

Tonbridge
Judd

TM/24/01150/PA

Location: 111 Douglas Road, Tonbridge TN9 2UD

Proposal: Erection of a two storey side extension to create a two bedroom dwelling, including reconfiguration of the roof, new dormer windows, internal reconfiguration of the existing dwelling to incorporate a loft conversion and associated access and landscaping works.

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 Planning permission is sought for the erection of a two-storey side extension, to create a two-bedroom dwelling.
- 1.2 This scheme would result in the proposed dwelling being attached to the host dwelling. The dwelling would be the same depth as the host dwelling at 7.5 metres x 5 metres in width. As part of the development proposal, the existing roof of the host dwelling will be removed and replaced with a new half-hipped roof over the newly created semi-detached properties.
- 1.3 The proposal also includes the provision of a dormer window to the rear for both the proposed dwelling and the host dwelling in connection with accommodation being provided within the roof slope.
- 1.4 In regard to the new dwelling, the proposal would provide a kitchen, dinner, lounge and WC on the ground floor, bedroom with ensuite, study/office and family bathroom on the second floor and a further bedroom within the roof space.
- 1.5 The outdoor amenity space would be provided at the side and rear (approximately 4 metres in width to the side x 5 metres in depth to the rear).
- 1.6 The scheme includes the provision of three parking spaces (not including the garage), two for the host dwelling and one car parking spaces for the proposed dwelling. In regard to the proposed dwelling this will be located to the rear of the proposed dwelling.
- 1.7 The current scheme is a resubmission of the previously refused application under reference number 22/01854/FL, which was for the erection of a detached four bed dwelling. This previous application was refused on the following grounds:
 1. The development by reason of its scale, layout and plot coverage would produce an excessively cramped and prominent development, acutely at odds with the

established character of the local area. It would stand in contrary to Policy CP24 of the Tonbridge and Malling Core Strategy, Policy SQ1 of the Managing Development and the Environment Development Plan Document and Section 12 of the Revised NPPF (2021) which together require residential development to be of a high quality design that complements or enhances the character and appearance of the surrounding area.

2. The development by reason of its scale, layout and plot coverage would fail to provide acceptable living conditions for future occupants, with particular regard to the inadequate outdoor amenity provision. It is contrary to paragraph 130 of the Revised NPPF (2021) requiring development to secure high quality design and a good standard of amenity for all existing and future occupants of buildings.
3. The proposal by reason of the substandard dimensions and location of some of the parking spaces provided would be likely result in parked cars overhanging the pavement which would cause irritation and danger to pedestrian using the pavement. It would conflict with Policy SQ8 of the MDE DPD which seeks to ensure the adverse impacts of development on the wider road network is mitigated.
4. Insufficient information has been provided to confirm that trees at the site would not be harmed, and that there would be no harm to biodiversity at the site. The proposed scheme would conflict with policy NE3 of the Managing Development and the Environment Development Plan Document and paragraph 174 of the Revised National Planning Policy Framework (2021) which seeks to protect conserve and enhance biodiversity, whilst contributing to enhancing the natural and local environment.

2. Reason for reporting to Committee:

- 2.1 This application is referred to Committee by Councillor Mark Hood on the grounds of the loss of two established trees with high amenity value is contrary to the general requirement to achieve biodiversity net gain.

3. The Site:

- 3.1 The application site consists of the side garden of no.111 Douglas Road, a two-storey detached property in the built confines of Tonbridge. The garden measures approximately 17 metres long and approximately 10 metres wide and is partly enclosed by brick wall. A short access drive from Douglas Road runs along the eastern site boundary providing access to properties at the rear of the application site.
- 3.2 The surrounding area has a diverse architectural character comprised mainly of traditionally built two-storey detached and semi-detached properties in a wide range of designs and materials with differing setback positions and angles from the road.

Parking on Douglas Road is mostly controlled by double yellow lines and permit parking bays.

4. Planning History (most relevant only):

22/01854/FL - Refuse - 21 October 2022
Erection of a detached four bed dwelling

21/03338/FL - Refuse - 12 July 2022
Two semi detached two bedroom dwellings

21/03230/FL – Refused 17 December 2021
Two semi detached two bedroom dwellings

05/02474/FL - Refuse - 19 October 2005
Three bedroom house and garage

5. Consultees:

5.1 Environmental Health Protection: - No comments received.

5.2 Council's Landscape / Tree Officer: No objection

Comments on removal of the trees:

Trees at the site are not included within a Tree Preservation Order and the site is not within a Conservation Area.

You will note from the Planning history of the site the Council has refused three recent previous development applications that would have had significant implications for the subject trees and has not included them within a TPO during the determination of those cases. Indeed two of the refusals did not mention concerns over the loss of the trees in the reasons for their refusal and the reasons for the latest application refused referred only to concerns over insufficient information and what impact removal of the trees may have on biodiversity.

The Tonbridge Character Areas Supplementary Planning Document (TCASPD – referred to by objectors) was adopted in February 2011. I1 – Douglas Road (West) Area is identified in that document as a Clustered Cul-de-sac Development. It is stated that: "Douglas Road dips towards the west and this development is located on lower ground flanked by the railway line to the north and school playing fields to the west and south. It was built in the 1990s on the site of a former printing works and comprises a series of small closes of detached, attached and semi-detached houses set facing or at an angle to the road, built in red, brown and yellow brick with slate roofs and decorative hanging tiles and bands of brickwork." The document does not specifically identify the trees that are subject of this request (as suggested by one of the objectors to application 24/01150/PA). It does refer to "Bands of trees to the west

and north” of the Character Area, that “The front gardens are unenclosed or semi-enclosed by shrub planting, hedges, low fences and walls”, “short view” of trees along Douglas Road and that “Soft landscaping, amenity area and small scale, partially concealed, communal parking areas have been designed into the scheme, contributing to the area’s leafy, uncluttered character.” Is a locally distinctive positive feature. However, the comments refer to general landscaping rather than the specific Pear trees subject of the request. A TPO was not made at the time Douglas Road and the surrounding environs on the site of the former printing works were constructed.

The applicant/agent for the current application 24/01150/PA has submitted an Arboricultural Survey dated 17th July 2024 in support of the current application. The author of the survey has measured the 2 Pear trees as being about 8-9M in height, with a DBH of 270-280mm and branch spreads of between 3 and 5M. They have stated that the trees are mature of good/fair condition and classified both trees as grade B in accordance with the cascade chart for tree quality assessment at Table 1 of The British Standard BS5837:2012.

The Pear are small trees of reasonable form and condition. They have had little previous treatment (apart from some formative pruning). However, given their situation and close proximity to built form there may be future pressures for treatment to contain their size – which would have a negative impact on their health and appearance.

The Council has given formal consideration as to whether to include the two Pear trees within a new Tree Preservation Order and it was formally determined that the trees are not appropriate for inclusion within an Order given their limited public amenity value and implications of previous planning decisions

It would not be justifiable to refuse this application on tree grounds.

Comments on replacement planting

The proposed site plan submitted indicates that “2 new small narrow form trees of native derived species” are proposed to be planted to offset the loss of the Pear trees. Details of the proposed species have not been provided.

Measurement from the proposed site plan indicates that the space available for replacement planting would be very limited – it would, however, be possible to plant some small trees/large shrubs/climbing plants and there is some space for roadside planting in front of the existing and proposed properties (all within the red line planning site boundary). Some of the best options for the space might not be native (exact details of species, planting size and siting could be required under a condition added to any approval).

5.3 Third Party/Other representations

5.4 There are 11 letters of objection which have been summarised in categories as follows:

Parking:

- Insufficient space for the plans submitted, affecting parking etc
- Limited space for parking and access in this part of the road,
- Street parking a major concern as there is no immediate parking on the street and only showing one space for this dwelling.
- The overflow of cars has already been a nuisance for neighbours nearby.
- This area also is busy during school term time with residents parking in the street and children walking to and from primary school around the corner.

Tree:

- The proposal includes cutting down trees that were protected in the bylaws of this development to help support green ethos.
- Any removal of trees from the property would be an environmental backward step.

Character and Appearance:

- The ascetics will impact on the current look of the estate which has happily been admired for over 34 years.
- This area primarily has 3-4 bedroom family homes, not need a 2 bedroom dwelling squeezed in.
- There is not enough space for the dwelling being proposed.
- The proposed building work will encroach on the adjoining properties and restrict access for them.
- The total of the proposed building changes will create a building out of proportion to adjacent dwellings and be completely out of character with the rest of the estate.
- Whilst this scheme is an improvement on previous applications the design of the roof would appear very bulky in comparison with other properties on the estate

Neighbour Amenity:

- The proposed development will significantly overlook our garden and house, and those of others.
- It will overshadow our front garden and door and block our one remaining outlook
- The proposed plan, the proposed change of roof line and use dormer windows will overlook our garden, and our privacy will be compromised

Other matters:

- There are covenants/restrictions in the title deeds of existing properties on the estate (of which 111 is one), put in to protect residents from developments of this sort.
- The plans submitted do not even appear to address the reasons why the previous application was rejected.

6. Determining Issues:

Policy Guidance

6.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise.

6.2 The Development Plan currently in force for this area comprises:

- Saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP),
- The Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007
- Development Land Allocations DPD (DLA DPD) adopted in April 2008
- Managing Development and the Environment DPD (MDE DPD) adopted April 2010.
- Tonbridge Character Areas Supplementary Planning Document (TCA SPD)
- The National Planning Policy Framework (“NPPF”)
- National Planning Practice Guidance (“NPPG”) and National Design Guide

Principle of Development

6.3 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). Therefore, the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2023) 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.
- 6.4 It has been established that, in the absence of a 5-year housing land supply, the Development Plan is out of date when considering housing developments. For the avoidance of doubt, the Council's latest position statement (December 2023) indicates 4.36-years supply.
- 6.5 The site lies within the built confines of Tonbridge, a designated urban area in Tonbridge and Malling Borough Core Strategy. Policy CP11 of the Tonbridge and Malling Borough Core Strategy (TMBCS) sets out that in accordance with the principles of sustainability, as set out in policies CP1 and CP2, development should be concentrated at the urban areas, where there is the greatest potential for re-use of previously developed land and other land damaged by former uses.
- 6.6 Development in the urban areas can also minimise the need to travel, by being located close to existing services, jobs and public transport. The policy is considered up-to-date, and the proposed development accords with these aims and the requirements of this policy.
- 6.7 In relation to 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. In this case the site falls within the urban area of Tonbridge, and there are no restrictive policies within the Framework (under footnote 7) that would provide a clear reason to refuse the development.
- 6.8 Therefore, in this case paragraph 11 d (ii) is engaged and an assessment of whether there is any adverse impact that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, needs to be undertaken.

Other material considerations in regard to the principle of development

- 6.9 In addition, it must also be noted that whilst the previous applications have been refused, 'no objection in principle' was raised to the erection of a dwelling *per se* on those previous applications. It has already been acknowledged within the previous delegated reports that *"as infill development in an urban area and given the location of the site, future occupiers of the proposed dwellings would enjoy similar access to local services compared to existing dwellings in the urban area. Given these factors, the proposed scheme would comply with policy CP11 and its requirement that development should be located close to existing services, jobs and public transport"*.

Matters for Clarification

- 6.10 Third party comments have stated that there are covenants/restrictions in the title deeds of existing properties on the estate (of which 111 is one), put in to protect residents from developments of this sort.
- 6.11 However, planning permission and restrictive covenants are distinct legal concepts that address different aspects of property use and development. Planning permission is a statutory process administered by local planning authorities, while restrictive covenants are private contractual agreements typically found in property deeds. As such a covenant does not prevent or restrict planning permission being granted, and equally the grant of planning permission does not nullify or invalidate any existing restrictive covenants on a property. The removal of the covenant would be a separate legal matter.

Provision of Housing

- 6.12 Paragraph 60 of the NPPF sets out that, to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 6.13 Paragraph 70 of the NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. It adds that LPAs should support the development of windfall sites through policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes. To make effective use of land, Paragraph 124 of the NPPF requires planning decision to promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively
- 6.14 With regard to the above, it is acknowledged that the provision of one dwelling would be considered a small site, however, together with other windfall sites in the Borough, would still make a positive contribution towards the Council's housing supply.
- 6.15 The provision of a new dwelling given the shortage of housebuilding in the Borough is a matter that attracts positive weight in the overall planning balance, but this weight is scaled to the fact that only one dwelling is proposed in the context of the overall housing need in the Borough.

Assessment on Character and Appearance

- 6.16 Paragraph 135 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.

6.17 Development of poor design that fails to reflect local design policies and government guidance on design should be refused as set out in paragraph 139 of the NPPF.

6.18 Policy CP1 of the TMBCS states that all proposals for new development must result in a high-quality sustainable environment. This is expanded upon in sub-paragraph 6.1.5 and includes matters such as making efficient use of land and making a positive contribution to local distinctiveness, character, townscape and the setting of settlements.

6.19 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. 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

6.20 Third party comments have raised concerns over the impact of the proposed development on the character and appearance of the area.

6.21 The previous application was refused as it was considered that *“The development by reason of its scale, layout and plot coverage would produce an excessively cramped and prominent development, acutely at odds with the established character of the local area”*.

6.22 In reaching this conclusion the previous report (para. 5.6) noted, *“the proposed (then detached dwelling) would take up a large proportion of the side garden, and would be*

close to both the side elevation of the existing house and access drive leading to houses at the rear of the application site, which having an unusually small outdoor amenity area. This taken together with the location and layout of the parking spaces would produce an excessively cramped appearance and would give the impression the development has been squeezed into the plot rather than being a natural and harmonious infill”.

6.23 This revised scheme, unlike the refused proposal, will be attached to the host dwelling creating a pair of semi-detached dwellings, a house type already found in this neighbourhood. As noted above, as part of the development proposal, the existing roof of 111 Douglas Road (host dwelling) will be replaced with a new half-hipped roof over the newly created semi-detached properties. The proposal also includes the provision of a dormer window to the rear for both the proposed dwelling and the host dwelling.

6.24 The site lies within I – Clustered cul de sac development as set out in the Tonbridge Character Areas Supplementary Planning Document (TCA SPD). The pre-amble notes:

“Whereas development in the 1960s, 70s and early 80s often consisted of houses spaced out evenly along, and facing, the road on a relatively consistent building line, more recent developments in Tonbridge primarily consist of detached or attached houses, with integral or attached garages, set along an uneven building line or at angles to the road. The different roof forms and details often give interesting and varied roofscapes. Properties often front directly onto the pavement/road or shared surface or are set behind a shallow unenclosed front garden of low planting or have traditional metal railings and have private enclosed space to the side or rear. Houses have parking spaces or garages. The steep roofs and more compact form give the development a more enclosed urban character. The urban form is softened by the use of short curved cul-de-sac layouts which keep traffic speeds low and often encourage shared road use for pedestrians and cars. Sometimes the access roads will be cobbled or paved in a contrasting colour to emphasise this shared use. The enclosed cul de sac layouts create a quiet, private character.

The curved street layout combined with the variable building line, also creates a series of enclosed spaces and changing vistas and views which to some extent replicates the ad hoc development found in traditional town and village centres. Whilst a variety of materials and building designs are used, the overall form, materials, scale and character is generally very cohesive.

Properties are finished in a variety of traditional materials with relevance to the Tonbridge and Kent vernacular such as red/orange bricks, weatherboarding, white painted render and hanging clay tiles (sometimes decorative). The designs also incorporate traditional details such as dormer or half dormer windows, arched brickwork over doors and windows, contrasting brick string courses, chimneys, cupolas and ridge tiles. Windows and doors are often well aligned with each other

and the dominant areas of brickwork over glazing gives the facades a robust appearance”.

- 6.25 The Douglas Road (West) area is characterised by a mixed in terms of property sizes, styles and scale. The proposal would align with the TCA SPD, which notes the area comprises a series of small closes of detached, attached and semi-detached houses set facing or at an angle to the road. As such, semi-detached properties are a common feature in the area together with dormer windows. Roof form within the area is varied, with hipped, pitched and gables all prominent in the immediate area. In this respect, the development will assimilate well into the area. Although with a slightly smaller garden than the houses nearby, the proposal would be broadly in keeping with the establish grain, pattern and density of development in this locality, with no undue impact on the local street scene. Unlike the refused schemes, the proposal would retain more spacing with the buildings and roads adjacent and would thereby soften the visual impact arising from its bulk and massing.
- 6.26 The proposed development maintains a similar height and bulk to that in the surrounding area and is no further forward within the street scene than the existing dwelling. The semi-detached nature of the proposed scheme rather than a detached property, means that the property does not present as cramped or prominent feature, but rather as a pair of semi-detached dwellings.
- 6.27 In regard to materials, it is proposed to render the first floor across both properties to the front (with part render return to the east and west elevations). The proposed materials are in keeping with the existing local character. Although the proposal is not considered to represent overdevelopment of the site in its current form, further extensions and outbuildings otherwise permissible by Part 1 of Schedule 2 of the GPDO (2015) in this relatively small plot of land could potentially result in a cramped environment, detract from the character of the site surroundings. Hence, if planning permission is forthcoming, it is recommended the permitted development rights for any further extensions and outbuildings be withdrawn from the new dwelling so as to mitigate the potential harm identified earlier.
- 6.28 Therefore, to conclude on character and appearance, it is considered that the proposal would result in a scheme, that would assimilate well with the overall form and layout of its surroundings, in compliance with paragraph 135 (NPPF), Policy CP24 of the Tonbridge and Malling Borough Core Strategy and Policy SQ1 Managing Development and the Environment Development Plan.

Assessment on Neighbour Amenity

- 6.29 Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 outlines that development by virtue of its design which would be detrimental to amenity will not be permitted. Policy CP1 of the Core Strategy also requires proposals to have regard to impacts on residential amenity.

- 6.30 Paragraph 135 (f) of the NPPF states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.31 Third party comments have raised concerns in regard to overlooking created by the dormer windows.
- 6.32 The application site is in an urban setting, where existing houses cluster closely together with each other. Moreover, as an infill development surrounded by existing houses there is likely to be an impact on outlook by reason of the presence of a new building. In this case the proposed dormer window in regard to the new dwelling, would look directly at the side flank elevation of 109 Douglas Road, as such views into the rear garden of that property would be limited.
- 6.33 It is acknowledged that the rear dormer within the host dwelling has potential to create a degree of overlooking to 109 Douglas Road and surrounding properties, however, the Council is mindful that in many cases the introduction of dormer windows within rear roof slopes do not require planning permission. Moreover, there are already first floors windows to the rear which look in the same direction as the proposed dormer window.
- 6.34 Considering the proposal in this local context, officers are satisfied, whilst noting the close relationship between the host/proposed dwelling and the neighbouring properties, that on balance the dormer windows proposed are acceptable in terms of their impact on outlook of the neighbours concerned.
- 6.35 Third party comments have also been raised that the proposal will overshadow the neighbours front garden/door and block outlook. Due to the distance of the proposed dwelling from 105, 107 and 109 Douglas Road, coupled with the orientation, officers are satisfied that the proposal would not overshadow or hinder outlook to the neighbouring properties.
- 6.36 Therefore, to conclude on neighbour amenity, the proposal would not harm neighbour amenity and as such accords with Policy CP24 of the Tonbridge and Malling Borough Core Strategy and the aims of the NPPF.

Living conditions

- 6.37 The National Design Guide (2021) sets out that high quality design includes the provision of satisfactory living conditions for future occupiers. For a 2 bed (4 person) dwelling spread over three floors the NDSS requirement is 79m² with 2.0 m² of built in storage. The proposal comprises 94.58 m² and therefore would meet the NDSS.
- 6.38 In addition to the internal standards, consideration must also be given to the provision of adequate and useable outside private amenity space. The host dwelling would see a reduction in garden size, reduced by approximately 100sqm, this being

the garden area currently located to the side of the dwelling. However, whilst the host dwelling would see a reduction in amenity space, the resulting space would still be considered comparable to the surrounding properties and in keeping with the character of the area.

- 6.39 In regard to the proposed dwelling, this would have an amenity garden area of 66.8sqm split (but linked) between the rear and the side of the dwelling. On balance it is considered that this would be acceptable for the size of the dwelling proposed.

Highways and Parking

- 6.40 Paragraph 114 of the NPPF states that, in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, inter alia, safe and suitable access to the site can be achieved for all users. Paragraph 115 adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe
- 6.41 Policy SQ8 of the Managing Development and the Environment DPD states that development proposals should comply with the adopted parking standards and development proposals will only be permitted where they would not significantly harm highway safety.
- 6.42 Many of the third party representations have raised comments in relation to the existing parking provisions in the area and concerns over the level of parking proposed for the host dwelling and the proposed dwelling.
- 6.43 Interim Guidance Note 3 (2008) is a material consideration in respect of residential parking. For properties in suburban areas, IGN3 advises 1 car parking space per unit for 2 bed properties and 2 spaces for 4+ bedroom houses. (Noting the additional bedroom for the host dwelling). In terms of parking, three spaces are proposed in total (excluding the existing garage): 111 Douglas Road currently has two parking space to the rear of the property together with a garage which are to be retained. However one of these spaces will be afforded to the proposed dwelling, while an additional parking space is proposed to the front of 111 Douglas Road to replace the parking space to rear allocated to the new dwelling.
- 6.44 In regard to the size of the spaces themselves, all spaces are in accordance with required parking standards (minimum 2.5m x 5m) such that vehicles fit adequately. The proposal, if permitted, would materially increase the number of vehicular movements to and from the application site but it would not be significant enough to cause disruption to the flow of traffic along Douglas Road and operation of the local highway network. Being compliance with the parking standards also means the proposal is unlikely to cause displacement of parked vehicles onto the adjacent public highway.

- 6.45 To conclude on parking the proposal would be in line with the interim guidance and as such the proposal would not pose an unacceptable risk to highway safety and would not meet the high threshold set out in the NPPF for refusing an application on highway grounds. A condition should however be imposed to require all areas intended for car parking be appropriately surfaced and drained prior to occupation of the new dwelling. To ensure the vehicular access and car parking area are not obstructed by bins, a scheme detailing the refuse storage and collection arrangement should be secured by way of a planning condition and the approved arrangements should be implemented prior to occupation of the dwelling. In addition, a secured bike storage facility should be provided and the details of which should be submitted to and approved in writing by the local planning authority prior to its first installation. This is to ensure the adopted cycle parking standard is complied with.
- 6.46 In addition, it is also worth noting that the site is highly sustainable. The location of the site is under 10 minutes from Tonbridge Station, which provides regular services towards London and other destinations in Kent including coastal services. There are similarly various bus services available from the Town centre. Future occupiers are clearly not dependent on private vehicles in this location and can utilise active travel methods to reach nearby

Biodiversity

- 6.47 Policy NE2 of the MDE DPD outlines that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced. Policy NE3 of the MDE DPD also states development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in an overall enhancement. Proposals for development must make provision for the retention of the habitat and protection of its wildlife links. The Council will impose conditions, where necessary and appropriate, to minimise disturbance, protect and enhance a site's ecological conservation value, to ensure appropriate management and monitoring and creating new or replacement habitats of enhanced ecological value.
- 6.48 Paragraph 180 of the NPPF advises planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity. Paragraph 186 of the NPPF states if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.49 In regard to biodiversity, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain. However, one of the exemptions is for self build and custom build applications. The Act states that "self-build and custom housebuilding" means the building or completion by –

- (a) individuals,
- (b) associations of individuals, or
- (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals.

6.50 In this instance, the application, falls under this provision as a self-build application. The development is therefore exempt from BNG.

Trees/Landscaping

6.51 Policy NE4 of the Managing Development and the Environment DPD states, amongst other things, that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network as illustrated on the Diagram. This includes provision of new habitats as part of development proposals.

6.52 Paragraph 136 of the NPPF (2023) recognises the importance of trees and states:

“Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.”

6.53 The application is accompanied by an Arboricultural Survey, this notes in order to facilitate the development it is proposed to remove two pear trees located to the front/side of the site. The Arboricultural Survey has afforded these two pear trees ‘B’ categorisation in the survey. This category is defined as *“B – Trees of moderate condition, with minor defects or sub-optimal form but are still of modest arboricultural, landscape or conservation value. Must have a potential life span in excess of twenty years.”*

6.54 The planning statement which accompanies the application (para 6.4.3) acknowledges *“Some harm in the form of visual loss is recognised by the loss of the trees, albeit this is offset by the fact that the trees are non-native and invasive. It is proposed to mitigate against the removal of the trees through planting of 2no. new native trees”.*

6.55 Third party comments have been raised over the loss of the two trees with comments stating that *“they are protected in the bylaws of this development to help support green ethos”* and that *“any removal of trees from the property would be an environmental backward step”*. It is noted that third party comments have referred to the trees being protected under the deeds to the property. However as set out above

any covenant contained within the title deeds of a property would not be a material planning consideration. It is also as noted, that the application has been called to committee in part due to the loss of the trees.

- 6.56 First, it is important to note that the two Pear trees at the site are not included within a Tree Preservation Order. The Council gave formal consideration as to whether to include the two Pear trees within a new Tree Preservation Order and it was formally determined that the trees are not appropriate for inclusion within an Order given their limited public amenity value and implications of previous planning decisions. The site is also not within a Conservation Area.
- 6.57 It is also noteworthy that whilst the Council has refused three previous development applications on this site, two of the refusals did not mention concerns over the loss of the trees in the reasons for their refusal. Moreover, in regard to the third (most recent previous application) that was refused, the reason for refusal in regard to the trees, only referred to concerns over insufficient information submitted with the application to demonstrate that the trees would not be harmed, as they were shown in that instance to be retained, and what impact the removal of the trees may have on biodiversity. Unlike the refused application, the current one is supported by an arboricultural survey, which has been assessed by the Council's landscape/tree officer.
- 6.58 The Council's landscape/tree officer has reviewed the application and makes the following observations:

"The Tonbridge Character Areas Supplementary Planning Document (TCA SPD – referred to by objectors) was adopted in February 2011. I1 – Douglas Road (West) Area is identified in that document as a Clustered Cul-de-sac Development. It is stated that: "Douglas Road dips towards the west and this development is located on lower ground flanked by the railway line to the north and school playing fields to the west and south. It was built in the 1990s on the site of a former printing works and comprises a series of small closes of detached, attached and semi-detached houses set facing or at an angle to the road, built in red, brown and yellow brick with slate roofs and decorative hanging tiles and bands of brickwork." The document does not specifically identify the trees that are subject of this request (as suggested by one of the objectors to application 24/01150/PA). It does refer to "Bands of trees to the west and north" of the Character Area, that "The front gardens are unenclosed or semi-enclosed by shrub planting, hedges, low fences and walls", "short view" of trees along Douglas Road and that "Soft landscaping, amenity area and small scale, partially concealed, communal parking areas have been designed into the scheme, contributing to the area's leafy, uncluttered character." Is a locally distinctive positive feature. However, the comments refer to general landscaping rather than the specific Pear trees subject of the request. A TPO was not made at the time Douglas Road and the surrounding environs on the site of the former printing works were constructed.

The Pear are small trees of reasonable form and condition. They have had little previous treatment (apart from some formative pruning). However, given their situation and close proximity to built form there may be future pressures for treatment to contain their size – which would have a negative impact on their health and appearance”.

- 6.59 In terms of their removal the Council’s landscape/tree officer concludes it would not be justifiable to refuse the application based on the removal of the trees for the reasons as set out above.
- 6.60 It is noted that the proposed site plan submitted indicates that “2 new small narrow form trees of native derived species” are proposed to be planted to offset the loss of the Pear trees. However, specific details of the proposed species have not been provided.
- 6.61 Measurement from the proposed site plan indicates that the space available for replacement planting would be very limited – it would however, be possible to plant some small trees/large shrubs/climbing plants and there is some space for roadside planting in front of the existing and proposed properties (all within the red line planning site boundary) and it is acknowledged that some of the best options for the space might not be native, however exact details of species, planting size and siting could be required under a condition added to any approval.
- 6.62 It is also noted that the proposed site plan indicates a new 1.8 metre high close boarded fence to the front and side of the proposed dwelling. However, given the open characteristic of the area, this being that most dwellings retain an open frontage with only low fencing, soft planting or brick walls marking front boundaries that the provision of a 1.8 metre high fence would not be considered acceptable for the location proposed. However, the finer details of the hard landscaping for the development could be incorporated into the condition suggested by the Council’s landscape/tree officer and as such would not be a reason to refuse the development.

Planning Balance

- 6.63 The LPA acknowledges that it cannot currently demonstrate a 5-year housing land supply. Paragraph 11 of the NPPF states that, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted 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.

- 6.64 As set out above in this report, the proposal would not result in harm to any protected areas or assets and there is no clear reason to refuse the application in accordance with Paragraph 11 (d) (i) above.
- 6.65 In weighing the proposal in the overall planning balance, required by Paragraph 11 (d) (ii), the LPA recognises that there is a housing need and as such significant positive weight should be attributed to housing schemes. This weight is scaled to the fact that only one dwelling is proposed in the context of the Borough's overall housing need.
- 6.66 It is acknowledged that there would be some modest additional benefits to the economy through the construction of the development itself and the subsequent occupation of the dwelling, whose occupants would contribute to the local economy through using local services and facilities. Some of these benefits are temporary and only during the construction works themselves.
- 6.67 It is recognised that there would be no unacceptable impact on character and appearance, neighbouring properties, highway safety or parking provision and the proposal would be acceptable in terms of design and living conditions. However, absence of harm in relation to these matters is not a benefit of the scheme, but rather, weighs neutrally in the planning balance.
- 6.68 To conclude, having regard to the above, in applying paragraph 11 of the NPPF, it is considered that no unacceptable impact arising from the proposal has been identified that would significantly and demonstrably outweigh the potential benefits of the scheme. Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval.

7. Recommendation

Approve subject to the following:

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 91a f of the Town and Country Planning Act 1990.

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

Site Location Plan - Drawing No. TBO241-01

Site Plan – Drawing No. TBO241-02

Existing Floor Plan - Drawing No. TBO241-04

Existing Elevations - Drawing No. TBO241-05

Proposed Site Plan – Drawing No. TBO241-03

Proposed Floor Plans - Drawing No. TBO241-06

Proposed Elevations - Drawing No. TBO241-07

Planning Statement – DHA dated July 2024 ref DHA/33552

Arboricultural Survey – PJC dated 17 July 2024 project ref : PJC/6634/24/01

Rev -

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. All materials used externally shall accord with the approved plans.

Reason: In the interests of visual amenity.

4. Hard and Soft Landscaping:

- a) A scheme of hard and soft landscaping, including details of all boundary treatments any existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping, shall be submitted to the Local Planning Authority for written agreement within 1 month of the commencement of the development hereby permitted.
- b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.
- c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no development falling within Class(es) A, B, D and E of Part 1 of Schedule 2 to the said Order shall be carried out without the prior consent in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over future development on the site and to avoid harm to visual and residential amenity that could otherwise occur without such restrictions.

6. The proposed dwelling shall not be occupied, until the areas shown on the submitted layout as vehicle parking spaces (including the proposed space for

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

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

7. Prior to the occupation of the proposed dwelling hereby approved details in regard to the provision of cycle parking/storage shall be submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details and maintained and retained at all times thereafter.

Reason: In the interest of highway safety.

8. The development hereby approved for the new dwelling shall not be occupied until a scheme for the location and storage 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.

Informatives.

1. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
2. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to email 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.
3. 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.

4. During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.
5. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. It is recommend that bonfires not be had at the site.

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