
**Tonbridge
Castle**

13 May 2019

TM/19/01108/FL

Proposal: Construction of building comprising 36 apartments including access and ground floor and undercroft parking, following demolition of existing built form on site

Location: 1 - 4 River Walk Tonbridge Kent

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1. Description:

- 1.1 Planning permission is sought for the demolition of the existing building and the construction of a single building comprising a total of 36 residential units, to be set over 3 floors. The development would comprise a total of 15no. 1-bed units and 21no. 2-bed units.
- 1.2 A parking area, comprising a total of 36 spaces, along with cycle and bin storage and servicing is to be provided at ground floor level in an undercroft arrangement, with a single point of vehicular access from New Wharf Road. The car park is also proposed to be accessed on foot from the northern end of the site off River Walk.
- 1.3 Access to the upper floors from the undercroft is proposed to take place via a single core. The upper (residential) floors can also be accessed on foot via this single core from River Walk, on the western elevation of the building.
- 1.4 The building is proposed to be constructed from a range of materials including buff brickwork. The use of contrasting materials, along with gabled recesses and the use of balconies, is intended to delineate different elements of the building visually and provide some relief to the overall massing of the building.
- 1.5 Some, limited, hard and soft landscaping is proposed to be incorporated within the development. This includes the provision of a small area of private space at ground floor level to the east of the building, accessed via the car parking area. This is shown to be an area of paving, with raised planters and a fountain. Access is also provided to the communal gas meter cupboard from this space.
- 1.6 In addition, a roughly triangular piece of land to the north of the building is proposed to be landscaped, with a footpath leading from River Walk to the northern (pedestrian) entrance to the car park (referenced at paragraph 1.3 of this report). Two Hawthorn trees within this part of the site are to be removed, with others shown to be retained but subject to pruning and management.
- 1.7 The principal (western) boundary of the site, onto River Walk, is proposed to be hard landscaped, with new planting and a series of benches placed intermittently along the frontage with the boundary itself denoted by a "white cross" timber fence shown at a height of 0.9m.

1.8 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:

- Archaeological Desk Based Assessment and Heritage Statement, prepared by Amour Heritage Planning dated April 2019;
- Design and Access Statement, prepared by OSP architects dated November 2019;
- Planning Statement, prepared by Rapleys dated April 2019;
- Arboricultural assessment & method statement, prepared by Barrell Tree Consultancy dated May 2019;
- Sunlight and Daylight Assessment, prepared by Herrington Consulting Limited, dated May 2019;
- Preliminary Ecology Appraisal, prepared by Chris Blandford Associates dated April 2019;
- Desk Study Appraisal, prepared by Crossfield Consulting dated March 2019;
- Flood Risk Assessment, prepared by Herrington Consulting Limited, dated May 2019;
- Affordable Housing Statement and Schedule, prepared by S106 Management;
- Transport Assessment, prepared by Origin dated July 2019;
- Travel Plan (and Welcome Pack), prepared by Origin dated July 2019.

1.9 Since the original submission was made, amendments to the design of the proposed development, use of external materials and landscaping strategy have been received and have been the subject of reconsultation. Similarly, ongoing work has taken place concerning the viability of the proposal in connection with policy requirements concerning the provision of affordable housing, public open space and necessary infrastructure. It is on the basis of these amendments and additional supporting information that the following assessment and recommendation is made.

1.10 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 policy considerations.

3. The Site:

- 3.1 The site lies within the urban confines of Tonbridge, within the central area as defined by the TCAAP. It lies to the west of the High Street, behind buildings which front it.
- 3.2 The existing building, formerly used by the Citizens Advice Bureau (B1 use class), occupies a large proportion of the site. It is a detached, two-storey building. The ground floor is faced in red brick, first floor rendered with boarding detail under a red clay tile roof.
- 3.3 Tonbridge Castle, a Grade I listed building and Scheduled Ancient Monument, is located to the north of the site. The site lies within the Conservation Area (CA), which extends to the north, west and south also.
- 3.4 Waterside Lodge is located to the south-west of the site. The ground floor of this building is occupied by undercroft parking and servicing, with three-storeys of residential (assisted living apartments) above. The external materials used here are a combination of red brick, weatherboarding and render. Some variation to the elevations is provided for by balconies, recesses and gable detailing.
- 3.5 Land to the immediate east of the application site is formed of a car parking area and a pub garden. 2 New Wharf Road, a predominately 3-storey building constructed from red brick with some weatherboard detailing, is located further to the east of the application site.
- 3.6 The ground level car park which serves Poundland (a retail unit which fronts onto the High Street) is located to the south of the application site. It is acknowledged that this is currently a detracting feature within the locality and provides some of the further context for the application site.
- 3.7 The River Medway is located to the west of the site, on the opposite site of River Walk, and as such the entirety of the site lies within Flood Zone 3.

4. Planning History (relevant):

- 4.1 None relevant.

5. Consultees:

- 5.1 KCC (H+T): Original representation requested a TA and Travel Plan to be submitted. Upon receipt, further representations set out as follows:

5.1.1 The assessment confirms that the traffic generated would not constitute a severe impact on the public highway. The level of car parking proposed is also within standards. Particularly helpful is the Travel Plan and example Travel Welcome Pack submitted and I am pleased to note that the applicant is willing to include introductory financial incentives to encourage residents to consider use of sustainable transport options. The incentives include (I quote from the Travel Plan):

- Cycle - A contribution of £100 towards a bicycle from a local cycle store for each apartment to be reimbursed by the developer;
- Bus - A one-month bus pass for 'Tonbridge and Tunbridge Wells' travel zone for each apartment to be reimbursed by the developer; and
- Rail - A one-month rail pass for each apartment up to 25 miles from Tonbridge or a 2-week rail pass for each apartment up to 50 miles from Tonbridge to be reimbursed by the developer

5.1.2 All apartments will be entitled to all three Sustainable Travel Financial Incentives. The incentives are per apartment not per person. The incentives will be offered to residents upon completion and exchange of contracts. Should the property be purchased as a buy to let property then the incentives will be passed onto the tenants whom the property is let to.

5.1.3 The Travel Welcome Pack is also one of the more clearly laid out and easily understandable I have seen; other details include:

- Details of the Kent Connected journey planner;
- Walking times to local facilities;
- Information on local cycle groups, cycle hire and bicycle stores;
- Information on local cycle training courses;
- Local rail information including details of the South Eastern railways 'On Track' app;
- Local bus information;
- Walking and cycling route maps with distances in metres, and times showing safe pedestrian and cycle routes to the site, local bus stops and Tonbridge railway station;
- Website addresses for public transport providers, taxi services and pedestrian routes in the area; and

- Promotional material for local car share schemes including <https://liftshare.com/uk>.

5.1.4 Confirms no objections subject to the imposition of the following conditions:

- Submission of a Construction Management Plan before the commencement of any development on site.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- 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.
- Demonstration that the financial incentives are offered to residents and submission of a short report on full occupation, of the take up by residents.

5.1.5 Note that planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

5.2 EA: Initial objections removed. Confirms no objections subject to the imposition of conditions.

5.3 KCC (LLFA): Agrees with the proposals to greatly reduce run off leaving the site. We do advise CCTV analysis is undertaken to confirm where surface water is currently discharging to unless a new outfall is provided directly to Main River. We would advise a pre-commencement condition attached to any planning permission. It is essential that further details of the drainage scheme including the final outfall are provided before any new development should commence.

- 5.3.1 Recommends the imposition of conditions requiring sustainable urban drainage scheme details for submission and approval along with subsequent submission of verification report.
- 5.4 SWS: No objections subject to the imposition of conditions.
- 5.5 NE: No comments to make. Directed to Standing Advice.
- 5.6 KCC (Economic Development): Seeks financial contributions towards:
Secondary Education - £21,609 (expansion of Judd School);
Libraries - £1,728.57 (additional books at Tonbridge Library)
- 5.7 KFRS: Means of access is satisfactory.
- 5.8 Kent Police: Comments and advice concerning designing out crime provided.
- 5.9 Environmental Protection (TMBC): Further information sought in respect of noise mitigation; conditions recommended in respect of contaminated land.
- 5.10 Leisure Services (TMBC): Financial contributions sought in accordance with policy OS3 of the MDE DPD.
- 5.11 Private Reps: 42 + site + press notice/0X/116R/0S. Objections summarised as follows:
- Detrimental increase in traffic;
 - Localised problems with parking will be made worse;
 - Unacceptable flooding impact;
 - Drainage system will be unable to cope;
 - Impact of demolition and construction work;
 - Current building should be retained;
 - Site should be put to an alternative use for the benefit of the community and town;
 - There are opportunities for better use of this part of River Walk;
 - Visually unacceptable;
 - Poor design;
 - Poor use of materials;
 - Building is too high;

- Building more identical apartment blocks;
- Views of the Castle will be ruined;
- More should be made of the riverside setting with a better, more appropriate type of development;
- If the site has to be redeveloped it should be with something of a better quality;
- Overshadowing to River Walk will occur to the river;
- No affordable housing proposed;
- Existing infrastructure cannot cope with more housing;
- Already too much residential development in Tonbridge;
- Flats will back onto the pub garden and so will not be acceptable for new residents given noise and disturbance.

6. Determining Issues:

Five year housing land supply and the presumption in favour of sustainable development:

- 6.1 In the absence of a five year housing land supply, there is a requirement to apply the presumption in favour of sustainable development, which for decision making purposes is set out at paragraph 11 (d) of the NPPF. This sets out that planning permission should be granted unless:
- i. the application of policies in the 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 the Framework taken as a whole.
- 6.2 In respect of paragraph 11 (d) (i), the policies protecting areas or assets of particular importance are provided for within Footnote 6 of the Framework and relevant to this scheme are those relating to designated heritage assets and areas at risk of flooding. It is therefore necessary to firstly assess whether the application of the relevant policies in these respects would provide a clear reason for refusing the development proposed, and each are considered in turn below.

Impact on the setting of designated heritage assets:

- 6.3 The application is accompanied by a Design and Access Statement, but it should be noted that it is very limited in its discussion of the significance of the heritage assets affected, and therefore the impact of the proposals on this significance (as required by paragraph 189 of the NPPF). Notwithstanding this, a detailed assessment has taken place in order to establish the impacts of the development on the various heritage assets involved in this case and this is set out as follows.
- 6.4 Dealing first with the relevant restrictive policies within the Framework, paragraph 196 sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Paragraph 197 goes on to state that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.5 Members should also consider the statutory duty set out in s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
- 6.6 The existing building on site is a typical 'Tudorbethan' interwar suburban house, which was built as two houses and more latterly in use as offices. Whilst it has some aesthetic merit and its architectural style is similar to other properties of the same period within the town, it does not meet the suggested Historic England criteria for local listing and has a neutral contribution to the Conservation Area. It is not, on this basis, considered to be a non-designated heritage asset (referring to paragraph 197 of the NPPF) as it is a typical style for this period and there are several examples of this. It should also be recognised that it is located in a somewhat incongruous location for a former dwelling with a suburban appearance, given that this is historically a semi-industrial wharf area, set apart from the higher density buildings fronting High Street and making a short return onto River Walk. As a result, there can be no justifiable objection to the demolition of the building within the Conservation Area although it is equally recognised that such demolition should only take place where there is an acceptable and programmed scheme for the redevelopment of the site.
- 6.7 Moving on to the setting of the castle and the character and appearance of the Conservation Area, Tonbridge Castle is a Scheduled Ancient Monument and includes the grade I listed gatehouse, office building and walls within the scheduled site. Furthermore, the site falls within sub-area A1 of the CA as set out by the Conservation Area Appraisal (the CAA). This, unsurprisingly, highlights the

importance of the Castle, Motte and Bailey and identifies key views and vistas to and from these as being of principal importance. The application site crucially sits within these viewpoints. In particular the CAA notes:

“The three tier topography of the River Walk, Castle Bailey and Castle Motte provides a series of vantage points from which to view the town and the surrounding landscape setting. From the River Walk level there are views westwards of the diverging arms of the Medway against a backdrop of trees which screen views of the recreation ground beyond. A house at the fork in the river provides a visual focal point. To the east, the white ironwork of the Big Bridge is an attractive feature. To the north the mellow weathered castle walls and grassed motte enclose the space but between the two a vista of the castle gatehouse opens up.

In this sub-area, the River Medway wraps around the southern and western sides of the raised castle and gives the feeling of space around the mound. The natural beauty and tranquillity of the river can be appreciated from both the riverside and from higher on the castle.”

6.8 The CAA identifies key features of this sub area as being:

- Unique town centre feature of castle in this elevated, prominent position forms a dominant landmark and important link with the past, the River Medway, River Walk and moat provide an important open aspect to this part of the conservation area and setting for the castle;
- Sandstone symbolising an important building;
- Mellow appearance of the weathered sandstone and cream render;
- Peaceful, landscaped setting with quality street furniture;
- Changes in elevation creating a sense of separation from surrounding uses and changing vistas and views of the countryside setting of the town and fascinating roofscapes;
- Mature trees screen development, enclose space and provide visual amenity.

6.9 Given the location of the site, its position relative to the Castle and grounds and its prominence overall, it is clear that its redevelopment has the potential to have a positive or negative impact on these characteristics, which are so intrinsic to the town in terms of its history, evolution, function and appearance.

6.10 The Design and Access Statement notes that the site is within the urban area, but does not discuss the historic uses on the site or the immediate surroundings. The significance of this area in regards to the contribution to the conservation area is similar to its role in the setting of the castle, as a former industrial area relating to

the riverside location. The appraisal notes the spaciousness and quality of landscape on the castle side of the river, and also notes that the offices and car parking south of New Wharf Road, just to the south of the site, are detractors.

6.11 Two perspectives are provided in the application illustrating the views to and from the castle from the site, but there is no discussion of this set out within the design and access statement, which again is lacking in the assessment of significance as required by the NPPF. However, from our own work, we know that the site was historically industrial in character with wharfs and yards relating to the river. The 1867 OS maps show buildings lining the stream which entered the site, disappearing from maps by the 1930s, and then as an open yard, probably for storage or other industrial purposes, again related to the river transport. This formed part of the setting of the castle complex for some time and the open nature of it is part of that character, much of this deriving from the relationship of the town with the river as it developed, and in contrast to the high density of High Street. This allowed for the dominance of the castle, again an important part of its character. The use of sandstone sets it out, as well, as an important building. 20th century changes to the yard and wharf area greatly changed the industrial character and this is well-established, but River Walk itself maintains the open space from which to appreciate the castle and separate it from the town, along with the river on this side. There are some elements to the existing site that detract from the setting of the castle, including the incongruous hedge and suburban, impermeable close boarded fences, and unsatisfactory “leaked spaces” created by the existing building and its curtilage. Important views from the castle towards the side include longer distance views, which would not be affected by this proposal, and views of the varied roofscape of the town, which this proposal is consistent with. The use of buff brick to reflect the palette of the area would ensure that there would not be any visual “competition” with the dominance of the sandstone castle.

6.12 Having considered all of these factors, it is considered that the proposal will preserve the character and appearance of the Conservation Area and sustain the significance of the Conservation Area and the setting of the listed structures, as no important views will be impeded upon, and it is not necessary to keep the site open, given the long term change in character from the industrial use illustrated in 19th century maps. The openness will also be maintained by River Walk, and the boundary treatment and landscaping will improve the current appearance. It is unfortunate that the design of the proposed building does not take the opportunity to better reflect the historic character of the site as a wharf area as this could also have been considered an enhancement, and there are some awkward elements to the composition of the building as proposed. However, overall the gable ends of the façade and the proposed complementary palette of materials should assist with the building blending in with the appearance of the CA, subject to appropriate conditions that would ensure high quality materials are used.

6.13 On this basis, it can be concluded that no harm will be caused to the significance of the listed structures of the castle, or the Conservation Area as a result of the proposed development. There is therefore no need to undertake the second part of the tests set out at paragraph 196 of the NPPF.

Flooding and drainage:

6.14 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.

6.15 The NPPF and associated technical guidance has replaced PPS25 as cited in the policy above and are therefore material considerations. 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 3 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.

6.16 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.

- 6.17 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 and the FRA suitably addresses these, including a series of mitigation measures and strategies to appropriately manage flood risk.
- 6.18 Representations received from the EA and KCC (LLFA) have been set out in some detail within Section 5 of this report. Ultimately, the conclusions reached are that the development can be undertaken in an acceptable manner subject to the imposition of appropriate conditions in the event that planning permission is granted.
- 6.19 In applying the presumption in favour of sustainable development, I have considered whether or not the application of the relevant restrictive policies within the Framework would lead to a clear reason to refuse planning permission and the preceding assessment indicates that this would not be the case. As such, it is necessary to establish whether there are any adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (paragraph 11 (d) (ii)). It is on this basis that the remainder of my assessment follows.

Principle of proposed development and relevant policy considerations:

- 6.20 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. This is reiterated at paragraph 47 of the NPPF.
- 6.21 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. 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.
- 6.22 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. These policies remain consistent with the overarching principles of the NPPF.

- 6.23 This site is occupied by an existing building 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 terms of broad principles accords with adopted policies CP1 and CP11 of the TMBCS.
- 6.24 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.
- 6.25 Policy TCA11(d) expressly allocates this site for development, setting out that it is:
- “suitable for redevelopment for primarily residential development at a density appropriate to a town centre location (6 dwellings), with the potential for retail or commercial office space at ground floor level in accordance with policy TCA7, subject to public realm enhancements along River Walk and New Wharf Road in accordance with policy TCA10.”*
- 6.26 Clearly the development proposed by this application is not at a quantum or density 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, in recognition of its position within the secondary retail area, again which are not incorporated into these plans. However, it should be noted that the TCAAP was adopted prior to the publication of the NPPF, which contains a number of important principles in these respects and is a material consideration in determining this application. Those most applicable in these respects are set out below in full.
- 6.27 Paragraph 85 states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
- 6.28 Paragraph 117 sets out that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living

conditions. Linked to this, paragraph 118 goes on to state that planning policies and decisions should (inter alia):

c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure).

6.29 Paragraph 122 states that planning policies and decisions should support development that makes efficient use of land, taking into account:

a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;

b) local market conditions and viability;

c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;

d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed, attractive and healthy places.

6.30 Furthermore, paragraph 123 requires that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances (in respect of decision making), paragraph 123 (c) states that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework. In this context, when considering applications for housing, authorities are further advised that they should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

6.31 As such, whilst the proposed development does not strictly accord with the development plan allocation in terms of the amount of residential development it would contain, there is a need to make the best and most efficient use of land in urban areas such as this. On this basis, there should be no objection solely to the

amount of development proposed on this site. However, when reading these paragraphs collectively, it is clear that a suitable amount of residential development on any site must be guided and ultimately achieved at the same time as suitably reflecting and enhancing the urban environment and this is addressed in more detail in the following sections of the report.

- 6.32 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 residential units onto this site can be seen to enhance the vitality of the town centre, being the core aim of CP23 for the reasons set out above.
- 6.33 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. As such, overall I do not consider the scheme to conflict with the aims of the secondary retail area designation.
- 6.34 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 as proposed is acceptable in principle on this basis.
- 6.35 I understand that a number of representations from the local community have, in objecting to the proposed development, suggested that alternative forms of development might be more appropriate in improving the vitality of the town and make better use of River Walk as a public space. This view is appreciated, but in dealing solely with the planning application before APC1 it is necessary to assess the scheme as proposed and on its own merits in light of adopted policy and other material planning considerations.

Loss of B1 office use:

- 6.36 The proposed redevelopment would notably result in a change of use of the land from B1 office to C3 residential. In this respect, it must be recognised that the existing building is now vacant, with the CAB having been successfully relocated within the town. There is no policy basis upon which to seek to retain the existing use of the site. Indeed, permitted development rights would allow for the change of

use of the existing building for residential purposes, subject to a prior notification process.

Urban design and quality of development:

- 6.37 This section of the report should be read in conjunction with the assessment regarding the impact of the development on designated heritage assets. That part of the assessment necessarily took place at the start of this report given the need to apply the presumption in favour of sustainable development in a correct manner. 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 SD3 deals (inter alia) with this site, setting out that any development coming forward should include active frontages with River Walk and New Wharf Road and include improvements to the adjacent public realm (reaffirming the policy position of TCA10 and TCA11).
- 6.38 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.
- 6.39 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. In particular, paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

6.40 Paragraph 127 goes on to state that planning policies and decisions should ensure that developments:

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

6.41 Paragraph 130 goes further still by stating that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

6.42 Associated with the above, paragraph 91 requires that planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
- b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

- 6.43 The planning practice guidance 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. The importance of this is further highlighted by the publication of the National Design Guide which is also a material consideration for decision making purposes.
- 6.44 The proposal has been amended since the original submission of the application following negotiations between officers, the developer and his architects in order to seek improvements to the design of the building since its original inception. This was considered to be particularly important given the highly prominent location of the site, its relationship with the Castle and Conservation Area (as discussed earlier in this report specifically) and the need for any development of this site to positively interact with the adjacent public realm. It is on the basis of the final plans submitted and subject of reconsultation that the assessment on such matters follows.
- 6.45 It is appreciated that to a certain extent the layout and design of the building has been shaped by the size and shape of the plot and relevant environmental constraints, most notably the flood plain. This means that it would not be possible to introduce residential use at ground floor level which has been the leading factor in the provision of car parking within an undercroft. This is a relatively commonplace feature within the town and was accepted at Waterside Lodge to the immediate south-west of the application site. Notwithstanding this constraint, it is still necessary to ensure that any such areas maintain a suitable level of activity in the interests of high quality design and given the overt policy requirements of the TCAAP, associated SDC3 and the NPPF which all seek to secure safe, accessible and integrated urban environments.
- 6.46 The apartments themselves are proposed to be accessed on foot via River Walk, with the western elevation of the building providing an entrance foyer. The southern elevation of the building is necessarily less “active” in terms of its public realm function given the overall layout of the development and because it contains the vehicular access from New Wharf Road leading into the undercroft car park.
- 6.47 The site can also be accessed from River Walk to the north by pedestrians, through a small triangular landscaped area but this only leads to the car park, not the residential units above.
- 6.48 The corner of River Walk and New Wharf Road is delineated in visual terms by what the architect calls a tower, seeking to allow the building to “turn the corner” in a cohesive manner without appearing disjointed.

- 6.49 In terms of landscaping along River Walk; this was an aspect subject to some negotiation as it is critical to ensure that the redevelopment of this site takes place in a manner that allows it to be viewed as a cohesive part of River Walk, rather than as a physically separate entity. The developer has sought to achieve this by including landscaping and benches and a low level open fence along the western boundary with River Walk. In addition, the small landscaped area to the north of the building incorporates low level planting and a footpath and appears as a visual link between the site and the public realm at this point.
- 6.50 When these features are taken cumulatively, I consider that the development would adequately create an active frontage with River Walk and New Wharf Road in a manner that would not cause any overt visual harm to the urban environment when applying the policies set out above.
- 6.51 Similarly, when considering the height and associated bulk and massing of the proposed building, this must be viewed within the context of the other built development in the immediate vicinity. These are all broadly commensurate with that proposed here and as such the building would not appear obtrusive particularly given its town centre context and in light of the specific design characteristics of the building combined with the use of materials, balconies and recesses to enable some relief in the overall built form.
- 6.52 For these reasons, I conclude that the development sufficiently meets the requirements of adopted policy and the NPPF.

Residential amenity:

- 6.53 Policy CP24 of the TMBCS requires that development be designed in such a way that respects the site and its surroundings. Paragraph 127 (e) of the NPPF requires that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.54 The submitted Sunlight and Daylight Assessment indicates that two neighbouring properties should be considered as sensitive receptors; Waterside Lodge and 2 New Wharf Road. An assessment has been undertaken to establish the impacts arising from the redevelopment of the site as proposed on these neighbouring properties using recognised BRE methodologies. The conclusion of the assessment being that whilst there would be a reduction in the amount of daylight and sunlight to windows in these neighbouring buildings this would be within acceptable limits prescribed by the BRE guidelines.
- 6.55 Similarly, the position of the building relative to the nearest neighbouring buildings would ensure that there would be no harmful level of overlooking arising as a result of the proposal particularly in a town centre location such as this.

- 6.56 Policy SQ6 of the MDE DPD previously set out the standards in respect of impacts from noise sources on new development but this has been considered out of date since the first publication of the NPPF in March 2012. It is therefore necessary to rely on the policies in the Framework to assess the application in respect of potential noise impacts, as follows:
- 6.57 Paragraph 180 of the NPPF states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
 - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
 - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 6.58 Equally, paragraph 182 states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.
- 6.59 I note that TMBC’s Environmental Protection Officer initially suggested that further details be required concerning internal noise levels and any necessary mitigation measures to ensure an acceptable aural environment. However, it is necessary to establish whether the imposition of planning conditions would provide the necessary mitigation and in these circumstances, given that there is modern residential development prevalent to the immediate south-west and east of this site, I am satisfied that suitable levels could be met using high quality construction methods, details of which could reasonably be required by condition in the event that permission is granted. This is also noted by the submitted Design and Access Statement which references that suitable sound insulation can be provided for within the construction of the building.

6.60 I note that a small area of private amenity space is shown to be provided between the building and the eastern boundary. The neighbouring car park and pub garden lie immediately beyond this shared boundary. However, this is a small and contained space and I would suggest that in practical terms it is far more likely that residents would seek to make use of the high quality public open spaces in the immediate vicinity. As such, there would be no overriding conflict with the relevant policies cited above.

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. These requirements are broadly consistent with those contained within the NPPF, those relevant to the determination of this application set out as follows:

6.63 Paragraph 108 states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

6.64 Paragraph 109 goes on to state 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.

6.65 Linked to this, paragraph 110 sets out that within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.66 Finally, paragraph 111 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.67 When considering these requirements in the round, KCC (H+T) have confirmed via their formal representations that the vehicular access arrangements to serve the site from New Wharf Road are acceptable in highway safety terms. They have also commended the submitted Travel Plan (paragraph 5.1.1 onwards).

6.68 KCC IGN3: Residential Parking sets out the parking standards for new residential developments and is adopted as a material consideration for decision making

purposes. This sets out that in town centre locations such as this, a maximum of 1 space per unit should be provided for 1 and 2 bed flats. The scheme as proposed therefore accords with the maximum requirement.

6.69 I note that KCC (H+T) have suggested that a number of conditions be imposed on any planning permission granted. Where the statutory and policy tests are met in these respects, these would be carried forward in any such recommendation in order to ensure that the development accords suitably with the policies and requirements cited above.

Ecology and biodiversity:

6.70 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. 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 170 (d) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

6.71 The submitted Preliminary Ecology Appraisal 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 notes that the condition of the existing building, in particular missing, broken or lifting roof tiles and tile roof vents have potential to enable access to the roof void for bats. It also sets out that the site has limited ecological value due to a lack of suitable habitat capable of supporting either a diverse range of species or species considered to be of nature conservation importance. This is further supported by the location of the site in an urban setting and limited connectivity with semi-natural habitats.

6.72 On this basis, the appraisal recommends that a bat survey be commissioned in order to establish whether the building supports bats within its roof. Other than this, no further survey work is recommended but some precautionary measures are proposed to be incorporated during demolition and construction as well as some enhancement measures within the completed site.

6.73 In terms of the potential presence of bats within the building, the application is not accompanied by the recommended further survey work but this could adequately conditioned, along with the other suggested measures in the event that planning permission were to be granted.

Contaminated land:

6.74 Paragraph 170 (e) states that planning policies and decisions should seek to prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

6.75 Paragraph 178 goes on to state that planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

6.76 Paragraph 179 makes clear 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.

6.77 Representations received from the TMBC officer responsible for such matters confirm that these requirements can all be adequately met by the imposition of a series of conditions requiring investigations, any subsequent remediation and verification that the site is suitable for its end residential use. Members will be aware that this is a common approach in such circumstances.

Air quality:

6.78 Policy SQ4 of the MDE DPD states that development will only be permitted where all of the following criteria are met:

(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.

6.79 Paragraph 181 of the NPPF states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

6.80 The designated AQMA in Tonbridge lies to the south of the junction of New Wharf Road with the High Street and as such the application site itself falls some distance from it. During the course of the application, it has been confirmed by the Council's Environmental Protection Team that the additional vehicle movements arising from the proposed development would not be significant enough to increase air pollution in a material way.

Climate change and renewable technologies:

6.81 Paragraph 148 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

6.82 Section 7 of the submitted Design and Access Statement sets out the range of measures that are intended to be incorporated into the building including ensuring air tightness standards, thermal detailing, insulation measures and provision of double glazing. These are all matters that would be addressed via the Building Regulations in any event. It also summarises how the building has been designed to maximise solar gain, the fact that there will be an integrated approach to water disposal via a SUDS scheme along with strategies for waste management and

lighting. There is no further detail as to how these might be implemented in practice and the developer should be encouraged to incorporate measures to support renewable technologies wherever possible.

Planning obligations:

6.83 Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 states that planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

6.84 These tests are repeated in paragraph 56 of the NPPF. In addition, paragraph 57 of the NPPF states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

6.85 In this respect, the planning practice guidance is unequivocal, stating that:

“Where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policy compliant in decision making means that the development fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.”

6.86 A development of this quantum would normally be expected to provide an element of affordable housing provision, with Policy CP17 requiring that 40% of the units overall should be affordable. In this instance a policy compliant development would provide 14 units of affordable housing. The policy goes on to state that in exceptional circumstances, it may be agreed that affordable housing may be provided on another site or by means of a commuted sum.

- 6.87 This planning application, at the time of receipt, provided for no affordable housing on site, in conflict with adopted the policy. A simple schedule was submitted indicating that all of the 36 units were intended for market sale and that this was for reasons of viability connected to the scheme. Since the submission was first made, officers have attempted to have meaningful negotiations with the developer to resolve this (advised by the Council's own viability consultant). Notwithstanding ongoing areas of disagreement between the parties on certain areas and acknowledged deficiencies in the developer's consultants own work, the Council's own consultant has advised, based on the evidence available and when assessed using the applicant's own assumptions but in line with the planning practice guidance, that the scheme could bear 20% affordable housing provision (when also accounting for the total contribution required towards open space/public realm enhancements). This is broadly consistent with the local plan viability work undertaken by the same consultants insofar that it showed that in this higher value area, certain typologies tested were able to bear less affordable housing than other sites. That analysis suggested that a maximum level of 25% affordable housing would be appropriate on the development typology most akin to that proposed by this application. This must be a material consideration in the assessment of this planning application.
- 6.88 The developer was made aware of the outcomes of the Council's assessment in this respect and they were advised to put forward Heads of Terms addressing the requisite obligations (20% affordable housing provision and the public open space contribution). However, even on this reduced basis the only response to these findings has been a further piece of work from his consultants simply asking for the position to be revisited.
- 6.89 In addition, and notwithstanding the fact the ability to provide any affordable housing continues to be disputed by their consultant (without further evidence), the developer has sought to justify why if any provision were to be made, it could not be made on site. This is linked solely to the fact that the building is proposed with a single core which purportedly makes it less attractive for providing an element of affordable housing. Two brief emails from Clarion and Town and Country Housing Group in response to direct approaches by the developer set out this position. In my view, this does not amount to enough to justify exceptional circumstances as required by the terms of the policy particularly given that the scheme could very well benefit in urban design terms from more than one core (a matter that was raised by officers during the negotiations concerning the design of the building in an attempt to improve the frontages and relationships with the public realm and not taken up by the developer). The simple fact that this would necessitate reconfigurations of layouts and potentially the loss of some units is not, in my view, reason enough to dismiss such a solution, but it has been.
- 6.90 It is clear from the culmination of the discussions on such matters that the developer is quite unprepared to provide affordable housing on site or by way of a commuted sum (should exceptional circumstances be properly demonstrated).

Officers have repeatedly made clear the requirements of adopted policy in this respect and that there is a need to provide affordable housing in order to make the development acceptable in planning terms. These requirements have not been met and it does not appear that there is any real prospect of this changing through further negotiations with the developer, which have already been lengthy and protracted. As such, the proposal remains contrary to the requirements of the adopted development plan policy seeking the provision of affordable housing and there are no material planning considerations present that indicate the position of the developer should be accepted in this respect.

- 6.91 Moving on to other mitigation required, policy CP25 of the TMBCS states that development will not be permitted unless the service, transport and community infrastructure necessary to serve it is either available, or will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation.
- 6.92 As set out earlier within the assessment, a contribution will be required towards public open space/realms enhancements in accordance with policy OS3 of the MDE DPD and policy TCA10 of the TCAAP. This has been successfully secured as part of the redevelopment of the Teen and Twenty Club further south and the intention would be to link the improved part of River Walk, via the Memorial Gardens further south to link the footpath to the north of the medical centre terminating at the Avebury Avenue bridge. Discussions with the Council's Leisure Services team indicate that a proportion of the contributions that would be secured via policy OS3 of the MDE DPD could reasonably be used towards this project. Since the viability work has taken place, it has also been recognised that KCC have requested contributions towards secondary education and libraries. I acknowledge that this would need to be factored into the work already undertaken (and at the time of writing this report the Council's consultant has been made aware of this).
- 6.93 It is plain from the communications concerning affordable housing provision that there is in all likelihood no intention to meet these requirements, with no material planning considerations justifying why this should be the case and for which there arise very real planning harms in terms of infrastructure provision but also in terms of requiring a cohesive and integrated form of development in physical terms. Furthermore, no evidence has been provided that indicates any intention to meet the requirements of policy OS3 of the MDE DPD or policy TCA10 of the TCAAP. The work undertaken to date has not factored in the contributions sought by KCC in respect of secondary education and libraries but, given the dialogue that has taken place to date, it can be reasonably assumed that the same arguments would be forthcoming in this respect too. In any event, the statutory test does not allow for obligations to effectively be "cherry picked" but rather there is a need to start with the development plan and establish whether there are any material

considerations which indicate a move away from those adopted policies (s38 (6) of the Planning and Compulsory Purchase Act 2004).

6.94 Therefore, and notwithstanding the conclusions drawn throughout the preceding assessment, there remains a fundamental conflict with the adopted development plan (the relevant policies of which are in conformity with those in the NPPF) and for which there are no material considerations identified that would indicate a divergence from the adopted policy position.

Benefits of the scheme:

6.95 Given the preceding assessment, I consider that the only benefit arising from the development is through the provision of 36 residential flats (market sale) and the limited contribution they would make to the five year housing land supply position at this time. Of course, I appreciate that there would be limited further benefits arising in economic terms arising from construction (through short term employment gains) and in the longer term through expenditure arising from the increased population but again these would be only limited in nature.

6.96 Similarly, the improvements to drainage across the site and opportunities for ecological enhancement amount to nothing more than seeking to ensure the development is acceptable in planning terms in respect of the relevant policies governing such matters. As such, they cannot be seen as a tangible benefit arising from the development. Moreover, not to incorporate them in the manner proposed would simply lead to further conflict with adopted policy and thus further grounds to resist the development.

Conclusions and the overall planning balance:

6.97 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, the acknowledgement that residential developments have a part to play in achieving such aims, making the best and most efficient use of previously developed land such as this. Conversely, there remain stark omissions from the proposals that would see the resultant development providing no (much needed) affordable housing within the town, no contributions towards necessary infrastructure improvements and no enhancements to the public realm. The proposal is therefore contrary to a number of adopted development plan policies which remain entirely consistent with the requirements of the NPPF. This is set against only very limited benefits that would arise from the provision of 36 market units within the town, the benefits of which would be all but negated in tangible terms by the harms arising by the failure to comply with those policies.

6.98 In applying the presumption in favour of sustainable development, it is necessary to establish whether the grant of planning permission in this case would give rise to any adverse impacts that would significantly and demonstrably outweigh the

benefits when assessed against the NPPF taken as a whole. It is accepted that the benefit arising from the provision of 36 residential units on a brownfield site in an urban location carries significant weight but there are no wider benefits arising from the development if permission were to be granted. Moreover, there are significant and demonstrable adverse impacts that would prevail as a result of such a grant, being the lack of any affordable housing to be provided, the lack of any local infrastructure provision (in this case a secondary school and libraries contribution) to mitigate the impact of the development and the lack of any contribution to comply with policy TCA10 to ensure public realm enhancements to create meaningful linkages across the town can take place. The adverse impacts arising from the direct conflict with adopted policy would significantly and demonstrably outweigh the limited benefits are justifiable grounds to refuse the scheme in its current form.

6.99 I return to the fact that officers and the applicant have been involved in lengthy negotiations in attempts to arrive at an acceptable scheme for this sensitive site. In this respect, I am mindful that national policy and practice guidance encourages positive engagement between LPAs and developers. However, given the length of time already involved in those negotiations which have not brought to fruition a scheme that is acceptable in all respects, it is clear from the communications that have taken place to date that there is no further reasonable scope to seek to negotiate in a positive manner. As such, I now consider it appropriate to recommend that planning permission be refused.

7. Recommendation:

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

Reason:

1 The redevelopment is proposed to take place absent any on-site provision for affordable housing which is a clear divergence from adopted policy and for which there has been no reasoned evidence or justification put forward to the satisfaction of the Local Planning Authority. Moreover, no case has been put forward to the satisfaction of the Local Planning Authority to suggest that in place of a suitable level of on-site provision, exceptional circumstances exist to allow for a commuted sum to be provided for in place of on-site provision, which is further contrary to the requirements of policy CP17 of the Tonbridge and Malling Borough Core Strategy 2007. Furthermore, the proposed redevelopment fails to mitigate against its direct impacts meaning that the scheme does not meet the requirements of policy CP25 of the Tonbridge and Malling Borough Core Strategy 2007, policy OS3 of the Managing Development and the Environment DPD 2010 and policy TCA10 of the Tonbridge Central Area Action Plan 2008 in the following ways:

- There is a lack of any provision towards identified and evidenced secondary education and libraries arising from the increased population associated with the residential units;

- There is a lack of any provision towards identified and evidenced public open space and public realm provision and enhancements

Moreover, latterly this would fail to incorporate opportunities to improve and enhance the public realm within the town and provide key and cohesive linkages from the site to the immediate environs which would also be contrary to the requirements of paragraphs 127 and 130 of the National Planning Policy Framework 2019.

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