

**Tonbridge**  
Vauxhall

**14 March 2022**

**TM/22/00571/FL**

Proposal: Redevelopment of the site to provide eleven dwellings and associated parking, landscaping and amenity  
Location: 60A Priory Street Tonbridge Kent TN9 2AW  
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**1. Description:**

- 1.1 Planning permission is sought for the redevelopment of the site to comprise the erection of eleven dwellings. The dwellings would be arranged along a generally linear pattern parallel to Pembury Road but facing northeast towards Priory Street and Priory Grove. The existing access from Priory Street would be retained and this would lead to the communal parking and turning area to the front of the dwellings. This would include thirteen car parking spaces arranged as a courtyard to the front (east) of the dwellings. .
- 1.2 The 2.5 storey dwellings would be laid out as three terraces (each with three dwellings) with a detached dwelling at the northwest and southeast corners of the site. The detached dwellings would be set back from the line of the terraces but within wider triangular plots.
- 1.3 The dwellings would feature brick elevations with two-storey square bays to the front. The pitched and gabled composite slate roofs would include dormer windows serving accommodation in the roof.
- 1.4 A refuse and cycle store is shown to the north of the site.
- 1.5 The proposal was amended to include revised/supplementary information regarding the access and parking arrangements and alterations to the elevation design of the dwellings. This report relates to the design as amended.

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

- 2.1 The application is referred to Committee at the request of Cllr Hoskins for consideration of density and layout.

**3. The Site:**

- 3.1 The site is a triangular-shaped parcel of land measuring 0.25ha with single-storey buildings to the northwest corner. It was formerly used as a builders' merchants but currently operates as a car park under a temporary permission (TM/21/00946/FL). It is a backland site enclosed by existing development along Pembury Road to the west, Priory Street to the east and Priory Grove/Priory Walk to the north. Access to the site is via a drive situated between 60 and 60B Priory Street.

- 3.2 The site is situated within the urban area of Tonbridge. Whilst 400m from Tonbridge Rail station and the wider range of services and facilities of Tonbridge Town Centre, it is in a predominantly residential area.
- 3.3 The site is within Flood Zone 1 and within an archaeological notification area.

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

TM/85/10459/FUL grant with conditions 28 March 1985  
Demolition of part of existing buildings and erection of new storage building.

TM/90/10686/FUL grant with conditions 18 September 1990  
Rebuilding of timber store.

TM/91/11006/FUL grant with conditions 27 November 1991  
Demolition of existing store and erection of new store.

TM/18/02401/FL Refuse 1 March 2019  
Demolition of existing Jewsons shop, construction of 12 no. houses

TM/21/00946/FL Approved 7 June 2021  
Temporary retrospective planning application for a change of use from a builders' merchants, stores and yard to a public car park and bicycle store for a period of two years starting from the date of decision

**5. Consultees:**

5.1 KCC (Highways):

5.1.1 Concerns were expressed regarding vehicle tracking as set out in the original application.

5.1.2 In the response to revised information, the following comments/observations were received:

- The sightlines from the existing access meet the standards for Manual for the Streets.
- Bus and rail services are approximately 400m away.
- The trip generation at peak periods is less than extant granted permissions.
- Footways are in ample supply, although cycle routes are lacking.
- Cycle parking
- Car parking will be given on the basis of one space per one dwelling, which for a town centre and sustainable location, is adequate. There will be two additional visitor spaces.
- Electric Vehicle Charging Points should be provided for each allocated space.

- Vehicle tracking has been provided and intended vehicle movements fit within the proposed layout.
- 5.1.3 On the basis of the above, no objection was raised. Conditions were recommended regarding the requirement for a Construction Management Plan, provision and retention of car and cycle parking and the provision of electric vehicle chargers.
- 5.2 KCC Flood and Water Management: The proposal is generally acceptable. Pre-commencement conditions requiring drainage design and verification reports are recommended and the response includes advisories for the details which should be included/addressed within these submissions.
- 5.3 KCC Economic Development: Financial contributions are requested to mitigate the impact upon the delivery of community services. (The requests are set out in the Planning Obligations section of this report).
- 5.4 KCC Heritage: The site has potential for Early Prehistoric remains. Although it lies south of the main focus of Medieval and Post Medieval activity, in view of the limited extent of historic development on the site, there is potential for as yet unknown remains dating from the Prehistoric Period onwards. As such, a condition requiring an archaeological programme and scheme of investigation is recommended.
- 5.5 Kent Fire & Rescue: Initial concerns about access have with withdrawn subject to updated information.
- 5.6 Kent Police: Kent Police recommend that the application attains an SBD certification to show commitment to community safety and acknowledgment of crime prevention measures implemented
- 5.7 Leisure Services: Financial contributions sought for this development would total £44,000.00 if on-site or off-site open space provision is not included under the terms of Policy OS3.
- 5.8 Southern Water: Southern Water confirms that it can facilitate foul sewerage disposal for the proposed development. However, network reinforcement may be required, which would be provided by Southern Water working together with the developer. It recommends a condition that occupation is controlled in line with the delivery of suitable reinforcement.
- 5.9 It further notes that although a privately owned and maintained Sustainable urban Drainage System (SuDS) is proposed, this may be adopted by Southern Water under certain circumstances. Further details should be required by condition.

5.10 Private Reps: 34+site notice & press notice /0X/0S/18R: There were 25 representations in total from the initial consultation, 18 of which **object** to the proposal on the following grounds:

- Proposal would result in increased traffic.
- Insufficient parking would aggravate existing parking pressure for on-street parking.
- Construction noise would result in disturbance to neighbours.
- The proposal would result in overlooking and overshadowing of neighbouring properties and harm to views (44/60 Priory Street, 43 Pembury Road). Large windows to the rear elevation would lead to harm.
- The site should be used for the benefit of current residents rather than cramming new development in insufficient space.
- The proposal would reduce the value of nearby properties. (This is not a planning consideration.)
- Errors on plans as buildings shown as 38m in height.
- The proposal would amount to overdevelopment of the site. Reduced number and height/massing would be preferable.
- The proposed dwellings are targeted as flat shares/renters. They would not be family homes.
- Insufficient outdoor amenity space for future occupiers.
- The design and scale of the dwellings is not in keeping with the area.
- Concern is expressed about lack of detail regarding perimeter enclosures.
- The proposal could result in cutting down neighbouring trees without permission.
- The proposal would lead to an influx of rodents.
- Development should include a communal playground.

5.10.2 There are 7 representations setting out **general comments** as follows:

- Queries have been raised regarding existing and proposed boundary treatments and their future management.
- There are errors in the submission pertaining to identification of neighbouring dwellings.
- Proposed trees should be mature specimens.
- The quantity of houses is similar to the previously refused scheme.
- No bat survey is visible.
- Queries on changes to submission.

5.10.3 As the result of a second consultation on the amended scheme (63/0X/0S/6R). there were 6 further letters of **objection** summarised as follows:

- Parking remains unsatisfactory.
- The revised design does not improve upon the scheme and does not address other concerns.

- Neighbouring residential property has been incorrectly labelled as non-residential.
- Infrastructure of the site and surrounding area are inadequate for additional dwellings.
- The development results in overdevelopment.
- Boundary treatments are insufficient to prevent overlooking.

**6. Determining Issues:**

Principle of the development:

6.1 As Members are aware, 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 proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2 In this case, none of the policies referred in 11(d)(i) apply to the site. As such, pursuant to paragraph 11(d) (ii) of the NPPF, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when the proposal is assessed against the policies in the Framework taken as a whole.

6.3 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective, ensuring that effective use is made of land, helping to improve biodiversity and protecting and enhancing the natural, built and historic environment.

- 6.4 The location of the site and the type of development proposed would be considered sustainable development under paragraph 8 of the NPPF, and this is set out in greater detail throughout this report as necessary
- 6.5 The development plan is the starting point for determining all planning applications, (as statutorily required by s38 (6) of the Planning and Compulsory Purchase Act 2006), and this is reiterated in paragraph 12 of the NPPF.
- 6.6 Development plan policy CP11 of the Tonbridge and Malling Borough Core Strategy (“TMBCS”) seeks to direct development to urban areas in order to accord with the principles of sustainability set out in policies CP1 and CP2 of the TMBCS. This policy accords with the aims of the NPPF to maximise opportunities for the supply of housing in appropriate locations that can contribute towards the supply and maintain and enhance the vitality of existing communities. The policy is up-to-date, and the proposed development broadly accords with these aims and the requirements of this policy.
- 6.7 The site is identified within Policy H4 (“constrained housing sites”) of the Development Land Allocations Development Plan Document 2008 (“DLA DPD”) as a site suitable for residential development. The policy states that proposals for residential development of such sites should comply with the criteria detailed for each site and all general policy requirements, including any necessary contributions. The sites should be developed at the highest density compatible with the character and amenity of the surrounding area but not normally at a density of less than 30 dwellings per hectare.
- 6.8 In this regard, Policy H4(r) (60A Priory Street and 31 Pembury Road, Tonbridge) applies and this sets out the relevant criteria for assessment. Although the site is smaller than identified in this policy due to the omission of 31 Pembury Road (which was considered as a possible secondary access route into the site), the general policy aims, and criteria would still apply. The criteria and assessment against this policy follow:
- 6.9 Policy H4(r) (60A Priory Street and 31 Pembury Road, Tonbridge) identifies the potential of development for eighteen dwellings subject to the following:
- Provision of affordable housing in accordance with Core Policy CP17 (1);
  - Achievement of a satisfactory noise climate in accordance with saved Policy P3/17 (or its successor Policy) having regard to noise from Pembury Road;
  - Investigation and remediation of any land contamination;
  - A possible contribution towards open playing space provision;
  - Any necessary mitigation measure identified as a result of an archaeological assessment;
  - Preferably provision of an improved access from Priory Street; and
  - Contributions towards the improvement of off-site sewerage capacity.
- 6.10 With regard to the above assessment criteria:

- 6.10.1 The application does not seek to provide affordable housing as the number of proposed dwellings falls below the threshold of fifteen or more dwellings as detailed in Policy CP17 of the TMBCS.
- 6.10.2 The policy refers to Pembury Road as a potential noise source. The site does not include 31 Pembury Road and the proposed dwellings are set back from that road. As such, this would screen the development from noise sources along the road.
- 6.10.3 Assessments of the land contamination, open space, archaeology, access and drainage are set out in relevant sections later in this report. These conclude that this would be acceptable.
- 6.11 In light of the above, the proposal accords with the aims of the policy. Moreover, the NPPF seeks to maximise opportunities for the supply of housing in appropriate locations and the effective use of land. Policy H4 r) by identifying land within the established settlement, and allowing for the redevelopment of previously development land, accords with the aims of the NPPF.
- 6.12 The site is currently operated as a car park and is previously developed land. However, the site is not allocated for employment purposes and therefore there is no policy basis within which to seek its retention for such a use.

#### Density and Design/Character

- 6.13 As noted above the site as identified in policy H4 (r) seeks development at the highest density compatible with the character and amenity of the surrounding area, but not normally at a density of less than 30 dwellings per hectare. The eighteen dwellings mentioned in the policy constitutes a density of 45 dwellings per hectare. This density is higher than that visible along Pembury Road, but similar to or less than the density of dwellings to the north and east.
- 6.14 The policy is aligned with paragraphs 119-120 and 124 of the NPPF which promotes the effective use of land in meeting the need for homes and other uses and recognises the value of using undeveloped and suitable brownfield land, particularly where this would meet an identified housing need subject to certain considerations. This includes the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and the importance of securing well-designed, attractive and healthy places.
- 6.15 Paragraph 130 of the NPPF sets out that planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - d) 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
  - e) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.16 Development of poor design that fails to reflect local design policies and government guidance on design should be refused as detailed in paragraph 134 of the NPPF.
- 6.17 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. This aim is echoed in paragraph 58 of the NPPF which seeks to ensure that development will function well, create attractive, safe places in which to live and work, optimise the potential of the site, respond to the local character of the surroundings and be visually attractive. In addition, policy SQ1 of the MDE DPD requires development to reflect the local distinctiveness, condition and sensitivity to change of the local character areas. These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments.
- 6.18 The proposal seeks to redevelop previously developed land comprising a commercial site currently used as car parking within a predominantly residential area. The proposed density of 44 dwellings per hectare (“dph”) accords with that suggested for within Policy H4(r).
- 6.19 The dwellings are arranged as three terraces with a detached dwelling to the northwest and southeast corners. The linear line of terraced dwellings would be parallel to the building line along Pembury Road, thereby generally referencing existing patterns of development. The layout allows for open spaces around the built form of the dwellings with gardens to the rear and sides and parking to the front, and this provides a degree of spaciousness similar to that visible in Priory Grove to the north. Although the two detached dwellings are set back from the line of the terraced dwellings, their setting within wider gardens, which extend beyond their outward facing side elevations, ensures a cramped appearance is avoided and efficient use of the space within this irregular shaped plot.

- 6.20 Turning to the design, the site is within B2 Priory Road Area of the TCA SPD. This area is described as having retained its tight knit Victorian character and street layout. The character of Priory Street is defined by 19th century workers cottages and draws reference from red brick and slate roofs. The area immediately to the southwest (area A1.1 Pembury Road West in the TCA SDP) comprises elegant 2-3 storey mid to late Victorian villas and institutional buildings, the scale and bulk of which reflect the historic and current importance of the primary access road to the town centre.
- 6.21 As noted, the development references the existing linear patterns of development visible within this locality. Whilst the detached dwellings at either end of the development would be set back from the line of the terraces, this would not be overly conspicuous within the context of this site.
- 6.22 The backland position of the site ensures that the development would be largely screened from public view by existing dwellings/buildings along Priory Street and Pembury Road. Indeed, the development would be most visible from Priory Grove to the north, which has decidedly 20<sup>th</sup> century layout and appearance. The contemporary appearance of the dwellings would be acceptable within this context. The development would feature a cohesive and unified appearance across the terraced and detached dwellings with a restricted palette of materials broadly aligned with that visible within the surrounding roads. A condition would be imposed to require details of materials to ensure that the final selection is appropriate within this context.
- 6.23 The 2.5-storey appearance would not be out of character having regard to the height and scale of dwellings around the site, in particular along Priory Grove and Pembury Road. A condition is recommended to require final slab and ridge heights is recommended to ensure that the development is appropriately aligned in final design and delivery.
- 6.24 Third party comments regarding the height shown in initial drawings are noted. However, the 38m figure relates to the height above ordnance datum (AOD). This is a topographical measurement referring to height relative average sea level, not the height of the building.
- 6.25 The proposed site plan and street views show indicative landscaping. Overall, there is an acceptable level of soft landscaping space available to provide balance to the development within this urban context. A condition is recommended to require detailed landscaping design to include planting, hard surfacing and boundary treatment details. Native planting would be encouraged by informative. This would ensure that the proposal results in a high-quality appearance.
- 6.26 Subject to the above recommended conditions, the development would represent efficient use of land which would not result in harm to the character and appearance of the surrounding area.

Living conditions / Noise

- 6.27 The National Design Guide (2021) sets out that high quality design includes the provision of satisfactory living conditions for future occupiers. The proposed internal habitable accommodation would be suitable for family sized dwellings, and the external amenity space would be suitable.
- 6.28 With regard to noise, Policy SQ6 of the MDE DPD requires that proposals for noise-sensitive development should demonstrate that noise levels are appropriate for the proposed use. Similarly, Policy H4(r) requires that a satisfactory noise climate is achieved.
- 6.29 The application includes an External Building Fabric Assessment. This details external noise measurements take at the site and assesses internal noise levels based upon the proposed building method. The report concludes that internal noise levels in accordance with guidelines set out in BS and WHO guidelines can be achieved with the incorporation of mitigation measures (include double glazing and trickle ventilation). Subject to the imposition of a condition to require that the development is carried out in line with the recommendations, the proposal would comply with relevant policies.
- 6.30 It is noted that the refuse and cycle storage area is situated to the front of three of the plots to the north of the site. This area would be situated a minimum of 6m from the nearest front elevation of the dwelling. The drawing implies that access to this area would be from the east, thereby ensuring that the proposal minimises the movement of other neighbours to the front of the plots in question. However, limited details have been provided with regard to the appearance and enclosure of this area. In order to ensure that this area does not result in harm to either the outlook of these properties and nuisance, a condition is recommended to secure detailed design of this area.
- 6.31 Subject to the conditions set out above, the proposal would provide satisfactory living conditions for future occupiers of the dwellings.

Neighbour amenity

- 6.32 The proposed development is enclosed on all sides by existing development. The rear gardens of dwellings along Priory Street measure 18m in depth. This distance, the setback of the proposed dwellings from the site boundary (minimum 2m from the southeast corner) and their angled position to the boundary with gardens in Priory Street would ensure that the development would not result in adverse overlooking, overshadowing or dominating effect.
- 6.33 Similarly, the rear gardens of properties along Pembury Road extend approximately 30m from their rear elevations. In several instances, these properties feature outbuildings situated near their rear boundary. This

separation distance would ensure that the proposed dwellings would not result in harm to the amenities of 33-49a Pembury Road.

- 6.34 The detached dwelling to the northwest corner of the site would be situated 6.6m from the southeast corner of the garden serving 31 Priory Walk. The northwest elevation of the proposed dwelling does not include any windows facing the neighbouring property. The rear windows of the proposed dwelling would be oriented towards 31 Pembury Road, the veterinary surgery, and away from 31 Priory Walk. This position and orientation would ensure that the propose dwelling would not result in harmful overlooking of the neighbouring property. Appropriate boundary treatments would be considered as part of the landscaping condition recommended.
- 6.35 Turning to properties along Priory Grove, the nearest dwelling is 19 Priory Grove. That dwelling is set close to the north boundary of the site but does not feature windows within the facing side elevation. Due to the northeast orientation proposed dwellings and the absence of windows within the side (northwest) elevations, the proposal would not lead to adverse harm to privacy, light or overbearing impact.
- 6.36 Third party comments regarding disturbance during construction activities are noted. This activity is temporary and the impact can be controlled by condition requiring the submission and approval of an appropriate Construction Management Plan.

#### Highway Safety and parking

- 6.37 Policy SQ8 of the MDE DPD states that development will only be permitted where there will be no significant harm to highway safety. This is in accordance with the relevant policies of the NPPF. Paragraph 109 of the NPPF states that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of the development would be severe.
- 6.38 The proposal would re-use the existing access to Priory Street. KCC Highways and Transportation has advised that the sightlines from the access meet design guidance. The change of character and volume of traffic movements for the proposed residential development would not result in adverse harm to highway safety or capacity when compared to the transport implications of the existing lawful use as a builders' merchant and temporary use as a car park.
- 6.39 Notwithstanding the above conclusion, it is noted that construction operations could result in temporary highways safety risks. As such, a pre-commencement condition requiring the submission and prior approval of a Construction Management Plan is recommended. The development would be required to be carried out in accordance with the approved plan.

- 6.40 The Kent Design Guide Review: Interim Guidance Note 3 Residential Parking 2008 (IGN3) recommends one space per unit for three-bed dwellings located in a city/town centre location. The Borough Council and KCC Highways and Transportation have previously concluded that the site is within a town centre location for the purposes of the assessment against the criteria set out in IGN3. The proposal for thirteen car parking spaces exceeds the adopted standard of eleven spaces for this development. It is noted, however, that a number of the spaces are 0.1m narrower than recommended in the Kent Design Guide. Nevertheless, no objection is raised on this account as it is clear both that the site can accommodate the requisite number of spaces and the spaces could be widened to meet design guidance without negative impact to the overall layout and appearance of the development having regard to the margin of widening required (less than 500mm). Therefore, a condition would be imposed to require submission of final parking space layout and design. This would ensure design compliance and the retention of the spaces.
- 6.41 The quantity of cycle parking spaces shown in the drawings is appropriate to the scale and location of the development. This would be secured and retained by way of an appropriate condition.
- 6.42 KCC Highways and Transportation requests a condition to require electric vehicle charging. Since 15 June 2022, such provision is required by Buildings Regulations Approved Document S. As such, the condition is not necessary.
- 6.43 In light of the comments made by the highway authority, and the provision of on-site parking in excess of that recommended in IGN3, the proposal accords with highways and parking policies.

#### Drainage & surface water management

- 6.44 Paragraph 169 of the NPPF requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority; have appropriate proposed minimum operational standards; have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.
- 6.45 The application includes a Drainage Strategy and associated supporting details. Surface runoff is to be connected to existing mains sewer within the area with additional drainage measures on site. KCC as the Lead Local Flood Authority has reviewed the information and broadly accepts the proposal. However, it recommends conditions to require further details, and these are considered appropriate and reasonable, to ensure that adequate drainage is achieved.
- 6.46 Southern Water has commented that a formal application for a connection to the public foul sewer will need to be made and this is a matter for agreement

between the agent/applicant and the Southern Water. It further notes that network reinforcements may be necessary, but this would be the responsibility of Southern Water. Although it recommends a condition to restrict occupancy until such time as the reinforcements are complete, given that a license is required to connect to the network, it is unclear as to why this objective could not be obtained by way of the licensing activity. As such, it is not considered to be justified in this instance.

### Ecology and Biodiversity

6.47 The site features extensive areas of hard surfacing and buildings to the northwest side. Given the existing use and condition of the land, it is of limited ecological value. Although residential gardens are often limited in biodiversity value, the addition of soft landscaping nevertheless offers potential improvement to the local environment and biodiversity in this instance. The recommended landscaping condition provides the opportunity to ensure native planting and some biodiversity net gain. On this basis, the proposal would comply with Policy NE3 of the MDE DPD or paragraphs 174 and 180 of the NPPF.

### Contamination

6.48 Paragraph 183 of the NPPF states that planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

6.49 Paragraph 184 makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.50 Environmental Protection has considered the submitted Phase 1 Geo Environmental Desk Study and Preliminary Risk Assessment and advises that this adequately reviews the history of the site and potential contamination risks arising from commercial uses. Further site investigation is recommended, and a pre-commencement condition is proposed to ensure that the risks are appropriately addressed. This will require details of a remediation method statement and strategy, and a further condition is recommended to require that the development is carried out in accordance with the approved details.

### Heritage

- 6.51 Paragraph 194 of the NPPF states that developers should submit an appropriate desk-based assessment and, where necessary, field evaluations where a site has the potential to include heritage assets with archaeological interest. The application includes an Archaeological Desk-based Assessment. Although the site is not within an Area of Archaeological Potential, there is a possibility of archaeological remains and this is referenced in Policy H4(r). KCC Heritage has noted the potential for archaeological remains within the site. Although the site is hard surfaced, this level of development would not include deeper excavations required for this development. On this basis, it recommends a pre-commencement condition to require the submission of archaeological field evaluation works. Taking into account the condition of the site and works to be carried out, it is considered that this is reasonable and justified in this instance.

### Planning Obligations

- 6.52 Regulation 122 of the CIL Regulations (2010) sets out the statutory framework for seeking planning obligations and states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development
- 6.53 Paragraph 57 of the NPPF reflects this statutory requirement.
- 6.54 Policy CP25 of the TMBCS requires development proposals to either incorporate the infrastructure required as a result of the scheme or make provision for financial contributions. Paragraph 55 of the NPPF requires local planning authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 92 of the NPPF requires planning policies and decisions to provide the social, recreational and cultural facilities and service the community needs.
- 6.55 Policy OS3 of the MDE DPD requires all residential developments of 5 units or above to provide open space in accordance with the quantitative standards set out in Policy Annex OS3 of the MDE DPD. Where on-site or off-site provision is not possible, a financial contribution may be secured for the provision or enhancement of new/existing opens spaces.
- 6.56 It is not possible to incorporate open space within the site, but the policy allows for a financial contribution to be made towards off-site provision and enhancement. The Council's Leisure Services has calculated the contribution at £44,000.00 towards existing facilities to be agreed with the applicant. This is

considered reasonably necessary given the urban context and the provision of family homes.

- 6.57 KCC (Economic Development) has advised that the development would impact upon County services and requests financial contributions to enhance existing provision in order to meet the demands of the services. The request by KCC for contributions to enhance existing educational facilities, library provision, youth services, social care and waste are considered to be compliant with the CIL regulations. As such a proportion of the overall contribution should be set aside for KCC. The request is set out in the Appendix to this report.
- 6.58 Sufficient detail has been provided in relation to the above requests to ensure the relevant statutory and policy tests have been met. The agent/applicant has indicated agreement of the financial contributions, and the contributions should be secured through the legal agreement to which KCC would be party.

#### Conclusion and planning balance

- 6.59 The principle of the development is acceptable and accords with the development plan policy CP11 and in the broadest of terms, with development plan policy H4(r).
- 6.60 The LPA cannot currently demonstrate a five-year housing supply, and the presumption in favour of sustainable development as set out at paragraph 11(d) of the NPPF applies in this instance. The test in this case is whether or not there are any adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.61 The development will not conflict with policies of the NPPF as referenced in paragraph 11(d). It would contribute to the overall housing supply of the Borough at a time of need. There would be a short-term economic uplift related to the construction operations of the dwellings.
- 6.62 It is therefore recommended that planning permission be granted subject to the finalisation of a legal agreement securing various planning obligations as set out throughout this report and various planning conditions to ensure that the development comes forward in an acceptable, high-quality fashion.

#### **7. Recommendation:**

- 7.1 Grant planning permission in accordance with the following submitted details:

Design and Access Statement received 02.08.2022, Transport Statement October 2022 Revision 3 received 12.10.2022, Topographical Survey J18111\_01 received 14.03.2022, Existing Site Plan P21052-FA-002 received 14.03.2022, Existing Elevations P21052-FA-003 received 14.03.2022,

Sections P21052-FA-003 received 14.03.2022, Location Plan P21052-FA-001 received 14.03.2022, Planning Statement received 14.03.2022, Design and Access Statement received 14.03.2022, Schedule Area Schedule received 14.03.2022, Air Quality Assessment received 14.03.2022, Arboricultural Assessment received 14.03.2022, Archaeological Assessment received 14.03.2022, Drainage Statement received 14.03.2022, Report External building fabric received 14.03.2022, Environmental Assessment received 14.03.2022, Environmental Assessment Appendix B received 14.03.2022, Proposed Elevations 21052-FA-300 Proposed Site Elevations - North and South received 21.10.2022, Proposed Elevations 21052-FA-311 House Type 2 received 21.10.2022, Proposed Elevations 21052-FA-310 House Type 1 received 21.10.2022, Proposed Elevations 21052-FA-301 Proposed Site Elevations - East and West received 21.10.2022, Sections 21052-FA-211 House Type 2 received 21.10.2022, Sections 21052-FA-210 House Type 1 received 21.10.2022, Sections 21052-FA-200 Proposed Site Sections received 21.10.2022, Proposed Floor Plans 21052-FA-111a House Type 2 received 21.10.2022, Proposed Floor Plans 21052-FA-110 House Type 1 received 21.10.2022, Proposed Site Plan 21052-FA-100 received 21.10.2022, Statement 21052 Priory Street Design Amendments received 21.10.2022, Artist's Impression Aerial View Looking North received 21.10.2022, Artist's Impression Aerial View Looking East received 21.10.2022, Artist's Impression Aerial View Looking South received 21.10.2022, Artist's Impression Aerial View Looking West received 21.10.2022, Artist's Impression 01 Street view. Site entrance received 21.10.2022, Artist's Impression 02 Street view 1 received 21.10.2022, Artist's Impression 03 Street view 2 received 21.10.2022, Artist's Impression 04 Street view 3 received 21.10.2022, Artist's Impression 05 Street view 4 received 21.10.2022

subject to the following:

- The applicant entering into a planning obligation with the Borough Council to provide financial contributions towards public open space provision (parks and gardens and outdoor sports facilities);
- The applicant entering into a planning obligation with Kent County Council to make financial contributions towards the provision of social care, education and community services

The section 106 agreement should be agreed in principle within 3 months and the legalities completed within 6 months of the committee resolution unless there are good reasons for the delay. Should the agreement under Section 106 of the Act not be completed and signed by all relevant parties by 16 August 2023, the application would be reported back to the Area 1 Planning Committee with an update on progress and a further recommendation or in the alternative the application may be refused under powers delegated to the Director of Planning, Housing and Environmental Health who will determine the specific reasons for refusal in consultation with the Chairman and Ward Members.

- The following conditions:

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

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

- 2 The development shall be carried out in accordance with the plans listed in the section of this decision notice headed 'This was approved in accordance with the following submitted details'.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

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

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 4 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. Details shall include:

- (a) proposed finished levels of contours
- (b) hard surfacing materials
- (c) details of hard and soft boundary enclosures;
- (d) all proposed soft landscaping including a schedule of plant noting the species, planting size and planting densities and an implementation programme.

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 5 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 protecting and enhancing the visual amenity of the area.

- 5 No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall take place until a plan showing the proposed finished floor levels, eaves and ridge levels of the dwellings and finished ground levels in relation to the existing ground levels of the site and adjoining land has been submitted to and approved by the local planning authority. The details to include a scaled cross section showing the proposed development in relation to the adjacent buildings. The works shall then be carried out in strict accordance with those details. The works shall be carried out in strict accordance with the approved details.

Reason: To ensure that the development does not harm the character of the area or visual amenity of the locality.

- 6 Prior to the commencement of the development hereby approved, a Construction Management Plan shall be submitted to and approved by the Local Planning Authority. The Plan should set out arrangements for the management of any and all demolition and/or construction works and shall include (but not necessarily be limited to) the following:
- (a) The days of the week and hours of the day when the construction works will be limited to and measured to ensure these are adhered to;
  - (b) Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
  - (c) The specific arrangements for the routing and parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.
  - (d) The provision of wheel washing facilities.
  - (e) Temporary traffic management/signage
  - (f) Provision of measures to prevent the discharge of surface water onto the highway
  - (g) Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
  - (h) The controls on noise and dust arising from the site with reference to current guidance.

The development shall be undertaken in full compliance with the approved details.

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

- 7 No above ground development shall begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved by the local planning authority. The detailed drainage scheme shall demonstrate that both the rate and volume of run-off leaving the site post-development will be

restricted to that of the existing site, with the rate of runoff for any rainfall event agreed in advance with Southern Water and TMBC (for all storms up to, and including, the climate change adjusted 100yr critical storm).

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

- 8 No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

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

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

- 9 Prior to the first occupation of the development hereby approved, details of the area and spaces for parking and turning shall be submitted to and approved by the Local Planning Authority. The parking and turning areas shall be provided, surfaced and drained in accordance with the approved scheme before first occupation of the development. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

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

- 10 Prior to the first occupation of the development hereby approved, details of the secure cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle storage shall be completed prior to the first occupation of the development, and thereafter maintained and retained in accordance with the approved details.

Reason: To ensure that cycle storage is provided and maintained in accordance with the Council's adopted standards

- 11 The use shall not be commenced, nor the premises occupied until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

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

12 No development, other than ground investigations works, shall take place until the following have been submitted to and be approved in writing 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.

b) A detailed remediation method statement/strategy 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 and monitoring 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).

c) 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.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2021.

13 Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority. The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

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

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2021.

14 The development shall be carried out in accordance with the details and mitigation measures detailed in the External Building Fabric Assessment report prepared by RBA Acoustics (11511.RP01.EBF.1 dated 26 January 2022).

Reason: To safeguard the aural amenity of the occupiers of the dwelling(s) hereby approved.

15 Prior to the commencement of development the applicant, or their agents or successors in title, will secure:

- 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.

Informatives:

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbs.gov.uk](mailto:addresses@tmbs.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.
- 2 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.
- 3 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.
- 4 The disposal of waste by incineration is contrary to Waste Management Legislation and could lead to justified complaints from local residents. It is thus recommended that no bonfires are lit at the site.
- 5 Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the nearest point to the public highway on the relevant collection day.
- 6 The applicant is advised to refer to comments from the Lead Local Flood Authority when designing the Sustainable Drainage Systems as required in relevant conditions.

- 7 It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
- 8 The surface for the first 5m of the access from the edge of the highway should be a bound surface to prevent overspill onto the public highway.
- 9 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.
- 10 With regard to details required for Condition 9, the Council strongly encourages the developer to ensure that the level of parking provision is maintained.

Contact: Alda Song