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Tonbridge
Medway

1st December 2021

TM/21/02298/FL

Proposal: Demolition of existing gasholders and associated structures. Redevelopment of the site to provide 144 residential units and up to 567 sqm of flexible Class E/ancillary residential floorspace. The proposals include the delivery of landscaping and public realm, play space, access, car parking and other associated and ancillary works

Location: Tonbridge P R S Medway Wharf Road Tonbridge Kent

Go to: [Recommendation](#)

1. Description:

1.1 Full planning permission is sought for the redevelopment of this vacant site for a mix of 144 residential units and a flexible Class E element with potential to be used as ancillary residential space for residents, 567sqm floorspace. Due to the industrial history of the site a full-scale remediation would take place as part of the redevelopment proposal. New and enhanced public realm and landscaping works are also proposed for the site, particularly to open up connectivity towards the river frontage and the existing riverside walk.

1.2 The development would be in the form of 2 blocks, referred to as A and B throughout the report. Block A fronts the River Medway and is 5 storeys in height with a 2 storey height element to house the flexible Class E/ ancillary residential floorspace. Block B sits behind this and is 8 storeys. The use of floorspace is broken down as follows

1.3 **Block A**

Ground Floor – 8 x flats with residential foyer/office and post room. Flexible Class E/ancillary residential space (332 sqm), 19 x undercroft parking spaces, 90 x cycle parking spaces including 4 cargo and 4 electric charging spaces, plant and services and bin stores.

1st Floor – 17 x flats, flexible Class E/ancillary residential space (235sqm)

2nd Floor – 17 x flats, roof terrace shared residential amenity deck/space.

3rd Floor – 17 x flats.

4th Floor – 16 x flats.

Roof – photovoltaic panels and plant area.

1.4 **Block B**

Ground Floor – 20 x undercroft parking spaces including 8 EV points and 3 motorcycle spaces, 54 x cycle spaces, Plant and services, and bin stores.

1st Floor – 11 x flats.

2nd Floor – 11 x flats.

3rd Floor – 11 x flats.

4th Floor – 9 x flats, roof terrace shared residential amenity deck/space.

5th Floor – 9 x flats.

6th Floor – 9 x flats.

7th Floor – 9 x flats.

1.5 Housing mix is broken down as follows:

- 52 x 1 bed
- 69 x 2 bed
- 23 x 3 bed

1.6 Parking provision includes:

- 91 spaces, (5 of which are disabled spaces and 16 have electric vehicle charging points. 19 are undercroft to Block A, 20 undercroft to Block B, 30 spaces are surface parking within the main site, 22 spaces are on street parking within the site boundary on the entrance road to the site);
- 2 car club spaces
- 3 motorcycle spaces
- 168 cycle spaces, (90 to Block A, 54 to Block B, 24 on site)
- 1 light goods/public carrier vehicle space.

Reason for reporting to Committee:

1.7 The application is being reported to planning committee on the grounds of the level of difficulty surrounding the balanced judgement and the recommendation to approve in light of a remaining objection from Environmental health.

2. The Site:

2.1 The site is a brownfield site of approximately 2.2 ha, which lies within the urban area of Tonbridge and within the Tonbridge Central Area as identified in the Tonbridge Central Area Action Plan 2008, (TCAAP). It is situated outside of and to the north east of the Town Centre Boundary, and is an allocated site within the TCAAP under policy TCA11 (r).

2.2 A number of industrial and trading estates wrap around the site to the east and further south. A residential development lies opposite the site on the far side of the river to the north, which was also part of a redevelopment of a previous industrial site. The River Medway runs to the northern boundary and the Gas Works Stream runs further south. Flatted developments are located to the west of the site which are a mix of heights, up to 8 storeys, and architectural styles.

2.3 Public Right of Way path no. MU33 runs along the riverside and the northern boundary of the site. Tonbridge Castle, which is an Ancient Monument, is

located approximately 0.5km to the north west of the site, and the Tonbridge Conservation Area is approximately 90m at its closest point to the north west of the site. The whole site lies within Flood Zone 2 and the majority lies within Flood Zone 3. Trees and vegetation bound the site on all sides

2.4 The site is currently vacant comprising 2 gas holders and 3 small associated single storey buildings, and it has been vacant for 25 years. The older of the two gasholders, approximately 5m tall, dates from c.1895. The second one dating from c. 1922 is much taller and is clearly visible in wider views of the site across Tonbridge. Whilst not listed nor within the nearby conservation area, the proximity of the site to this and the Tonbridge Castle means the site and its redevelopment are within the setting of these designated heritage assets.

2.5 Access is off Medway Wharf Road with connectivity through to Vale Road to the east.

3. Planning History (relevant):

TM/00/02977/TEP Prior Approval 31 January 2001
Required

Erection of a 15 metre lattice mast, 6 sector antennae, 2 x 600mm dishes, an equipment cabin and other ancillary development

TM/01/00690/HSC Application Withdrawn 10 May 2001

Change in control of land edged green to a separate company for use of telecommunication purposes no longer subject to Hazardous Substances Consent

TM/01/02816/HSC Grant 7 January 2002

Continuation of Hazardous Substances consent for storage and distribution of natural gas.

TM/86/10955/FUL grant with conditions 30 January 1986

Erection of security compound and erection of store building 17' x 10'.

TM/92/00798/DHSC grant with conditions 19 November 1992

Deemed Hazardous Substances Application; Nos 3 and 4 Gas holders

TM/97/01195/RD Grant 12 September 1997

details of design and external appearance of plant building

TM/05/00050/RD

Grant

21 March 2005

Details of gas governor replacement submitted pursuant to Class F2 (c) of the General Permitted Development Order 1995

TM/19/02975/DEN

Prior Approval
Required

13 January 2020

Prior Demolition Notification: Dismantling of redundant gasholders and associated structures

TM/21/02322/PPA

28 August 2021

PPA in relation to full planning application for the demolition of existing gasholders and associated structures. Redevelopment of the site to provide 144 residential units and up to 567 sqm of flexible Class E / ancillary residential floorspace. The proposals include the delivery of landscaping and public realm, play space, access, car parking and other associated and ancillary works.

4. Consultees:

4.1

CONSULTEE	SUMMARY	APPENDIX
Environment Agency (EA)	No objections subject to conditions	1
Health & Safety Executive (HSE):	No objection	2
KCC Heritage	No objections subject to conditions	3
KCC (H&T):	No objections subject to conditions, contributions to Bus/Cycle transport and securing Travel Plan monitoring fee	4
KCC SUDS	No objection subject to conditions	5
KCC (Economic Development)	No objection subject to securing contributions towards education, various community services, and waste	6
KCC Public Rights of Way (ROW)	No objection subject to informatives. Would welcome a widening of the river walk path to 3m.	7

Kent Police	No objection, advises the applicant follow Secure By Design Homes 2019 guidance to address designing out crime.	8
Kent Fire and Rescue	Comments regarding access and reminder that Fire Service access and facility provisions are a requirement under Building Regulations. An informative has been added.	9
Southern Water	No objection subject to conditions.	10
Natural England	No comments.	11
NHS CCG	No objections subject to securing contributions towards improvements to local GP practices.	12
Historic England	No comments, advise conservation and archaeological specialists are consulted.	13

4.2 Private Reps: 71/1X/3S/9R There are 13 representations in total, 9 of which **object** to the proposal on the following grounds, (2 of these representations state no objection to the principle of the redevelopment):

- lack of affordable housing.
- inadequate roads to serve the site.
- existing parking issues on surrounding roads will be exacerbated, lack of disabled parking in the area made worse by congested parking.
- online deliveries cause parking problems already in the area, including deliveries by large 7.5 tonne lorries when there is nowhere to park.
- existing congestion on Vale Road and junction with Sovereign Way, the area is used as a rat run causing traffic problems.
- refuse vehicles already block the road each week preventing access and exit by any other vehicles.
- lack of access for emergency vehicles due to existing parking problems blocking their route.
- Inadequate access for construction vehicles during site development.

- more damage to existing kerbs, bollards etc without repair.
- lack of parking, should be at least 2 spaces per unit, with unlikely expectation that occupiers will travel by bike or public transport.
- inadequate parking for visitors, contractors, deliveries.
- There was never meant to be access from Medway Wharf Road through the site, the bollards that originally prevented this were removed due to vandalism and the EA needed access, they should be reinstated.
- poor bus links past the site.
- loss of gasholder structures, loss of local heritage, lack of alternative uses considered for their retention.
- harm to the small town feel of Tonbridge.
- possible harm to wildlife and fauna.
- existing problems with littering will become worse.
- loss of sunlight to existing buildings.
- noise and disturbance to existing residents resulting from construction and anti-social behaviour afterwards.
- contaminated hazardous site due to previous use.
- increased pollution.
- harm to tranquillity of the river walk.
- right to light and air compromised by replacement of gas holders with proposed flats.
- Pressure on local schools in addition to other large developments in Paddock Wood.

4.3 There are 3 representations stating **support** for the following reasons:

- The design respects the town's industrial riverside heritage.
- Improved landscaping to the river waterfront.
- Redevelopment of the site will enhance the area and river.
- Light won't be affected to existing residents.

- Proposal looks great but concern if it's refused a new scheme could be worse with greater impacts to residents and potential property devaluation.
- Excellent attractive design in keeping with the area.
- Improvements to currently ugly wasted space to become a beautiful space on the river front.
- Positive public realm improvements to open up the walkway along the river.
- Positive to see parking provision encourages less car use, there is adequate public transport in the area, the car club is welcomed as are all efforts to reduce carbon footprint.
- The view that each person owns a car is outdated, the proposed provision looks to be sufficient.
- It will improve opportunities for first time buyers, increased employment within local businesses and possible new business start-ups with the class E mixed use element of the proposal;

4.4 Tonbridge Historical Society (THS) –commented on the proposal as follows:

- The proposal has design merits as it respects the commercial and industrial riverside heritage and the towns low-rise roofscape.
- Proposed improved landscaping to the waterfront is welcomed.
- Lack of affordable housing.
- Inadequate roads serving the site and local area which are used as a rat run suffer from parking congestion from cars and delivery vehicles. The road junctions cannot take any increased capacity.
- The expectation that so many will walk or cycle is unrealistic, and Sunday/night-time bus services serving the site are poor.
- An alternative use which retains the gasholders would be preferable.
- Should permission be granted THS request a photographic record be provided of the gasholders prior to demolition and the makers identification plates be retained by the THS in their archive.

5. Determining Issues:

Principle of development:

- 5.1 The Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). This means that the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2021) must be applied. For decision taking this means.
- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- (i). the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; 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.
- 5.2 In undertaking this exercise, it must be recognised that the adopted development plan remains the starting point for the determination of any planning application (as required by s.38 (6) of the Planning and Compulsory Purchase Act 2004) and which is reiterated at paragraph 12 of the NPPF.
- 5.3 Policy CP11 addresses matters of principle for development of this nature within this location. Notwithstanding its support for development as a matter of principle within Tonbridge, it has been established that in the absence of a 5-year housing land supply it is out of date when considering housing developments.
- 5.4 With regard to the application of the presumption in favour of sustainable development, regard must first be had as to whether any restrictive policies within the Framework as stated under paragraph 11 d (i), (footnote 7), provide a clear reason to refuse the proposed development.
- 5.5 When applying paragraph 11 d (i), (and footnote 7), the restrictive policies referred to above relate to the protection of the following areas:-
- habitat sites, including potential Special Protection Areas (SPAs), and possible Special Areas of Conservation (SAC), listed or proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on habitat sites, potential SPAs or possible SACs, listed or proposed Ramsar sites;
 - designated Sites of Special Scientific interest (SSSI);

- Green Belt, Local Green Space, AONB, National Park or within a Broads Authority, or Heritage Coast;
- Irreplaceable habitats, designated heritage assets, other heritage assets of archaeological interest, areas at risk of flooding or coastal change.

5.6 In this case, due to the impact of the proposed development upon the setting of the designated heritage assets, Tonbridge Castle and Tonbridge Conservation Area, an assessment is necessary under paragraph 11 d (i). Policies concerning the historic environment within section 16 of the NPPF are therefore relevant.

Heritage considerations under paragraph 11 d(i):

5.7 Paragraph 195 of the NPPF states:

“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal”.

5.8 Paragraph 197 states:

“In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness”.

5.9 Paragraphs 199 and 200 state:

199 “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.

200 “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional⁶⁸ “.*

- 5.10 The Grade 1 listed SAM, Tonbridge Castle, is within approximately 465m of the site. Tonbridge Conservation area lies approximately 130m to the east. Any redevelopment of the site must therefore take account of the impact it may have upon the setting of these heritage assets.
- 5.11 The impact on the Designated Heritage Assets (DHAs) has been assessed as part of the heritage statement and it is accepted that the proposed redevelopment would not harm the setting of the Grade 1 listed SAM, Tonbridge Castle. The character and appearance of the Conservation Area is considered to be preserved without detriment to its heritage significance. This accords with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 5.12 The design led approach is considered to successfully relate to the sensitive merits of the locality in terms of heritage assets. The visual improvements that will be achieved by the high quality and appropriate design for the area will be of benefit to the wider setting of the DHAs. This positive impact is one of the key benefits that outweighs the loss of the industrial heritage. The Gasholders are not DHAs nor locally listed. Their status for the purpose of assessing their contribution to the area is discussed below in paragraph 5.32.
- 5.13 Historic England responded to the consultation to confirm that they have no comments to make and advise that the advice of our specialise conservation and archaeological advisors is sought.
- 5.14 The Council's Conservation Officer has assessed the proposal and the Design and Access statement and is in agreement with the findings that the proposal will not impact upon the heritage significance of the Conservation Area, or the setting of the Grade 1 Listed SAM, Tonbridge Castle. It is considered that the low level impacts of the new built form in place of the gasholders is mitigated by the material palette, and industrial led design features of the buildings.
- 5.15 Therefore, there is no clear reason to refuse the development in accordance with paragraph 11 d (i) of the NPPF with regard to heritage assets.
- 5.16 Also for consideration under paragraph 11 d (i) is the impact of flooding given the site's location within Flood Zones 2 and 3. Policies concerning flooding within chapter 14 of the NPPF are therefore relevant.

Flooding considerations under paragraph 11 d (i):

- 5.17 New development within flood zones is usually discouraged where the uses proposed are classed as vulnerable to potential flooding in these areas.
- 5.18 Paragraph 154 states that new development should be planned in a ways that:
- “a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure”.
- 5.19 Paragraph 159 requires development where necessary in areas at risk of flooding to be “*made safe for its lifetime without increasing flood risk elsewhere*”.
- 5.20 The sequential test is referred to in paragraphs 161 and 162 and is to be applied to sites at risk of flooding to consider possible alternative sites and to encourage development towards areas with the lowest risk of flooding. If no reasonable alternative site is found the exception test will be applied, which is relevant in this case.
- 5.21 As stated in paragraph 164 of the NPPF, to pass the exception test, it should be clearly demonstrated that
- the proposed development would provide wider sustainability benefits to the community that outweigh the flood risk, and
 - that it will be safe for its lifetime without increased flood risk elsewhere.
- Both elements must be satisfied for planning permission to be granted.
- 5.22 Policy CP10 of the Core Strategy confirms for development to be acceptable or exceptionally justified in flood risk areas it must be subject to an FRA, include safe means of escape, include mitigation measures for the effects of flooding off site or elsewhere in the floodplain.
- 5.23 The submitted FRA details the mitigation measures proposed which include:
- Building FFLs at least 23.18m AOD, which provides a 600mm freeboard on the 1 in 100 year + climate change event level;
- Flood resultant design adopted up to a level of 23.34 AOD, (300mm above the extreme event)
 - Safe access and egress is addressed in a Flood Evacuation Management Plan which highlights flood risk to occupants and also details procedures to follow in the event of a Flood Warning from the EA being issued for the area.

- 5.24 The site is currently already defended to a degree up to the 1 in 100 year flood event. Measures include the Leigh Flood Storage Area (FSA). The applicant engaged with the LLFA and Environment Agency at pre-app stage and again during the course of the application.
- 5.25 The EA raised objection initially on the grounds that *“it fails the second part of the exception test and poses an unacceptable flood risk to future occupants of the development”*.
- 5.26 Further discussions and negotiations took place over the course of several months to resolve the outstanding concerns. The result is that the EA reached a position of support for the proposal subject to conditions. The council is therefore satisfied that the proposed residential and flexible use can be safely located on the site with sufficient mitigation measures, drainage systems and safety measures for residents, to address the threat of flooding to the site in extreme events. The proposed measures and approach accord with the relevant NPPF and Local Plan policies.
- 5.27 In terms of SUDS it is proposed that mitigation measures will control run off from the proposed impermeable area for all events up to and including the 1 in 100 year storm event plus climate change allowance. Discharge is proposed to the Gasworks Stream. Proposed attenuation is by way of bio-retention and cellular storage, permeable pavement areas and blue/green roofs.
- 5.28 Following some further technical advice during the course of the application the KCC LLFA have confirmed that they are satisfied to a sufficient level that appropriate on site drainage can be achieved. This is subject to conditions to secure a verification report on the surface water drainage system to be implemented, and a more detailed scheme for surface water drainage has been submitted and approved.
- 5.29 With the above in mind it is accepted that there is no clear reason to refuse the development in accordance with paragraph 11 d (i) of the NPPF with regard to areas at risk of flooding.
- 5.30 After carrying out the 11(d)(i) exercise and subsequently concluding that there are no “restrictive policies” in the NPPF which provide a clear reason for refusal, the application must therefore be considered against paragraph 11(d)(ii) of the NPPF and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, which are discussed below.

Heritage (other considerations):

- 5.31 The gasholders in situ are considered to be a non-designated heritage asset (NDHA), for the purposes of applying policies set out in the NPPF. As referred to

in the Article 4 Direction covering the site, they are “entirely reflective of the industrial history of the town”. NPPF policy requires a balanced judgement to be adopted for works which affect NDHAs and the settings of heritage assets (the castle and conservation area).

- 5.32 The acknowledged benefits that the redevelopment of the site in the manner proposed will bring are material in making the required balanced judgement against the loss of the historically and visually important gasholder structures. The loss is balanced against the delivery of a landmark development which brings environmental and public realm enhancements, including site remediation and connectivity. It is therefore accepted the proposed removal of the gasholders is in this case justified, in that the benefits will outweigh the loss of the NDHAs.
- 5.33 Another argument to support their removal is that their retention would sterilise the site from other development opportunities. Suggestions have been made by the Tonbridge Historical Society that they could be retained and incorporated into a new proposal. However, the costs involved to remediate the site would make this option most likely unviable.
- 5.34 It is concluded that the heritage significance of NDHA gasholder structures is low. The older gasholder is not in its complete form at present. The more recent gasholder hails from an industrial period which is not of particular interest for this industry in Tonbridge, with little architectural merit from this period. It would be sensible to add a condition to ensure a photographic record of the gasholders is kept prior to demolition.
- 5.35 Comments received from the KCC Archaeologist confirm the industrial heritage of the site and prior to that its use as meadow land. There is potential for Palaeolithic remains, palaeo-environmental remains and Early Prehistoric remains. Therefore a condition is suggested to monitor during construction.

Efficient use of land:

- 5.36 Policies in chapter 11 of the NPPF assess these considerations.
- 5.37 Policy TCA11(r) of the TCAAP relates to the site known as The Gas Works and allocates it as a site “*suitable for residential development at a density appropriate to its riverside location (80 dwellings) including units suitable for family accommodation subject to:*”
- Integration with adjoining sites to the west with regard to design, layout and connections;
 - Provision of new pedestrian and cycle connections;

- Public Realm enhancements along the River Medway and Gas Works Stream;
- Site decontamination and any necessary remediation works.

- 5.38 The proposed number of units is significantly greater than initially suggested in the policy in 2008 at a density of 162 dwellings per hectare. However, under current NPPF 2021 requirements it is important to make the most efficient use of a site as stated in chapter 11. The effective use of land is to be promoted in meeting the need for homes and other uses whilst also safeguarding and improving the environment and ensuring safe healthy living conditions.
- 5.39 Para 120 c) requires substantial weight to be given to the value of using brownfield land for homes and other needs and supports opportunities to remediate contaminated unstable and derelict land. Such use is particularly necessary where an identified need cannot be met.
- 5.40 Para 122 relates to the need for decisions and policies to reflect the changes in demand for land. This is key in the determination of this proposal given the allocation for up to 80 dwellings was made in 2008 and consideration of the redevelopment of the site today includes increased housing pressures and the current lack of an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN).
- 5.41 Paragraph 124 of the NPPF states that planning decisions should support development that makes efficient use of land, taking into account including the desirability of maintaining an area's prevailing character and setting.
- 5.42 These factors, and the next to town centre sustainable location in an area of more recent flatted development, all support an increased density than was originally considered appropriate at the time of allocation 14 years previously.
- 5.43 One of the public benefits of the development at this proposed density on the brownfield site is the contributions that the creation of 144 residential units would make to the Borough's housing supply at a time when it cannot demonstrate a 5-year supply of housing land. Furthermore, the scheme would be a more efficient use of land, in a highly sustainable, edge of town centre location.

Impact on character and appearance on the surrounding area:

- 5.44 Policies in chapters 12 of the NPPF consider how best to achieve well-designed places. Paragraph 130 requires 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 users⁴⁹; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

5.45 Paragraph 134 states that significant weight should be given to developments which reflect local design policies and designs which promote high level of sustainability or help to raise the standard of design in the area whilst fitting in with the layout of their surroundings.

5.46 Local plan policy CP 24 of the Core Strategy requires development to be well designed and of a high quality in terms of detailing and use of materials. Proposals must also, through design, layout, siting, character and appearance, be designed to respect the site and its surroundings. Policy SQ1 of the MDE DPD states that amongst other things, development will be required to reflect local distinctiveness, that it should protect, preserve and where possible enhance character and local distinctiveness of an area, the pattern of settlements, and important views.

5.47 The Article 4 Direction which covers the site is dated 3rd July 2020 and removes the permitted development right for demolition of the gas holder structures under Class B of Part 11, Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015. This Article 4 Direction was deemed to be necessary due to a potential threat to the structures following submission of a prior approval application for their demolition. It was considered that execution of the permitted development rights afforded in this instance would be prejudicial to the proper planning of the area and constitute a threat to the amenities of the area.

5.48 Whilst this Local Planning Authority does not hold a list or database of non-designated/locally important assets, the loss of the gasholders under permitted development rights would remove the ability of the local planning authority to fully assess the impact this would have upon the character of the area. Therefore, the

Article 4 Direction states that they should be considered to be Non-Designated Heritage Assets for the purposes of applying policies in the NPPF.

- 5.49 The gasholders are considered to be reflective of the industrial history of the town and a historical feature which shows how the industrial past of the town evolved, an important heritage link in itself. They are also prominent features in the townscape which date from 1895 and 1920, so their loss will have a clear visual impact in the immediate and wider area.
- 5.50 Para 203 of the NPPF 2021 states that the impact of a proposed development upon the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Para 204 goes on to confirm that LPAs should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. Even though not listed as non-designated assets, the consideration required for such an asset is comparable given the historical importance of the holders to the area.
- 5.51 For this reason, it was determined under the Article 4 Direction that any potential loss of the gas holders is to be fully considered and the impact of this assessed only by way of a comprehensive planning application for a redevelopment of the site, and not the prior notification procedure. This also allows for the relevant policy context to be considered. This impact will be discussed later in the report under the Heritage heading.
- 5.52 The site has an industrial past. Whilst still being surrounded by present day industrial uses it also now sits within the same character area as more recent residential developments. Therefore, the proposed buildings have been designed to provide much needed residential units within a built form which is reflective of the site's industrial heritage and prominent location, in what was the heart of the industrial sector of Tonbridge.
- 5.53 It is intended to deliver a landmark development which will contribute to the regeneration of this area. The design whilst being modern is successful in reflecting the industrial past of this part of Tonbridge, particularly to the front elevations of both blocks overlooking the river creating a wharf style appearance. The use of repeated pitched roof and gable fronted sections add an industrial feel to the design. The recessed frontage to include balconies and create visual interest adds a more contemporary element and high quality design feature to the built form. The proposed materials of glazing, zinc cladding and brick banding are also felt to complement the site's industrial history whilst creating a new identity for the intended use.
- 5.54 The proposed scale and height up to 8 storeys would be in keeping with surrounding flatted developments in the area. The design breaks the built form into two blocks. The siting and design of these create both a visual break in

views of the site and visual interest with the differing heights. The stepping down from the south to north of the site in terms of storeys enhances relationship with the public space along the river frontage which prevents a sense of an overbearing development. Whilst making an efficient use of the site with an appropriate density proposed, the two blocks of residential apartments are not considered to represent an overdevelopment of the site.

- 5.55 The proposed buildings are considered to be of a high quality and will positively contribute towards and greatly enhance the visual amenities of this area of Tonbridge.
- 5.56 There is a good mix of private amenity space provided by way of the roof terrace decks and the area between the two blocks for residents. To the west side of the blocks and the front of block A the improved shared space and links to the existing riverside walk are of great benefit, both visually in the public realm and in terms of health and wellbeing for users and residents of Tonbridge as a whole.
- 5.57 A 24 hour pedestrian link will be provided by hard and soft landscaped open space, improving connectivity as well as the more tangible benefits to the visual qualities of the area and the wider benefits to the riverside walk. The design and landscaping are considered to be high quality that will improve and enhance the character and appearance of the site and surrounding townscape, whilst contributing to the rejuvenation and regeneration of this part of Tonbridge.
- 5.58 The existing riverside walk runs past the site and extends beyond the site to the east and west. The proposal includes plans to widen and upgrade it as part of the public realm enhancements to improve pedestrian and cycle access to the site from the wider area. Both ramped and stepped access will be provided from the riverside walk into the application site.

Highways and parking impacts:

- 5.59 Sustainable transport linked to new developments is promoted by Chapter 9 of the NPPF. Grounds for refusal of such development for highways reasons will only be appropriate where there is an unacceptable impact upon highway safety, or where the residual cumulative impacts on the road network will be severe.
- 5.60 Paragraph 105 of the NPPF states:
- “Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health”.
- 5.61 Policy CP2 of the Core Strategy states that development should be well located in relation to public transport, cycle and pedestrian routes and have good access to town centres. It should also minimise the need to travel through the

implementation of Travel Plans. Policy TCA12 of the TCAAP requires development which reduces the need for travel with new proposals that support sustainable forms of transport. Policy SQ8 of the MDEDPD requires new development not to significantly harm the highway safety, and that traffic generated by the development can be adequately served by the highway network.

- 5.62 Vehicular access to the site is proposed via the existing bell-mouth junction when accessing from Medway Wharf Road. A separate emergency vehicle access point is proposed via the courtyard parking access into the communal garden area in the centre of the development.
- 5.63 A total of 91 parking spaces are proposed at a ratio of 0.64 per unit. These include 5 disabled spaces and 16 with EV charging available. In addition, 2 car club spaces would be provided which are intended to be for use by both residents and non-residents. A barrier is proposed to control parking on site which will have number plate recognition technology.
- 5.64 A total of 168 cycle spaces are proposed split between the two blocks and on site area, 8 of which are intended to serve the flexible use space. There are 3 motorcycle spaces proposed in the under-croft area to block B.
- 5.65 Given the edge of town centre, (as identified on the TCAAP land use map), the very sustainable location and in light of the significant number of cycle spaces it would be unreasonable to insist upon one space per dwelling.
- 5.66 KCC guidance note IGN3 states a parking provision for town centre locations as a maximum of 1 space per unit where reduced or even nil provision is acceptable in the interests of the most efficient use of land. Adopted SPG4 2006 on vehicle parking standards promotes the concentration of development at the major/principal urban areas which are focal points for employment, public services and transport.
- 5.67 The Highway Authority is satisfied with the overall number and type of car parking provision:
- “The above numbers are satisfactory from KCC’s perspective, especially as the site is located close to leisure amenities and other sustainable modes (train and bus facilities)”*
- 5.68 The details of parking space allocation, including visitor spaces and car club arrangements, can be secured by condition as part of the Travel Plan under the the S106 agreement. A monitoring fee of £948 will be required to cover biennial monitoring over five years or the life of the Travel Plan.
- 5.69 Neighbour objections have referred to the current parking problems and associated congestion in surrounding roads, including the contribution delivery

vehicles make to this. The proposal includes one delivery bay which will help to alleviate this issue. The main concern of existing residents is that the proposed 144 flats will increase pressure on an already congested system of roads around the site, including potential problems for emergency vehicles.

- 5.70 The Transport Assessment detailed expected trip generation. It is expected the entire development will generate 35 two-way trips (11 arrivals & 24 departures) in the AM Peak hour and 39 two-way trips (23 arrivals & 16 departures) in the PM Peak Hour. A total of 302 trips daily in connection with the flats and 35 daily in connection with the flexible use. The Highways Authority is satisfied that, based on these expected traffic numbers, the proposal will not have a severe impact on the highway. The provision of the car club arrangement is considered to positively contribute to the level of acceptable impact the development will have on the highway network.
- 5.71 The Highways Authority support the Transport Assessment conclusion that the development would not cause an unacceptable impact upon highway safety. Therefore, a refusal based on the existing congestion concerns would not be robust enough to be supported at an appeal were it to form a refusal reason on these grounds. Provided suggested conditions are imposed on any grant of permission the Highways Authority raise no objections.
- 5.72 Kent Fire and Rescue Service were consulted on the proposal. They responded to raise a lack of swept path analysis for fire appliances, but that the Fire Safety Advice Report did acknowledge the requirements for fire and access facilities. It was also confirmed that such provisions are a requirement under B5 of the Building Regulations.
- 5.73 Due to the proposed height of the buildings, the body responsible for this will be the HSE. Their response on the grounds of fire safety of the building is discussed later in the report. However, as part of the consultation process with HSE amendments were made to the proposal to overcome a number of concerns and objections including access for fire vehicles.
- 5.74 This involved a new swept path position to accommodate access into the site by way of utilising more of the central communal gardens should it be required in an emergency. The HSE were satisfied that this approach met their requirements for emergency access for fire related vehicles to the site. The access to the site and concerns about congestion due to parking has not been raised by either the HSE, Kent Fire and Rescue Service or KCC Highways as an objection.
- 5.75 The Council's Waste Service Department also commented on the need for safe access and egress to the site. It was recognised that on street parking can at times cause delays in accessing sites and the comments included a request for adequate off-street parking in designated bays. As referred to earlier in this section of the report, the parking provision ratio proposed is considered to be adequate for this edge of town centre site.

5.76 In conclusion regarding the highway issues, it is considered that the proposal is in accordance with the requirements of the NPPF and Local Plan policies and has an acceptable impact on the local highway network. The Highway Authority raise no objections.

Affordable Housing and viability:

5.77 Paragraph 63 of the NPPF requires affordable housing needs to be met on site unless off site provision or a financial contribution can be justified. Paragraph 65 expects at least 10% of the total number of homes to be affordable, with a few exemptions to this being listed, none of which apply in this application.

5.78 Policy CP17 of the TMBCS states that affordable housing will be sought on urban sites comprising 15 dwellings or more, at a rate of 40% with a 70/30 split between affordable housing for rent and other affordable housing tenures. This is to be considered the starting point for all applications. It also states that in exceptional circumstances it may be agreed that affordable housing is provided on other sites or by means of a commuted sum. Paragraph 6.3.29 of the TMBCS sets out what those exceptional circumstances might be and includes:

- Where affordable housing can be more effectively secured by use of existing housing stock being brought back into use;
- Where it is not possible to secure management of the affordable housing on site;
- Provision elsewhere in the borough will widen choice and availability.

None of these apply in this case due to the viability considerations of the development.

5.79 Paragraph 7 of the Affordable Housing Protocol recognises the impact planning obligations can have in some cases which will affect the viability of the scheme, and that there are instances when less than policy compliant or even zero affordable housing is acceptable.

5.80 *“In such exceptional circumstances, the Council will consider whether the benefits of the proposed development would outweigh the disadvantages of a more limited planning obligation, or no planning obligation at all. This will only be possible, however, where the developer provides evidence of the likely impact of the proposed planning obligation(s) on the viability of their development. Within this context, if a reduced percentage of affordable housing is being offered, the Affordable Housing Statement must explain why. If the reason for no provision, or for provision below the Council’s adopted policy position, is viability then a detailed financial viability assessment must be provided as part of the Affordable Housing Statement”.*

- 5.81 The proposed scheme does not contain any affordable housing as part of the development. The applicant has submitted a viability assessment for the development which has been assessed by the Council's financial viability consultant.
- 5.82 It is acknowledged that this site is likely to have large scale remediation costs due to its former use. The abnormal development costs as assessed in the viability appraisal are significant at £3,245,898. For this reason it has been concluded by the Council's consultant that any affordable provision on or off site, including off site contributions, would render the development of the site unviable. (For the development to be considered viable and able to provide policy compliant affordable housing provision, the Residual Land Value (RLV), must be equal to or more than the Benchmark Land Value (BLV).)
- 5.83 The calculations and assessment indicate that provision of affordable housing at 40% would result in a negative RLV of -£3,010,000. A scheme at 25% provision would result in a negative RLV of -£1,300,000. The proposal at zero % affordable housing provision has an RLV of £1, which is in line with the purchase price of £1. All options are therefore considered to be equal to or below the Benchmark Land Value of £1. As mentioned therefore, a request for any form of affordable provision would result in the development being unviable and the site remaining undeveloped.
- 5.84 The 10% provision as per the NPPF requirements and paragraph 65 is not considered to result in a viable option either given the assessments that zero percent affordable provision will only result in an RLV equal to that of the purchase price.
- 5.85 These results indicate that the proposed development is contrary to both NPPF and Local Plan policy. It is also noted in the section below that other financial contributions have been secured for other matters such as education, transport, community uses. All have been accounted for in the viability assessments considering the viability and likely deliverability of the proposal.
- 5.86 However, to address this ongoing concern of no affordable provision, even if as the result of viability reasons, it has been agreed that in the event of these figures, abnormal costs, and market conditions changing throughout the build which result in a financial surplus, a late stage review be incorporated into the S106 agreement. This will have a trigger point at 70% of unit sales (upon sale of the 100th unit). If a fresh review at this stage shows a surplus, the applicant is required to pay an affordable housing contribution to the Council equivalent to 75% of the surplus prior to the occupation of the 100th unit.
- 5.87 With regards to the market housing proposed, an acceptable mix of 1, 2 and 3 bed flats of sufficient indoor space is proposed, which also meets the aims of the TCAAP allocation requiring some family sized units. They have been designed to meet the Nationally Described Space Standards (NDSS).

- 5.88 In the final balancing exercise for the recommendation, it is noted that the lack of affordable housing on or off site, or by way of financial contribution is considered to be an adverse impact under paragraph 11 d (ii) of the NPPF. It must therefore be outweighed by the benefits of the proposal.

Open Space:

- 5.89 In addition to the agreed amount of contributions for off-site provision, a small area of play space is proposed on site up to 190sqm as part of the semi-private resident's courtyard.

Ecology and Biodiversity:

- 5.90 Chapter 15 of the NPPF covers the protection and enhancement of the natural environment. Local Plan policy NE2 and paragraph 174 of the NPPF are relevant when considering the impact upon ecology and biodiversity on and around the site. Local Plan policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats will only be considered acceptable when appropriate mitigation and/or compensation measures are proposed which would result in an overall enhancement. An ecological assessment was submitted with the application to assess such impacts.

- 5.91 In this case the site itself presents biodiversity of little intrinsic nature conservation value. The ecological value of the site is not a major constraint to its redevelopment and there are no nature conservation designations covering the site or adjacent areas.

- 5.92 The landscape strategy will incorporate native species and there are suggested measures for mitigation in relation to bats, hedgehogs and birds.

Trees and Landscaping:

- 5.93 Paragraph 131 of the NPPF recognises the important contribution trees can make to the character and quality of urban environments. Planning policies and decisions are encouraged to promote tree lined streets and incorporation of trees elsewhere in developments. Policy NE4 of the MDEDPD promotes the enhancement of the existing tree cover in the borough.

- 5.94 The proposal includes a comprehensive scheme of hard and soft landscaping to complement the regeneration of the site and reflect the industrial heritage of the site. The internal courtyard and roof terraces include a theme of circular soft landscaping elements to represent the gasholder forms. The visual improvements are clear and the removal of 13 existing trees along the boundaries to facilitate the proposal are an acceptable loss given the overall benefits gained. The landscaping scheme will include new planting of indigenous and broad leaf specimens to complement the hard landscaping and will result in

an overall enhancement of the appearance of the site and the contribution it and the landscaping will make to this part of Tonbridge.

- 5.95 The proposed public realm design would also be in accordance with policy TCA1 which encourages best use of important sites along the river to make the most of the river frontages.
- 5.96 Another element of the landscaping adapting to the site are the moveable planters proposed to the east of the site. This is to maintain access to SGN pipelines and protects their easements running between Block A and the boundary

Contamination and remediation:

- 5.97 In accordance with paragraph 184 of the NPPF which requires contaminated sites to be rendered safe for redevelopment by the developers, proposals for remediation are a key part of this application. A number of reports have been included to cover a comprehensive site investigation and remediation strategy. These confirmed multiple contaminants of concern in the site, soils and water, as well as elevated gas concentrations. The Council's Environmental Protection Officer is satisfied that the submitted report adequately reviews the history and environmental setting of the site.
- 5.98 To address this a further investigation is required in the form of a more detailed assessment of the risks to controlled waters, assessment of soils beneath gas holder bases and a UXO risk assessment. Suitable conditions are suggested to secure the necessary information and studies. Given these findings, the Environmental Protection Officer has requested a number of conditions to effectively control the remediation of the site.

Fire safety impacts:

- 5.99 As discussed previously in the report, the HSE is the Building Safety Regulator for this development due to the proposed Block B, a 'Higher Risk Building' (HRBs) as defined in the Building Safety Bill, which would be more than 7 storeys in height.
- 5.100 The HSE raised objection to the proposal in their first response on the grounds of inadequate access to site for a fire appliance vehicle, and to a fire fighting shaft, internal travel distances for fire fighters in excess of 30m, provision of only 1 firefighting lift, and proximity of some parking spaces to flat windows which may encourage fire spread from vehicles.
- 5.101 Following amendments by the applicant a second objection was received from the HSE on the grounds of fire service access including firefighter travel distances.

5.102 Following design changes to the internal layout, the HSE issued final comments to confirm their objections had been successfully overcome. The changes included improved access for fire appliance vehicles and an upgrade to east staircase to a firefighting shaft. These fire safety considerations will of course be the subject of a regulatory assessment under the Building Safety Bill at a later date should permission be granted.

Residential amenity:

5.103 The amenities of both existing neighbouring residents and future occupiers of the development are assessed in this section. In this case the Agent of Change principle is relevant due to the existing noise and odour generating uses adjacent to the site. For a long time, the responsibility for managing and mitigating the impact of noise and other nuisances on neighbouring residents and businesses has been placed on the business or activity making the noise or other nuisance, regardless of how long the business or activity has been operating in the area. In many cases, this has led to newly arrived residents complaining about noise and other nuisances from existing businesses or activities, sometimes forcing the businesses or other activities to close.

5.104 This Agent of Change principle is referred to in paragraph 187 of the NPPF which confirms a requirement for new developments to be compatible with any existing businesses and community facilities in the surrounding area. The 'Agent of Change Principle' aims to protect existing uses such as these and avoid any new permission resulting in unreasonable restrictions being imposed upon them. This paragraph seeks to ensure that the applicant or the 'agent of change' is the party required to mitigate any harmful impacts that would occur to the amenities of their future development and its occupiers from existing potential noise sources.

5.105 In effect the proposed residential flats are a noise and odour sensitive development being located adjacent to existing noise and odour generating uses such as the adjacent timber yard and DryTec. It is necessary through appropriate design methods, layout, orientation, uses etc that the potential for noise and odour impacts for example, is minimised.

Noise:

5.106 In accordance with paragraph 185 of the NPPF, which aims to avoid scenarios where noise pollution would give rise to "*significant adverse impacts on health and quality of life*", a noise assessment supported the application. This investigated the mitigation measures required to ensure the proposed flats would benefit from an acceptable level of amenity in terms of internal noise. The sources of noise are identified as the existing surrounding industrial activity including the adjacent timber yard to the east and DryTec to the south.

5.107 The development would bring residential units much closer to DryTec than the current position where the closest are approximately 75m away. The proposed

flats would be approximately 50m away. DryTec has a condition attached to their use to ensure noise no greater than NR35 at the boundary of the nearest residential properties.

- 5.108 Aylesford Timber adjacent to the east is a source of potential noise pollution given the proximity of proposed flats at approximately 15m away. The scheme was amended during the application to remove balconies from the 8 flats facing the timber yard in the eastern elevation of Block A. An acoustic fence is also proposed along the eastern boundary to mitigate any noise pollution from the adjacent timber yard. Whilst it is desirable for each unit to be provided with a private balcony space, this would not be appropriate where they are to be blighted by noise. However, it is felt that there is sufficient semi-private outdoor amenity space provided by the roof terrace to Block A and the communal gardens to allow for easy access to outdoor amenity space for occupants.
- 5.109 It is proposed to include acoustic performance specifications to the external building envelope of both blocks, including double glazed windows to bring noise levels within habitable rooms in line with BS 8233:2014
- 5.110 These measures ensure compliance with paragraph 187 of the NPPF and the agent of change principle, to prevent potential for noise pollution resulting in harm to amenity and complaints from future occupants on this basis.
- 5.111 It was also necessary to investigate potential for noise to existing residents post construction from plant etc. Proposed mitigation measures as mentioned above were considered to address any potential noise pollution in line with policy. The Council's Environmental Protection Officers are now satisfied that the amendments have addressed their concerns but have requested a condition requiring submission of a noise report based on the recommendations in the submitted consultant's report, for further consideration.
- 5.112 Potential for noise generated by traffic movements was the subject of two surveys which revealed similar noise levels which have been considered acceptable by the Councils Environmental Protection Officers.

Sunlight/Daylight:

- 5.113 Consideration of the impact upon sunlight/daylight levels is important for both existing residents and future occupants. Paragraph 125 of the NPPF balances the need to make efficient use of land and achieving acceptable living standards with regards to daylight and sunlight. A flexible approach is advised in applying policies or guidance on this matter, provided that this does not of course lead to unacceptable living standards.
- 5.114 As a result of the proximity of existing adjacent dwellings a sunlight/daylight assessment was undertaken. The findings were that any reduction in daylight to existing habitable rooms of neighbouring dwellings would be within acceptable

limits as set out within the BRE Guidelines. Any impacts that would be created are therefore considered to not be so harmful or noticeable to existing residents as to merit a refusal of permission on the grounds of harm to amenity. The proposal is therefore in accordance with paragraph 125 of the NPPF.

Odour:

- 5.115 Due to the siting of the proposal in the prevalent wind direction from DryTec to the south on the far side of the Gasworks Stream, and due to the processes undertaken and proposed height of the buildings, the proposal has the potential to create for odour pollution to new occupants, and therefore the impact on their levels of amenity is a material consideration. There have been complaints from neighbouring properties over previous years, varying in numbers depending on conditions and the type of product being processed at DryTec. This did result in the serving of two abatement notices in 2014.
- 5.116 Part of the mitigation undertaken by DryTec in response to this was the installation of an RTO (Regenerative Thermal Oxidiser) which helped reduce the odour impact upon nearby residents. More recently a second RTO has been installed for which retrospective planning permission is to be sought. The current processing at DryTec is in connection with Covid 19 cleaning products and is an odourless process with no harm to amenities. However, there is no way to control the retention of this contract and it could change at any time to one more harmful.
- 5.117 Considering the potential impact, the Council's Environmental Protection Officers have raised an objection to the proposed development due to the harm to amenity of future occupants through odour pollution, which could be classed as a statutory nuisance in the future. This impact is considered to be more harmful to the application site, were it to be developed, than existing flatted developments which are further away, due to its exposed position in relation to the factory.
- 5.118 In order to fully explore all options available to mitigate this harm, and the level of pollution that could occur, a specialist consultant was instructed by TMBC to undertake an assessment on behalf of Environmental Protection. A report was produced by RSK ADAS in February 2022, and subsequent technical notes were produced on behalf of the applicant in answer to this report.
- 5.119 During the course of the application a number of amendments and suggested mitigation measures have been put forward by the applicant but have been unsuccessful so far in addressing these outstanding concerns. For example, a dry vapour system was suggested to be installed on most exposed facades. However, RSK have expressed reservations as to how effective this would be. It is not yet a tried and tested system in the UK that has proved to be successful mitigation.

- 5.120 The conclusion of Environmental Protection Officers is that it is impossible to predict the future contracts at DryTec and therefore the potential impact of future operations upon occupants of the development. Whilst options have been discussed during the application, Environmental Protection Officers remain unable to confirm that any would successfully mitigate the impact. The full comments from Environmental Protection on this matter are available on the website to view.
- 5.121 Therefore, with no acceptable option to mitigate the odour source and resulting impact, the Agent of Change principle cannot be adhered to and objection is maintained from the Council's Environmental Health Department. If permission is granted, and a change in operation and process occurs at DryTec which causes complaints from occupants on the grounds of odour, the Council's Environmental Health Officers would be in a position of potentially needing to serve an abatement notice on Drytec requiring them to mitigate the odour pollution, in conflict with the NPPF, which seeks exactly to prevent such a situation and responsibility upon existing businesses. In the final comments from Environmental Protection, it is suggested that the applicant should consider contacting DryTec to agree additional odour control work under the Agent of Change principle.
- 5.122 In conclusion on this material consideration, there is a level of potential harm to residential amenity on future occupants of the development which, under paragraph 11 d (ii), would need to be outweighed by the benefits of the proposal to be accepted. This balance is discussed later in the report.

Quality of Accommodation:

- 5.123 With regard to the proposed flats, each will have its own balcony or access to ground floor garden area (other than 8 flats to the eastern elevation of Block A), in addition to the shared roof terraces and gated communal courtyard garden in the centre of the site.
- 5.124 Whilst TMBC does not have its own adopted internal space standards, the flats have been designed to comply with the Nationally Described Space Standards, (NDSS).
- 5.125 The intended flexible use of the two storey height element on Block A fronting the river could be used in a range of ways. Examples have been given which include a residents' home working hub in response to the recent changes to working practices following the effects of the Covid 19 pandemic. Under Class E(g) (i) any remaining space could for example be offered to non-residents as office space.
- 5.126 Under flexible Class E, potential uses could include retail sale of goods other than hot food, or sale of food and drink for consumption (mostly) on the premises. Such uses would benefit the amenities of future occupants and contribute to the

vitality and viability of the area and complement the area of public realm. To ensure no conflict with policy TCA8 of the TCAAP which resists new retail floorspace outside of the defined shopping areas, it is envisaged that any such use would be very limited and to compliment the site rather than act as a retail pull away from the town centre. This would not be dissimilar to other instances of small scale commercial floorspace to support other residential schemes in the area.

- 5.127 Of benefit to residential amenity for both existing and proposed residents will be the provision of the 24 hour access to public spaces in accordance with policy TCA10 of the TCAAP. The new 4m wide footpath running north to south along the western boundary will benefit from natural surveillance from the flats and garden terraces overlooking it.

Climate Change:

- 5.128 Paragraph 153 of the NPPF requires Development Plans to take a proactive approach to mitigating and adapting to climate change. It encourages new development to avoid increase vulnerability to the range of impacts associated with climate change. Where there are proposals in vulnerable areas care is to be taken to mitigate and consider green infrastructure. In addition, proposals should help to reduce greenhouse gas emissions and increase the use of renewable and low carbon energy.
- 5.129 Policy CP1 of the Core Strategy seeks to minimise waste generation, reduce travel need and minimise water and energy consumption.
- 5.130 To achieve net zero emissions by 2050, the Government has made a commitment to ensure that new development is more energy efficient. From 2025, the Future Homes and Building Standards will require CO2 emissions produced by new homes to be 75-80% lower than those built to current standards, and new homes will need to be “zero carbon ready”, meaning that no further retrofit work will be necessary to enable them to become zero-carbon homes. The first stage of this transition towards the decarbonisation of buildings came into force on 15 June 2022 via a suite of revised Building Regulations. These now require that CO2 emissions from new build homes must be 30% lower than under previous standards. The efficiency levels now required would encourage/require the installation of zero-carbon technology and levels of energy efficiency which would exceed what we may justify under planning policy. Thus, no conditions or informatives are recommended in relation to the incorporation of zero carbon technologies.
- 5.131 Under the revised Building Regulations, new-build homes must include parking space(s) with access to electric vehicle charging points equal to the number of new dwellings. In addition, cable routes/infrastructure should be provided for other parking spaces. Previously, such provision might have been secured by a condition. This is no longer justified in light of revised Building Regulations which

would require, in this instance, one space with electric charging point and cable infrastructure to the remaining parking spaces subject to the provisions of Approved Document S.

- 5.132 The energy statement and sustainability statement submitted to support the application confirms that, amongst other things, the development will be served by a community heating system, in addition to heat recovery ventilation and a thermally efficient building envelope. These measures are anticipated to result in carbon emissions 15.3% lower than those required by Approved Document L 2013 and policy CC1 of the MDEDPD. As part of this 60sqm of PV panels are also proposed which will increase the reduction in CO2 emissions to 16% lower than those required by Approved Document L.
- 5.133 The parking options to serve the development include 16 spaces with electrical vehicle charging and 2 car club spaces, all of which are a welcome move towards supporting cleaner more carbon efficient modes of transport, as does the provision for the parking of 168 cycles in the under-croft areas of both blocks.

S106 Contributions:

- 5.134 Policy CP25 of the Core Strategy requires new development to *“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 position at the time it is needed, by means of conditions or a planning obligation”*.
- 5.135 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests as set out in paragraph 122 of the CIL Regulations 2010 (as amended). These state that obligations must be :
1. necessary to make the development acceptable in planning terms;
 2. directly related to the development; and
 3. fairly and reasonably related in scale and kind to the development.

The requested obligations are as follows :-

5.136

KCC Economic Development	£119,531.50	Primary school expansion
	£116,905	Secondary school expansion at Judd school
	£27,083.85	Special education. Facilities at Grange Park school and other SEN facilities
	£2,364.48	Adult education improvements
	£7,984.80	Library services and bookstock
	£9,432	Youth service improvements
	£21,150.72	Social care improvements and support
	£26,448.48	Waste - Improved HWRC and replacement of WTS facilities at north farm
NHS CCG	£100,584	Refurb and extension of existing or towards new practices
TMBC Leisure Services	£104,437	Parks and gardens
	£197,110	Outdoor sports facilities
	£10,749	Natural and semi-natural green spaces
KCC Highways	£145,000	Bus service enhancements
	£948	Travel Plan monitoring fee
TMBC Housing	Late stage review mechanism (70% sales)	

5.137 KCC (Economic Development) considers that the development would impact upon their services and financial contributions are sought by them to enhance existing provision to meet the demands of the services as listed above totalling an amount of £302,087.87. The applicant has agreed to all of the above contributions.

5.138 Requests have also been made by KCC Highways for contributions as listed above towards improving the bus services. The applicant has agreed to the bus enhancement contribution.

5.139 Contributions towards NHS services and open space have been agreed as detailed above, by the applicant. The open space contribution would be in the form of an off-site contribution towards Parks & Gardens, Outdoor Space Facilities and Natural and Semi Natural Green Spaces at a sum of £312,296.00. The applicant has agreed to these above-mentioned contributions.

5.140 The agreed contributions requests when assessed against the tests set out in paragraph 122 are considered to meet the tests and will be secured by way of the S106 agreement.

Conclusion and planning balance:

5.141 Due to the Council's lack of a 5 year housing land supply the tilted balance is engaged in this case. As the site is affected by both heritage and flooding constraints the proposal is assessed against paragraph 11 d (i) of the NPPF, the

conclusion being that the impact of the proposed development to both heritage assets and the risk of flooding would not cause a level of harm that would provide a clear reason to refuse the proposal.

- 5.142 Following this it is necessary to apply consideration under paragraph 11 d (ii) of the NPPF, and whether any potential adverse impacts significantly and demonstrably outweigh the benefits of the proposal when assessed against the rest of the NPPF policies.
- 5.143 A lack of any affordable housing provision on or off site in any form is contrary to NPPF and Local Plan policy, however the findings of the Financial Viability Assessment and subsequent review of this by the Council's consultant confirm that any provision of affordable housing on or off site would render the development of the site unviable and therefore undeliverable. To account for changes in financial circumstance and address the lack of affordable housing in some way, the secured late-stage review upon sale of the 100th unit retains some control by the Local Planning Authority to utilise some contributions towards affordable units off site, were this to be the case.
- 5.144 There is also the conflict with policies that seek to protect the amenities of future occupants and users to ensure an acceptable living environment. The potential harm by way of odour to amenities resulting from processes undertaken at DryTec is not an impact which can be controlled by limits to the type of processes undertaken and therefore the type of smells produced. Neither is it possible to introduce mitigation measures which would protect amenities.
- 5.145 The existing mitigation in the form of the two RTOs is successful in controlling odour emissions that may affect existing flats in the area, however the proposed flats would be located much closer to the source meaning these measures would not be sufficient.
- 5.146 Were the balance to be tilted towards a refusal on these grounds, a number of benefits would be lost to the town and borough as a whole. It is necessary to weigh the potential harm from lack of affordable housing, and a potential for odours which may cause harm to neighbouring amenities, against the benefits that would arise.
- 5.147 As discussed, the proposed development would bring a raft of benefits for the immediate and wider community of Tonbridge. The regeneration of what has been a long term vacant site with what is considered to be a high quality designed development, enhancement of visual amenities and the character of the immediate locality, whilst also improving views within Tonbridge of the site, without any harmful impact upon the Conservation Area or Grade 1 Listed SAM, Tonbridge Castle. The remediation of this contaminated site is welcomed, as is the increased public interaction with the site, its public realm contribution and the connectivity to the riverside walk, which will improve vitality and natural surveillance of the area.

- 5.148 Also to be considered would be the much needed new housing provision in light of the current lack of 5 year supply. Initial concerns about flooding, drainage and emergency vehicle access have been successfully addressed. The site is also sustainably located approximately 500m east of the High Street and approximately 1300m from the train station. Due to the edge of centre location, it is also within proximity to a range of services, retail stores, pubs, restaurants and cafes. Bus routes run on Cannon Lane and the High Street which will serve future occupiers of the development.
- 5.149 There are no outstanding objections from statutory consultees other than the remaining objection from Environmental Protection on the grounds of odour pollution to future occupants of the flats.
- 5.150 Taking these considerations into account, the presumption in favour of sustainable development, and having assessed the proposal in light of paragraph 11 d (i) and (ii), it is the officers' view that on balance the benefits of this development would outweigh any harm from odour pollution that may occur from future operations at DryTec, and the lack of any affordable housing.
- 5.151 It is therefore recommended to grant the proposal subject to the stated conditions and S106 requirements listed in the next section.

6. Recommendation:

- 6.1 **Grant planning permission**, as detailed in accordance with the following submitted details

Management Plan Construction dated 07.10.2021, Landscaping 15772-VL_L02C dated 20.08.2021, Location Plan 15772-100 A dated 20.08.2021, Letter Covering dated 31.08.2021, Energy Statement dated 20.08.2021, Report Arboricultural dated 20.08.2021, Assessment Daylight and sunlight dated 20.08.2021, Other Daylight and Sunlight Assessment Appendix A2 and A3 dated 20.08.2021, Design and Access Statement Sect 1-7 dated 20.08.2021, Assessment Odour A dated 20.08.2021, Noise Assessment dated 20.08.2021, Statement Heritage dated 20.08.2021, Statement Community Involvement dated 20.08.2021, Sustainability Report dated 20.08.2021, Flood Risk Assessment and Drainage Strategy dated 20.08.2021, Assessment Detailed Quantative Risk Assessment for Controlled Waters dated 20.08.2021, Arboricultural Assessment TCP/4323/Y/100 dated 20.08.2021, Planning Layout ARB/4323/Y/200 dated 20.08.2021, Tree Protection Plan TPP/4323/Y/300 dated 20.08.2021, Proposed Plans 15772 - SK16 dated 05.05.2022, Other TECHNICAL DESIGN NOTE dated 05.05.2022, Existing Plans 15772 - SK14 dated 05.05.2022, Proposed Plans 15772 - SK15 dated 05.05.2022, Other 20176 - SK20220421.1 dated 05.05.2022, Other 20176-SK20220421.2 dated 05.05.2022, Site Layout 15772-102F dated 13.10.2022, Proposed Floor Plans 15772-103E dated 13.10.2022, Proposed Floor Plans 15772-104E dated 13.10.2022, Proposed Floor Plans 15772-105E dated 13.10.2022, Proposed Floor Plans 15772-106E dated 13.10.2022, Proposed Floor Plans 15772-107C dated

13.10.2022, Proposed Floor Plans 15772-108C dated 13.10.2022, Proposed Floor Plans 15772-109C dated 13.10.2022, Proposed Floor Plans 15772-110C dated 13.10.2022, Proposed Elevations 15772-111D dated 13.10.2022, Proposed Elevations 15772-112C dated 13.10.2022, Proposed Elevations 15772-113C dated 13.10.2022, Proposed Elevations 15772-114C dated 13.10.2022, Proposed Elevations 15772-115C dated 13.10.2022, Proposed Elevations 15772-116C dated 13.10.2022, Landscaping 15772-VL_L01H dated 31.08.2022, Other 15772 - TR008-B Swept Path Analysis Fire dated 31.08.2022, Sections 15772-117C dated 10.06.2022, Sections 15772-118B Historic Society dated 10.06.2022, Other Supplier Price Update dated 05.01.2022, Assessment FVA Aligned to Review dated 05.01.2022, Report Viability Response dated 05.01.2022, Other Design Intent Movable Planters dated 21.12.2021, Assessment FVA Policy Compliant Emerging 25% AH dated 30.11.2021, Other Technical design note dated 11.03.2022, Assessment FVA Policy Compliant Current 40% AH dated 30.11.2021, Assessment FVA Reduced Contributions 0% AH dated 30.11.2021, Other Technical design note dated 24.01.2022, Email ADDITIONAL INFORMATION - ENVIRONMENTAL HEALTH dated 28.01.2022, Other Technical note-odour dated 24.01.2022, Statement Fire 1C dated 26.08.2022, Report viability dated 27.08.2022, Remediation Strategy verification plan dated 27.07.2021, Ground Investigation Report dated 16.07.2021, Statement Planning dated 01.08.2021, Transport Assessment dated 22.07.2021, Travel Plan dated 01.07.2021, Ecological Assessment dated 01.08.2021, Schedule Accommodation dated 16.10.2022, Existing Site Plan 15772-101A dated 23.7.21

Subject to:

- The applicant entering into a S106 agreement to make financial contributions and secure a late-stage review mechanism as set out in paragraph 5.137 of this report.
- The following conditions

Conditions / Reasons

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

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

2. The development hereby approved shall be carried out in accordance with the plans and documents listed above on this decision notice

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents.

3. Submission of a Construction Management Plan before the commencement of any development on site to include the following:

- (a) Routing of construction and delivery vehicles to / from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage
- (f) Provision of measures to prevent the discharge of surface water onto the highway

Reason: In the interests of highway safety.

4. The use hereby permitted shall not be commenced, nor the building(s) occupied, until the area shown on the submitted layout referenced as vehicle parking space to serve the associated use or building 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: To ensure that adequate parking is provided, and maintained and retained.

5. The development shall not be brought into use until a Travel Plan, to reduce dependency on the private car, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement, details of allocation and control of the parking spaces hereby permitted, and details of the car club scheme. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter. Monitoring fee of £948.

Reason: In the interests of promoting sustainable transport.

6. The use hereby permitted shall not be commenced, nor the building(s) occupied, until details of the footway upgrade alongside the site, running parallel with River Medway, have been agreed with KCC Public Rights of Way team prior to implementation. Details to be agreed shall include drawings, proposed materials, working practices are to be agreed prior to implementation and these works are to be carried out in accordance with a S25 agreement between the applicant and KCC.

Reason: To ensure the protection and enhancement of the riverside walk in the interests of users and the surrounding area.

7. No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall be carried out until details of the proposed car charging points have been submitted to, and approved by the Local Planning Authority. The charging points shall be installed

prior to the first occupation of the development, and thereafter maintained and retained in accordance with the approved details.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with national objectives.

8. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with national objectives.

9. Prior to the first occupation of the development hereby approved, the secure cycle storage as shown on the approved drawings; shall be provided and shall thereafter be maintained and retained in accordance with the approved details.

Reason: To ensure that cycle bays are provided and maintained in accordance with the Council's adopted standards.

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 2012 (paragraph 121).

11. Following completion of the approved remediation strategy, 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, including borehole decommissioning, 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 those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

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

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with the NPPF.

12. The applicant shall submit a noise report based on the recommendations made in Sharps Redmore report dated 9.8.21 reference 2020016 to provide the detailed acoustic design for this development.

The report should consider the levels cited in BS8233:2014, namely:

1. for gardens and other outdoor spaces, in particular those in para 7.7.3.2 which states a desirable limit of 50dB LAeq,1-hour, and a maximum upper limit of 55dB LAeq,1-hour; and
2. to at least secure internal noise levels no greater than 30dB LAeq, 8-hr (night) and 35dB LAeq, 16-hr (day) in bedrooms, 35dB LAeq, 16-hr (day) in living rooms and 40dB LAeq, 16-hr (day) in dining rooms/areas (ref para 7.7.2). Particular attention is drawn to the notes accompanying Table 4 in para 7.7.2 and that these levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

The Applicant's attention is also drawn to the ProPG on Planning and Noise issued by the Association of Noise Consultants (ANC), the Institute of Acoustics

(IoA) & the Chartered Institute of Environmental Health (CIEH). The report should include details any mitigation/attenuation measures needed to attain the abovementioned levels.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

13. No development (except for site clearance) shall begin until details on noise insulation/attenuation requirements (e.g. acoustic glazing, acoustically screened mechanical ventilation, etc) have been submitted to an approved by the Local Planning Authority,

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

14. No development (except for site clearance) shall 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 be based upon the principles contained within the Flood Risk Assessment and Drainage Strategy report by Hydrock (05/11/21- Revision PO3). The submission will also 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.

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.

15. The drainage details to be submitted in accordance with condition 14 shall:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.

- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

16. 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 and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of 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.

17. The development shall be carried out in accordance with the submitted flood risk assessment (ref 18156-HYD-XX-XX-RP-FR-0001 P03 | 05/11/2021 | Hydrock), in addition to the latest design technical note (ref 18156-HYD-XX-XX-TN-FR-0007 P03 | dated 17 May 2022 | Hydrock) and the following mitigation measures they detail:
1. Finished floor levels shall be set no lower than 23.18 metres above Ordnance Datum (AOD) for residential accommodation. It is noted the lower ground floor level is to be 22.00mAOD.
 2. There is to be no residential uses at the ground floor of the development.
 3. The plant rooms for the development are to be located on the ground floor, however the Design Technical Note (REF 18156-HYD-XX-XX-TN-FR-0005 P02 | 02/03/22 | Hydrock) states that the plant rooms will be raised off the ground floor by 400mm to meet the 1 in 100 year plus climate change modelled level. As ground levels have been lowered to 22.00mAOD since this technical note was published, we would condition the following:
 - Plant rooms to be set at a level no lower than 22.58m AOD which is the 1 in 100 year plus 35% Climate Change modelled level.

4. The external and finished floor levels will be as proposed in the DWG ref 15772-102 Rev D, by the Harris Partnership dated 12.05.2022
5. Future occupants/residents to sign up to the EA flood warning service.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

18. Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with the National Planning Policy Framework.

19. The development shall be carried out in accordance with the Drawing Ref 15772 – SK15 | titled Proposed Site Dimensions' | dated 20/04/2022. The development shall include a minimum of horizontal offset, between the most landward parts of the river wall, including the buried elements, to the most riverward part of the built development including foundations, and excluding any balcony projections detailed in the drawing:
 - Dimensions between waters edge & proposed retaining wall
 - Dimensions between path outer edge & proposed retaining wall

Reason: To ensure adequate access is provided for inspection, maintenance, and repair of the flood defence assets

20. Prior to the construction of the development frontage to the River Medway (referred to as Block A on DWG No 15772-111 Rev C dated 09.06.22) full details regarding the structural integrity and condition of the flood defence river wall engineered high ground and a plan of works will be submitted and approved by the Local Planning Authority (LPA). This may include the below:
 - A full structural investigation of integrity and assessment of condition of the flood defences. This includes all elements of the flood defence, such as the landward face, buried elements and any outfalls crossing it.
 - Estimation of the residual life of the flood defence frontage at this site and how this interacts with the lifetime of the new development.
 - Consideration to incorporate an enhanced frontage into the development, thereby securing its long-term structural integrity and maintenance, as well as improving its visual, ecological and amenity value.
 - The findings of the above will inform options for a plan of flood defence replacement and maintenance.

- The plan as approved to be fully implemented.

Reason: To ensure a fit for purpose flood defence will keep the development safe from flooding for its lifetime of 100yrs in line with NPPF.

21. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the LPA. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 174 of the NPPF.

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 174 of the NPPF.

23. No infiltration of surface water drainage into the ground is permitted other than with the written consent of the LPA. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 174 of the NPPF.

24. No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall take place until details 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.

25. Prior to installation the applicant shall provide suitable information demonstrating the buildings' services plant will correspond to a rating level not exceeding the background sound level 1m from the nearest noise-sensitive façade(s). The measurements and assessment shall be made according to BS4142:2014 +A1:2019.

Reason: To safeguard the aural amenity of the area.

26. Prior to the commencement of the development the applicant, or their agents or successors in title, will secure and implement:

i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

ii further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority;

iii programme of post excavation assessment and publication.

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

27. Prior to the commencement of development, the applicant, or their agents or successors in title, will secure and implement:

i geo-archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

ii further geo-archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority;

iii programme of post excavation assessment and publication.

Reason: To ensure that features of geo-archaeological interest are properly examined, recorded, reported and disseminated

28. Prior to the occupation of the development, details shall be submitted to and approved by the Local Planning Authority of a phased occupation of the development to be implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development.

Reason: In the interests of the amenities of new residents and those of surrounding properties and to ensure that the development does not have a detrimental impact upon the existing sewerage network.

29. Prior to the first occupation of the development hereby approved a scheme of hard and soft landscaping and boundary treatment shall be submitted to and approved by the Local Planning authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying,

being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: In the interests of visual amenity.

30. The development hereby approved shall be carried out in such a manner that all trees are protected in accordance with the recommendations within BS 5837 – Trees in relation to design, demolition and construction.

Reason: In the interests of good horticultural practice.

31. Prior to the commencement of development, a photographic record of the gasholders in situ shall be produced and submitted to the Local Planning Authority and Tonbridge Historical Society.

Reason: In the interests of recording the historical importance of the site within the local area.

Informatives

1. Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.
2. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.
3. Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.
4. Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.
5. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to

do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

6. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181
7. Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater. If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with our guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73".
8. It is noted from the 'Flood Risk Assessment & Drainage Strategy' (Hydrock, ref 18156-HYD-XX-XX-RP-FR-0001, November 2021) that no infiltration to ground is proposed, and that surface water will be discharged to the local watercourses.
9. Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system. There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater, a controlled water.
10. The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:
 - on or within 8 metres of a main river (16 metres if tidal)
 - on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
 - on or within 16 metres of a sea defence
 - involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
 - in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and they are advised them to consult with the Environment Agency at the earliest opportunity.

11. This development has been proposed within an area identified as being at risk of flooding, and includes the provision of car parking within buildings. The applicant should be aware that vehicles can start to float in flood depths of less than 60cm – less if it is fast-flowing. The applicant must satisfy themselves that any relevant building will be constructed in such a way that vehicles floating or displaced as a result of flooding, would not jeopardise its structural stability. In addition, the applicant should ensure that any sensitive infrastructure such as gas and water pipes or electrical cabling are located and designed to withstand the potential impacts of floating or displaced vehicles.
12. The following issues are not within the direct remit or expertise of the Environment Agency, but nevertheless are important considerations for managing flood risk for this development. Prior to deciding this application we recommend that consideration is given to the issues below. Where necessary, the advice of relevant experts should be sought.
 - Adequacy of rescue or evacuation arrangements
 - Details and adequacy of an emergency plan
 - Provision of and adequacy of a temporary refuge
 - Details and adequacy of flood proofing and other building level resistance and resilience measures
 - Details and calculations relating to the structural stability of buildings during a flood
 - Whether insurance can be gained or not.
13. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:
 - excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
 - treated materials can be transferred between sites as part of a hub and cluster project formally agreed with us
 - some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of

any proposed on site operations are clear. If in doubt, we should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommend that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;
- The Environmental regulations page on GOV.UK

14. In line with the Thames River Basin Management Plan, the Environment Agency recommend that the proposed development is used as an opportunity to restore more natural processes to the watercourse. It is appreciated the proposed development could increase the public amenity value through creating an open space network within the urban area, however, the development will result in the loss of opportunity to enhance the river corridor of the River Medway. We recommend increasing the volume of planting within the riparian buffer zone through planting of native species. This would offer a significant environmental gain.

15. The applicant could be liable to criminal prosecution under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and Conservation of Habitats and Species Regulations 2017 for European Protected Species. All bats are protected under Schedule 5 of the Wildlife and Countryside Act 1981 and Schedule 2 of the Conservation of Habitats and Species Regulations 2017. It is an offence to:

- Deliberately to kill, injure or take (capture) bats;
- Deliberately to disturb bats in such a way as to:-
 - (i) be likely to impair their ability to survive, to breed or rear or nurture their young; or to hibernate or migrate; or
 - (ii) affect significantly the local distribution or abundance of the species to which they belong;
- To damage or destroy any breeding or resting place used by bats;
- Intentionally or recklessly to obstruct access to any place used by bats for shelter or protection (even if bats are not in residence).

The ecological assessment for this development assessed the suitability of all buildings and structures for supporting roosting bats in October 2020. They furthermore noted 'the tree line adjacent to the site's boundary offers some limited foraging and commuting opportunities for bats, as does the river to the north and south'. The Environment Agency recommend to the applicant to conduct a further, more up to date, bat survey before any construction begins. We also recommend assessing the 13 trees being removed adjacent to the River Medway for their potential to support roosting bats, alongside the buildings and structures within the site.

16. The EA has reviewed the documents submitted as part of this planning application, including the 'Ground investigation Report' (Hydrock, ref 18156-HYD-XX-XX-RP-GE-1001, July 2021), 'DQRA for Controlled Waters' (Hydrock, 18156-HYD-XX-XX-RP-GE-2000, July 2021) and 'Remediation Strategy and Verification Plan' (Hydrock, ref 18156-HYD-XX-XX-RP-GE-3001, July 2021). The site

investigation and DQRA have identified widespread contamination across the site.

The remediation strategy has outlined steps to be taken in order to bring the site up to the standard required for its final use. This includes demolition of existing structures, remediation of soils (either through treatment under an MMP/DoWCoP or disposal off-site), and in-situ treatment of groundwater (once a trial has been completed). It is noted that abstraction and disposal of groundwater may be required. It is assumed this will be discharged to the local foul sewer network (with the permission of the sewerage undertaker), however, if any disposal is proposed back to ground a permit may be required. We accept the proposals in the submitted remediation strategy, including proposed validation of works. Please note these comments are made in relation to the documents mentioned above. Should plans change the EA would ask to be re-consulted.

17. The Borough Council believes that there is an opportunity to create areas of native planting in this development. Plants for such areas should not only be of native species but also of local provenance. The use of plants of non-local provenance could harm the environment by introducing genetically alien material and reducing the variety and viability of other wildlife that the particular plant supports.
18. The proposed development is within a road which does not have a formal street numbering and, if built, the new property/ies will require new name(s), which are required to be approved by the Borough Council, and post codes. To discuss suitable house names you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmbc.gov.uk. 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.
19. With regard to the Environmental Health issues raised in the above conditions, the applicant is advised to seek advice from the Director of Planning, Housing and Environmental Health (contact: Peter Thomason 01732 876178), Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent ME19 4LZ.
20. The applicant is reminded that land contamination risk assessment is a step by step process. During the course of the risk assessment process set out in the above condition(s) it may become clear that no further work is necessary to address land contamination risks. Where this is agreed to be the case the condition(s) may be discharged by the Local Planning Authority without all the steps specified having been completed or submitted for formal approval. In all cases, written confirmation should be obtained from the Local Planning Authority confirming that the requirements of the condition(s) have been met. The Local Planning Authority would like to take the opportunity to remind the applicant that it is their responsibility to ensure the site is safe and suitable for its end use.

21. The Local Planning Authority will not accept any liability for remediation works.
22. The applicant is reminded that a suitably qualified and competent person shall fulfil the requirements of the condition(s) pertaining to contaminated land remediation.
23. There are a number of risks created by building over gas mains and services; these are:
 - Pipework loading - pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
 - Gas entry into buildings - pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
 - Occupier safety - lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at <https://www.linesearchbeforeudig.co.uk/> to assess any risk associated with your development and
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details below:

Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

- Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work <https://www.sgn.co.uk/damage-prevention>
- Further information can also be found here <https://www.sgn.co.uk/help-and-advice/digging-safely>

SGN personnel will contact you accordingly.

24. The granting of permission confers no other permission or consent on the applicant. The applicant is therefore advised that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact his Officer before commencing any works that may affect the Public Right of Way.

Should any temporary closures be required to ensure public safety then this officer will deal on the basis that:

- The applicant pays for the administration costs
 - The duration of the closure is kept to a minimum
 - Alternative routes will be provided for the duration of the closure
 - A minimum of six weeks' notice is required to process any applications for temporary closures.
25. The Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in the future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.
26. Applicants/agents should consult a local Designing Out Crime Officer or qualified specialist to help design out opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
27. The applicant is advised that Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.
28. The applicant is advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises. It should be noted that under the Water Industry Act 1991 it is an offence to "throw, empty, turn or permit to be thrown or emptied or to pass into any drain or sewer connecting with a public sewer any matter likely to injure the sewer or drain or to interfere with the free flow of its contents.
29. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.
For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119). Website: southernwater.co.uk or by email at: SouthernWaterPlanning@southernwater.co.uk
30. The applicant is advised to consult consultee comments response the letter dated 9th September 2022 from TMBC Waste Service for guidance on bin storage and collection requirements.
31. In the event that crushers are to be used in the demolition phase of the development, the applicant should be aware that they require a permit to operate in accordance with the provisions of the Environmental Permitting Regulations 2010 (as amended). The applicant is reminded to ensure all of the

conditions within the Permit are complied with, if they intend to bring a crusher on site.

32. In the interests of good neighbourliness the hours of construction, including deliveries, should be restricted to Monday to Friday 07.30 - 18.30 hours, Saturday 08.00 - 13.00 with no work undertaken on Sundays or Public/Bank Holidays.
33. In the interests of good neighbourliness all vehicles and machinery associated with construction should be parked within the site and not on the public highway in such a manner as to create an obstruction.
34. The applicant/ agent/developer is strongly advised to contact the pipeline operator prior to any works being undertaken pursuant to the permission granted/ confirmed by this notice. Address is: Southern Gas Networks Plc, SGN Plant Location Team, 95 Kilbirnie Street, Glasgow, G5 8JD Tel: 01414 184093 OR 0845 0703497 Search online at: www.linerearchbeforeyoudig.co.uk
35. It is requested that following demolition of the gasholders the identification plates for GH1 and GH2 are passed to the Tonbridge Historical Society for future preservation.
36. The applicant is advised to consult the standing advice given on the website for Natural England. www.gov.uk/natural-england

Contact: Holly Pitcher