPF (and policy CP13) and therefore planning permission should be granted (paragraph 11d).
- 6.10 Moreover, it should be recognised that the new version of the NPPF now overtly sets out that where there is an existing shortage of land for meeting identified housing needs (i.e. where an LPA cannot demonstrate an up to date five year supply) it is especially important that planning decisions avoid homes being built at



low densities and ensure that development makes optimal use of the potential of each site (paragraph 122). It goes on to state that applications should be refused where it is considered that proposals fail to make efficient use of land.

- 6.11 In this respect, whilst I note that the scheme proposes a reduced number of units across the site from that previously occupied, it is – and has been for some time now – vacant. Furthermore, the site is tightly constrained by a number of important factors, not least the surrounding residential developments and the need to ensure adequate parking and highway safety arrangements are provided for. As such, I consider that the proposed density level (40dph) is appropriate, and represents an effective use of the land, whilst also ensuring a high quality environment prevails within the context of the various constraints at play. This is wholly consistent with the requirements of the NPPF in ensuring an effective use of land in areas such as this.
- 6.12 In light of the above, while I have given regard to the previous Inspector’s decision in terms of the detailed assessment as to the merits of the scheme as an important material consideration, events have overtaken which means the broader commentary she provided concerning matters of principle and conflict with CP13 and the associated previous reasons for refusal no longer apply in the same way.
- 6.13 I now return to the need to apply the presumption in favour of sustainable development (paragraph 11 (d) of the NPPF). For decision making, this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.14 With regards paragraph 11 (d) (i), footnote 6 explains the concept of “specific policies” in the NPPF indicating that development should be restricted. This includes development relating to sites within the AONB. It is therefore necessary to assess the impact of the development on the AONB in the first instance.

*Impacts on the AONB:*

- 6.15 The purpose of the AONB is to conserve and enhance the area’s natural beauty. There is a duty on the LPA to have regard to this statutory purpose in carrying out their functions (section 85 of the Countryside and Rights of Way Act 2000). National policy confirms that this duty also applies to proposals for land outside the designated area but which nonetheless impact upon it.

- 6.16 Policy CP7 relates to AONB: development should not be permitted if detrimental to the natural beauty and quiet enjoyment of the AONB, including their landscape, wildlife and geological interest. Any such development must have regard to local distinctiveness and landscape character, and use sympathetic materials and appropriate design.
- 6.17 Paragraph 172 of the NPPF attaches great weight to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
- 6.18 The site is within the village of Wrotham and enclosed by relatively modern development on all 4 boundaries which is all washed over by the AONB. I am of the view that the scale and nature of the development now proposed within this context would not cause any harm to the AONB. In making this judgement, I am mindful of the comments made by the AONB unit in respect of the larger (refused) scheme, where no objections were raised. No comments have been expressly made by the Unit in connection with this planning application and the previous refusal was not based on any AONB impact. As such, there are no restrictive policies operating which provide a clear reason to refuse permission and the presumption in favour of sustainable development applies to be considered.
- 6.19 In this context, it is of course necessary to properly consider local context and the quality of the resultant development in terms of the requirements of CP24 of the TMBCS and the policies contained within the Framework concerning the need to achieve high quality design.

*Layout, design, visual impact and landscaping:*

- 6.20 Policy CP24 (Achieving a High Quality Environment) states that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings; all development should accord with the detailed advice contained in Kent Design, By Design and Secured by Design and should make a positive contribution towards the enhancement of the appearance and safety of the area. Development which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement or the countryside should not be permitted.
- 6.21 Policy SQ1 of the MDE DPD has similar objectives; all new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its historical and architectural interest and the prevailing level of tranquillity.
- 6.22 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty that in the exercise of any powers with respect to any

buildings or other land in a conservation area, special attention shall be paid to the desirability of conservation preserving or enhancing the character or appearance of that area. The site is 75m from the Conservation Area and there is intervening development such that the redevelopment would not affect the Conservation Area or its setting. Similarly, I do not believe that the roof scape would harm the view from St Georges Church in the village centre.

- 6.23 The reduction in the overall number of units proposed in this revised scheme has consequently reduced the scale and massing of the built form in a way that allows it to be far more reflective of that of the surrounding development. Equally, the scale and massing and detailed design of the buildings would collectively ensure that the development would respect the site and its surroundings, providing a cohesive and high quality new development.
- 6.24 The site is enveloped by relatively modern dwellings of no particular architectural merit and, in my opinion, the materials and form of the proposed development strikes an acceptable compromise between a contemporary design and respecting the local colour palette and key architectural forms.
- 6.25 I note that a number of trees are proposed to be removed to facilitate the development. Although this includes some to be removed along the West Street boundary, a suitable screen along this boundary would be retained and would be acceptable in visual terms.

*Residential amenity:*

- 6.26 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.
- 6.27 The layout as proposed, combined with the relative scale and height of the buildings, and the manner in which the buildings have been designed all contribute collectively to ensuring there would be no harmful overlooking arising or any adverse loss of daylight or sunlight, particularly when considering the scale, form and relationships between the existing buildings on the site and the closest neighbours.
- 6.28 In particular, I note that the layout has been designed so as to ensure appropriate separation distances remain where direct relationships between existing and proposed buildings are to arise. The buildings with the closest relationships are to the northern end of the site but land levels reduce the impact arising and no first floor habitable rooms are proposed in these circumstances to ensure no overlooking occurs.

Highway safety and parking provision:

6.29 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.

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

6.31 In village locations such as this, KHS IG3: Residential Parking (which is adopted for decision making purposes) sets out a requirement for 2 bedroom units to be served by 1.5 spaces/unit and 3 bedroom units to be served by 2 spaces/unit. This level of provision is met across the site and the scheme is therefore acceptable in terms of the level of parking provision proposed.

6.32 The submitted TA has been reviewed and endorsed by KHS, with the key conclusion being that the development would result in a reduction in trip generation overall.

6.33 As such, the scheme is considered to comply with the requirements of policy SQ8 and paragraph 109 of the NPPF.

Flooding and drainage:

6.34 Representations from statutory consultees indicate that the development is acceptable in all respects in terms of flood risk, surface water drainage and

groundwater contamination, subject to a tranche of conditions requiring the submission of further details should Members be minded to grant planning permission. This approach is reflected within the recommendation set out at Section 7 of this report.

Other environmental considerations:

- 6.35 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.
- 6.36 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 170 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.
- 6.37 The submitted ecological appraisal concludes that there are no overriding ecological constraints that would prevent the proposed development being undertaken, subject to further survey work being undertaken in respect of bats and reptiles and in order to further inform necessary mitigation measures. This work, and the mitigation measures identified, can be adequately secured by the imposition of appropriate conditions.

Planning obligations:

- 6.38 Policy CP17 of the TMBCS requires that 40% provision for affordable housing be incorporated into the proposed scheme. Clarion are intending the scheme to be 100% affordable provision and the policy compliant 40% will be secured by way of a legal agreement which is currently being finalised. This will provide for 10 affordable rent units (which will be subject to the Council's allocations scheme) and 5 shared ownership.
- 6.39 KCC has made representations indicating that the development would necessitate contributions to be made towards primary and secondary education provision in the locality. Given that the previous, larger, scheme did not trigger the need for such contributions this has been robustly tested through negotiation to ensure the requirements meet the statutory tests (for obligations sought to be necessary, reasonable and related in order to make the development acceptable in planning terms). Having explored the need with KCC officers I am satisfied that the tests are met and the contributions should be sought by way of planning obligation. This will also be included within the legal agreement.

6.40 As there is a net reduction in the number of units overall, the policy requiring open space provision is not triggered in this instance.

Conclusions:

6.41 In light of the above assessment, I consider that, where still material to the assessment of this scheme, the development now proposed successfully overcomes the previous reasons for refusal (and dismissed appeal). Moreover, the presumption in favour of sustainable development applies and there are no significant or demonstrable adverse impacts arising from the development that indicate planning permission should be refused. In fact, the scheme now proposed represents a high quality residential scheme that takes into account the relevant constraints of the site and responds to them in a positive way that ensures accordance with adopted development plan and national policy. As such, I recommend that planning permission be granted subject to the finalisation of the legal agreement and the imposition of planning conditions where necessary and appropriate to do so.

**7. Recommendation:**

7.1 **Grant planning permission** in accordance with the following submitted details: subject to the following:

- The applicant entering into a legal agreement covering the provision of 40% affordable housing across the scheme and contributions towards primary and secondary education; and
- 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 use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space and cycle storage has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 3 No building shall be occupied until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

- 4 No above ground development shall take place until a contoured site plan together with full details of the slab levels at which the approved buildings are to be constructed have been submitted to and approved by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

Reason: In the interests of visual amenity.

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

Reason: In the interests of visual amenity.

- 6 The scheme of hard and soft landscaping and boundary treatment shown on the approved plans 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 10 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 the interests of visual amenity.

- 7 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 the interests of visual amenity

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

Reason: In the interests of visual amenity

- 9 No development shall be commenced until the following have been submitted to and approved by the Local Planning Authority:

(a) a contaminated land desktop study identifying all previous site uses, potential contaminants associated with those uses including a survey of the condition of any existing building(s), a conceptual model of the site indicating sources, pathways and receptors and any potentially unacceptable risks arising from contamination at the site;

(b) based on the findings of the desktop study, proposals for a site investigation scheme that will provide information for an assessment of the risk to all receptors that may be affected including those off site. The site investigation scheme should also include details of any site clearance, ground investigations or site survey work that may be required to allow for intrusive investigations to be undertaken.

If, in seeking to comply with the terms of this condition, reliance is made on studies or assessments prepared as part of the substantive application for planning permission, these documents should be clearly identified and cross-referenced in the submission of the details pursuant to this condition.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2018



- 10 No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the local planning Authority:

(a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

(b) prior to the commencement of the development the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2018

- 11 Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. Where it is identified that further remediation works are necessary, details and a timetable of these works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2018

- 12 If, during development, contamination not previously identified is found to be present at the site then no further development (unless first agreed 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 approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2018

- 13 No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.

Reason: In the interests of highway safety.

- 14 No development shall be commenced on the site until an ecology mitigation strategy has been submitted to and approved by the Local Planning Authority. The strategy shall set out method statements for protecting bats, birds and reptiles during and subsequent to development and shall be carried out as approved.

Reason: In the interest of minimising the impacts of the development on local wildlife

- 15 No external lighting shall be installed within the application site unless details of the location, design, mounting, intensity and shielding of the lighting have been submitted to and approved in writing by the Local Planning Authority, and the schemes shall be installed in accordance with the approved details.

Reason: In the interests of amenity and the control of light pollution.

- 16 The approved refuse storage and collection arrangements shall be implemented before the development is occupied and shall be retained at all times thereafter.

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

- 17 No development (including demolition of the existing building) shall take place until details of a management plan to address the physical practicalities of carrying out the demolition and construction work have been submitted to and approved in writing by the Local Planning Authority. The plan shall specify access routes into the site for construction traffic and contractors' vehicles, and maximise contractor parking within the site. The plan shall specify protection of listed buildings at the High Street/West Street junction and pedestrian safety measures across and

adjoining the site. The development shall be carried out in strict accordance with the details approved.

Reason: To maximise safety and minimise disruption during this period.

- 18 The use hereby permitted shall not commence until a scheme for sound insulation has been submitted to and approved by the Local Planning Authority and the building has been insulated in accordance with the approved scheme

Reason: In the interests of residential amenity

- 19 No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (including a timetable for such investigation) which has been submitted by the applicant and approved by the Local Planning Authority.

Reason: In the interests of archaeological research.

- 20 Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of with increase to flood risk on or off-site.

The drainage scheme shall also demonstrate:

- that silt and pollutants resulting from the site use can be adequately manage to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 21 No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report

pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework (July 2018).

### **Informatives**

- 1 During the demolition and construction phases, the hours of noisy working likely to affect nearby properties (including deliveries) should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public or Bank Holidays.
- 2 Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. No bonfires should be had at the site.
- 3 Planning permission does not convey approval for any works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council – Highways and Transportation ([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.
- 4 It is recommended that there be provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- 5 Drainage shall be provided within the site such that surface water from the vehicular access, turning areas and parking does not drain into the public highway. Surfaces shall be porous or shall discharge run off to permeable areas within the curtilage or to a soakaway.
- 6 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to

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

Contact: Emma Keefe