

---

**Tonbridge**  
Judd

**16<sup>th</sup> October 2025**

**TM/24/02011/PA**

**Location:** 2-12 Avebury Avenue Tonbridge TN9 1TF

**Proposal:** Alteration, extension and change of use of the existing building to a mixed use to comprise 34 no. apartments, with associated parking and refurbishment of existing gym (Revision of TM/19/00287/FL)

**Go to:** [Recommendation](#)

---

## **1. Description of Proposal:**

- 1.1 Planning permission is sought for alteration, extension and change of use of the existing building to a mixed use to comprise 34 no. apartments, with associated parking and refurbishment of existing gym at Number 2 to 14 Avebury Avenue, Tonbridge.
- 1.2 The proposed block would be five storeys, comprising an entrance hall, undercroft car park, bike and bin store alongside a separate commercial unit on ground floor, 10 units on first floor, 9, 8 and 7 units respectively on second, third and fourth floors. They range from 1-bed unit for 2 occupants to 3-bed flat for 6 occupants. All units are M4(2) compliant.
- 1.3 Across the site, there would be 22 car parking spaces in total; 10 of which would be provided outdoor while 12 indoor through a 2-tier stack parking system. Externally, the building would be faced in brick predominately, decorated further by a mix of cedar texture cladding and porcelain stone effect tile. It would be of a contemporary architectural style, largely reflected upon its built form, fenestration and exterior finish

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

- 2.1 A call-in request was made by Councillor Mark Hood for the following reasons:
- 2.2 *"The grounds for the call in are the excessive scale and bulk of the new application which is significantly taller than its predecessor and will dominate the street scene and the choice of materials which in addition to the scale and bulk seem to be completely out of place in the setting of the Tonbridge Conservation Area."*
- 2.3 The request was made within the prescribed time period and related to material planning considerations relevant to the development. In consultation with the Director of Planning, Housing and Environmental Health, the call-in request was accepted and the application referred to the Area Planning Committee.

## **3. The Site:**

- 3.1 The application site comprises a two-storey flat roof brick building with a curved façade that mimics the layout of the road immediately adjacent. It is a corner plot

bounded to one side by River Lawn Road and on the other side by Avebury Avenue. A small surface level car park is available on site, accessible via River Lawn Road.

- 3.2 The site and its surroundings are characterised by a mix of residential and commercial uses, within the boundary of Tonbridge Town Centre and Tonbridge Central Area Action Plan. Tonbridge Conservation Area adjoins the northeast of the site. Being in Flood Zone 2 and 3, the site is vulnerable fluvial flooding.
- 3.3 Within the wider locality, there is built development of mixed scale and height. Opposite the site on Avebury Avenue is Tonbridge Library. To the east are terraced buildings fronting the High Street, to the north the Riverside Business Centre which is a detached three storey office building and to the north west on River Lawn Road is the modern 3 storey Tonbridge Medical Centre building. On the opposite site of River Lawn Road, fronting Avebury Avenue, is a terrace of 3 storey properties with commercial units on the ground floor and residential above.

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

23/00312/FL

Approved - 11 April 2023

Proposed additional floor over existing commercial premises to form two bedroom duplex apartment

23/00264/RD

Approved - 28 March 2023

Details of condition 2 (external materials) submitted pursuant to planning permission TM/19/00287/FL (Alteration, extension and change of use of the existing building to a mixed use to comprise 23 no. apartments, with associated parking)

21/00846/RD

Approved - 22 June 2021

Details of condition 2 (materials) submitted pursuant to planning permission TM/19/00287/FL (Alteration, extension and change of use of the existing building to a mixed use to comprise 23 no. apartments, with associated parking)

21/01314/NMA

Approved - 15 June 2021

Non Material Amendment to planning permission TM/19/00287/FL: Retention of existing first level slab for residential balcony

20/02505/NMA

Approved - 09 December 2020

Non Material Amendment to planning permission TM/19/00287/FL: Third floor internal area to be reduced and reconfigured, the rear elevation balconies at first and second floor to be set back from boundary, amendment to the openings on the front façade of the ground floor elevation, reconfiguration of the arrangements of the flats on the first and second floors, and amendment to accommodation proposed within the development to 10 one bedroom, 12 two bedroom and 1 three bedroom flat.

20/00759/RD

Approved - 17 July 2020

Details of conditions 6 (construction traffic), 12 (drainage) and 13 (archaeological work) pursuant to planning permission TM/19/00287/FL (Alteration, extension and change of use of the existing building to a mixed use to comprise 23 no. apartments, with associated parking)

20/00667/RD

Approved - 20 May 2020

Details of condition 8 (surface water drainage) and 9 (verification report) submitted pursuant to planning permission TM/19/00287/FL (Alteration, extension and change of use of the existing building to a mixed use to comprise 23 no. apartments, with associated parking)

19/00287/FL

Approved - 19 November 2019

Alteration, extension and change of use of the existing building to a mixed use to comprise 23 no. apartments, with associated parking

18/00423/FL

Approved - 27 July 2018

Alterations, extension and change of use of the existing building to a mixed use including 14 no. apartments, gym and commercial space

17/02820/FL

Application Withdrawn - 08 December 2017

Alterations, extension and change of use of the existing building to a mixed use including 14 no. apartments, gym and commercial space

## **5. Consultees:**

5.1 Heritage Conservation Officer – “The current proposal would cause no harm to the significance of the designated area through change within the wider setting, and there is no objection in terms of TMBC Historic Environment Conservation Policies.”

5.2 Local Highway Authority (Kent County Council) – “I refer to the above planning application and confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority.”

5.3 Lead Local Flood Authority (Kent County Council) – “As no additional drainage is proposed, the inclusion of additional SuDS are not feasible, and no additional impermeable surface area will result from the development, Kent County Council as Lead Local Flood Authority would see no reason to object to the development and would have no further comment.”

5.4 The Environment Agency – “We have no objection to the proposed residential development but have concerns regarding the proposed electricity substation, therefore request the conditions herein this letter are included on any permission granted.”

5.5 Waste Services – Standard advice provided for consideration.

5.6 Leisure Services –

- Open space should, in the first instance, be provided on the development site
- If provision on-site or off-site is not feasible, contributions should be sought to enhance relevant existing open spaces
- There has been an increase in the number of proposed housing units since the last application; it is now stated the housing type is flats / maisonettes any further alteration these housing units will affect calculations and comments.
- No on-site provision, for public open space or landscaping are proposed see Planning design and access statement MJW/JF/33696 December 2024 p27
- Contributions sought for this development should total £77,604

- 5.7 NHS West Kent CCG – NHS Kent and Medway has assessed the implications of this proposal on delivery of healthcare services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution (i.e. £21,744.00).
- 5.8 Southern Water – We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.
- 5.9 Kent Police – We recommend the applicant follows SBD guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998
- 5.10 Written Representations (summarised as follows) –
- Concerns raised relate to the scale and design of the proposals, including the disproportionate height and unsympathetic choice of materials, resulting in overdevelopment and harm to the character and appearance of the conservation area.
  - Practical issues have also been highlighted, including traffic and parking constraints (with some spaces located too close to the substation), risk of flooding, and additional pressure on local infrastructure such as GP services.
  - Questions have also been raised regarding land ownership.

## **6. Determining Issues:**

### **6.1 Principle of Development**

- 6.2 The site lies within the urban confines. Policy CP11 of the TMBCS states that development should be concentrated at the urban areas where there is the greatest potential for re-use of previously developed land. Development in the urban areas can also minimise the need to travel, by being located close to existing services, jobs and public transport. In light of the above, the site is a sustainable location, capable to be developed for housing.
- 6.3 The principle of development has already been established by virtue of the grant of planning permission 19/00287/FL and 23/00312/FL for 23 apartments and 2 duplex apartments respectively. Whilst the current proposal represents a more intense residential use than the approved schemes by reason of the increase in number of units to a total of 34, the principle of converting and extending the existing building for housing remains acceptable.
- 6.4 The site by reason of its nature could be regarded as both previously developed land and windfall site, where development proposals for housing are generally supported

by the NPPF. Paragraph 73(d) explicitly requires local planning authorities to support the development of windfall sites through their policies and decisions, giving great weight to the benefit of using suitable sites within existing settlement for homes, while Paragraph 124 expects the objectively assessed needs to be accommodated in a way that make as much use as possible of previously-developed or 'brownfield' land.

- 6.5 Planning decisions, Paragraph 125 states, should give substantial weight to the value of using suitable brownfield land within settlement for homes. Furthermore, using the airspace above existing residential and commercial premises for new homes could be supported, so long as the proposal is consistent with the prevailing height and form of the neighbouring properties and the overall street scene, is well designed and can maintain safe access and egress for occupiers.
- 6.6 Given the above analysis regarding the suitability of the site for housing, it is considered that the development in question is broadly consistent with the aims of the NPPF in terms of making effective use of land, particular windfall and previously developed land in accessible location, and significantly boosting the supply of new homes.
- 6.7 Paragraph 11 of the NPPF states that *“plans and decision should apply a presumption in favour of sustainable development. 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 strong 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”*
- 6.8 The Council cannot currently demonstrate a five-year supply of deliverable housing sites when measured against its objectively assessed need (OAN). The Housing Land Supply Position Briefing Notes January 2025 being the most up to date evidence base document on this topic indicates that only a 2.89-year supply of deliverable housing sites could be demonstrated at the time of publication. As such, the policies most relevant for assessing the current proposal should be treated out of date and hence the provision set out in Paragraph 11(d) applies.

- 6.9 This paragraph states that planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.10 Footnote 7 provides a list of those policies that relate to protected areas and assets of particular importance, including areas at risk from flooding. The site lies within Flood Zones 2 and 3. Hence, the 'titled balance' could only be disapplied where the flood risk policy in the Framework provides a strong reason for refusing this development proposal.
- 6.11 Flood Risk and Drainage
- 6.12 The site is in Flood Zone 2 and 3. A site specific flood risk assessment and drainage strategy has been submitted with the application in accordance with Paragraph 173 of the NPPF. The same paragraph states that:
- “Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
  - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;*
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
  - d) any residual risk can be safely managed; and*
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”*
- 6.13 Paragraph 168 of the NPPF advises further that “development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.” There are however few exceptions to the requirements for sequential and exception tests; these include, amongst other things, changes of use. As such, the current proposal for change of use is not required to pass the sequential and exception tests to be considered acceptable in flood risk terms.
- 6.14 The Environment Agency and the Lead Local Flood Authority have been consulted on this application, and neither have raised any objection to the proposal or to the supporting information. The Environment Agency however raised a concern about

the electricity substation on the ground floor and found it potentially vulnerable to flooding. To mitigate the risk identified, it recommended that a condition should be imposed to require further flood mitigation and resilience measures in relation to the substation be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development.

- 6.15 The surface water and foul sewage management methods outlined in the flood risk assessment and drainage strategy are both considered satisfactory given the physical constraints presented on site. The strategy would be consistent with the hierarchy of drainage options outlined in the relevant NPPG. A condition should be imposed to ensure continuous compliance with the approved strategy. Southern Water requested in the event of approval that an informative relating to foul sewerage and surface water disposal is added to the decision notice.
- 6.16 For the reasons given above, it is considered that applying the policies in the Framework relating to flooding does not provide a strong reason for refusing the development proposed. Aspects of the proposal that are considered at risk of flooding could be addressed and made compliant with the relevant policies at local and national levels through carefully worded conditions as recommended by the statutory consultees.
- 6.17 Housing Supply, Mix, and Affordable Housing
- 6.18 Paragraph 61 of the NPPF highlights the Government's objective of significantly boosting the supply of homes. The overall aim to meet an area's identified housing need, including with an appropriate mix of housing types for the local community should be at the heart of decision making.
- 6.19 The most up to date housing land supply position briefing note published in January 2025 indicates that the Council could only demonstrate a supply of deliverable housing sites of up to 2.89 years against its objectively assessed need. As such, there is undeniably a shortfall in the supply of new homes, which the Council must seek to address in accordance with Chapter 5 of the NPPF.
- 6.20 The proposal, if permitted, has the potential of delivering 34 new homes in a highly sustainable location, where the Development Plan specifically Policy CP11 of the TMBCS seeks to encourage and facilitate. It would assist in meeting approximately 2.5% of the annual housing requirement, which together with other allocated and windfall sites would make a meaningful contribution towards mitigating the identified housing shortage. This factor must therefore be afforded substantial weight in the overall planning balance as per the NPPF.
- 6.21 Turning next to housing mix, the Housing Needs Survey 2022 provides the most up-to-date evidence base to inform decision making. Borough-wide, the demand for flats is estimated to represent approximately 10–15% of overall housing need. However, this figure varies considerably depending on the sub-area. In the Tonbridge sub-area specifically, demand for 1-bed and 2-bed flats is estimated at roughly 15–20% and 2–

5% of total demand respectively. This indicates that the demand for flats in Tonbridge is materially higher than elsewhere in the borough.

- 6.22 The proposal seeks to provide 19 x 2-bed units, 14 x 1-bed units and 1 x 3-bed unit. The housing mix proposed would appear responsive to the specific needs of Tonbridge sub-area identified in the Housing Needs Survey and as such would be appropriate. Referring to the Planning, Design and Access Statement, all units would be M4(2) compliant, meaning they would be suitable for different groups in the community, especially those with reduced mobility. This would represent an enhancement compared with the original approval, allowing the proposal to better address the needs of groups with specific housing requirements, consistent with Paragraph 61 of the NPPF.
- 6.23 Concerning affordable housing, Policy CP17 of the TMBCS states that in the urban areas, affordable housing provision will be sought on all sites of 15 dwellings or above or 0.5ha or above at a level of 40% of the number of dwellings in any scheme. This Policy is elaborated further through the Affordable Housing Supplementary Planning Document adopted in July 2008.
- 6.24 The SPD reiterate that “all new residential developments will therefore be expected to provide affordable housing in accordance with the adopted Core Strategy unless the developer can show that the site can only come forward if essential infrastructure needs to be provided first or there are other significant costs such as site remediation or flood alleviation works, for example, and that in these circumstances the provision of the required amount and type of affordable housing would make the development unviable.”
- 6.25 “In these exceptional cases, it will be for the developer to demonstrate that less affordable housing and/or a different mix of affordable housing should be provided, and this will be subject to a confidential “open book” assessment and subject to independent audit”.
- 6.26 In this case, the proposal comprises all market housing, meaning there is no affordable housing either provided on site or off site or commuted sums contributing towards the Council’s affordable housing programme. This application is accompanied by a Financial Viability Appraisal, which suggests that the proposal could not be viably delivered while meeting the affordable housing requirements set out in Policy CP17 of the TMBCS. The Appraisal identifies a range of factors contributing to the current viability position of the scheme. These include, but are not limited to, the change in economic climate since the original approval, the complex planning history of the site, and the poor and deteriorating condition of the building proposed for conversion and extension. In accordance with the SPD, the Council has appointed an independent viability consultant to scrutinise the FVA and has subsequently been given the following advice:
- We consider the proposed scheme generates a deficit of **-£96,721** and, therefore, no affordable housing can viably be offered at present. The level of deficit

translates to merely -0.8% on GDV and, therefore, we consider it to be a break-even position.

- Although we acknowledge the Applicant entered into a collaborative process and attempted to reach an agreement on the BLV, we consider the assessment provided by Sibley Pares still does not comply with the PPG definition of EUV or AUV. On this basis, we maintain the interim £nil BLV in our assessment. We emphasise that this is our interim position, pending a policy-compliant AUV being provided.
- We maintain our originally adopted profit target to be appropriate.

6.27 While some differences remain on certain aspects of the FVA, both the Council's viability consultant and the applicant agree that the proposal, in its current form, is unlikely to generate sufficient profit to deliver the level of affordable housing required by policy. On this basis, the absence of an affordable housing contribution can be justified in this instance. However, as viability could improve or worsen over the course of construction and the amount of affordable housing contribution currently on offer falls substantially short of the relevant policy requirement, it is reasonable to secure a late-stage review mechanism through a legal agreement, in line with Paragraph 58 of the NPPF.

6.28 The review mechanism should operate such that no more than 75% (25 units) of the dwellings can be disposed of until the review takes place. The maximum contribution should be capped at 50% to ensure there remains an incentive to sell the units at a higher value than those anticipated by the applicant.

6.29 Whether there will be any additional affordable housing contribution from the development is uncertain and cannot be guaranteed. However, the review mechanism within the legal agreement strengthens the Council's ability to secure a higher level of contribution, potentially approaching the 40% aspiration set out in CS Policy CP17, over the lifetime of the project. This would assist in addressing the unmet need for affordable homes within the borough.

6.30 Subject to the above, it is considered that the failure to deliver the level of affordable housing required by Policy CP17 of the TMBCS does not provide a strong reason for refusing the development proposal, especially given the financial viability evidence provided by the applicant and corroborated by the Council's independent viability consultant.

#### 6.31 Quality of Accommodation

6.32 The proposal comprises 34 units in total, spreading across four floors. The smallest apartment has one bedroom for two persons while the largest apartment has three bedrooms for six persons. The schedule of accommodation is as follows:

Area 1 Planning Committee

Number	Type	Area
<u>First Floor</u>		
Unit 1	2B 4P	93 m <sup>2</sup>
Unit 2	2B 3P	70 m <sup>2</sup>
Unit 3	1B 2P	55.5 m <sup>2</sup>
Unit 4	1B 2P	70 m <sup>2</sup>
Unit 5	2B 4P	111 m <sup>2</sup>
Unit 6	1B 2P	70 m <sup>2</sup>
Unit 7	1B 2P	55.5 m <sup>2</sup>
Unit 8	1B 2P	55.5 m <sup>2</sup>
Unit 9	2B 4P	95 m <sup>2</sup>
Unit 10	2B 4P	83 m <sup>2</sup>
<u>Second Floor</u>		
Unit 11	2B 4P	93 m <sup>2</sup>
Unit 12	2B 3P	70 m <sup>2</sup>
Unit 13	1B 2P	55.5 m <sup>2</sup>
Unit 14	1B 2P	70 m <sup>2</sup>
Unit 15	1B 2P	70 m <sup>2</sup>
Unit 16	1B 2P	55.5 m <sup>2</sup>
Unit 17	1B 2P	55.5 m <sup>2</sup>
Unit 18	2B 4P	95 m <sup>2</sup>
Unit 19	2B 4P	83 m <sup>2</sup>
<u>Third Floor</u>		
Unit 20	1B 2P	50.54 m <sup>2</sup>
Unit 21	2B 4P	98 m <sup>2</sup>

Unit 22	1B 2P	68.7 m <sup>2</sup>
Unit 23	2B 4P	105 m <sup>2</sup>
Unit 24	1B 2P	70 m <sup>2</sup>
Unit 25	2B 4P	81.2 m <sup>2</sup>
Unit 26	2B 4P	95 m <sup>2</sup>
Unit 27	2B 4P	83 m <sup>2</sup>
<u>Fourth Floor</u>		
Unit 28	2B 4P	86 m <sup>2</sup>
Unit 29	2B 4P	98 m <sup>2</sup>
Unit 30	3B 6P	114 m <sup>2</sup>
Unit 31	2B 4P	105 m <sup>2</sup>
Unit 32	1B 2P	55.5 m <sup>2</sup>
Unit 33	2B 4P	80 m <sup>2</sup>
Unit 34	2B 3P	62 m <sup>2</sup>

6.33 The Gross Internal Areas of all units proposed would achieve the minimum space standards stipulated by the Nationally Described Space Standard. The proposed development would be orientated with most windows being either east or west facing. 2 out of the 34 units proposed would have all its windows facing north, so they would likely receive limited sunlight. However, the impact would not be materially different from that already assessed and subsequently concluded acceptable in 2019.

6.34 All habitable rooms would have at least one reasonable sized window to ensure adequate natural light and ventilation would be provided to the future occupiers. External amenity spaces would be made available to 19 of the 34 units in the form of a terrace, appropriate in an urban setting.

6.35 In conclusion, recognising the physical constraints that comes with a town centre location and the importance to optimise the development potential of previously developed land as required by the NPPF, it is concluded that the proposal, viewed as a whole, could deliver a satisfactory quality of accommodation for its future residents.

6.36 Impact on Visual Amenity, Character and Appearance (including Heritage Consideration)

- 6.37 Turning first to heritage considerations, the development site lies just outside the eastern boundary of the southern spur of the Tonbridge Conservation Area (Sub Area A5) and therefore has the potential to affect its setting. The open green space to the west of this part of the Conservation Area makes a positive contribution to the significance of the designated heritage asset. By contrast, the modern development abutting the eastern boundary is considered neutral, and the street scene at the southern end of River Lawn Road does not contribute positively to the area's character.
- 6.38 It is noted that planning permission has already been granted for a four-storey building on the site. The current proposal seeks an increase to five storeys. The permitted building is neutral in character and is not considered to contribute to the significance of the adjacent Conservation Area.
- 6.39 Nevertheless, in light of the site's spatial context and the scale of development now proposed, specialist advice has been sought from the Council's Heritage Conservation Officer, who has provided the following observations:
- 6.40 *"The site is largely screened from the designated area by intervening buildings and mature trees, and the modern built form does not impinge on any locally distinctive views or vistas. However, it features to some extent in minor street scene views from the south end of River Lawn Road into the conservation area, and in reverse views from within the conservation area southwards along the street.*
- 6.41 *As noted in the conservation area appraisal, views across open green spaces make an important contribution to the significance of the designated heritage asset. The proposed increase in height may result in the building becoming more visible from the open green space to the west of River Lawn Road, and from the river beyond - particularly when intervening trees are not in leaf. However due to distance, the visual presence of the additional built form would not be unduly intrusive.*
- 6.42 *Paragraphs 212 & 213 of the NPPF require great weight to be given to the conservation of designated heritage assets and note that significance can be harmed or lost through inappropriate or unsympathetic development within their settings.*
- 6.43 *The current proposal would cause no harm to the significance of the designated area through change within the wider setting, and there is no objection in terms of TMBC Historic Environment Conservation Policies."*
- 6.44 In the absence of any heritage harm being identified by the Council's Heritage Conservation Officer and having regard to the long-established planning history of the site, together with the significant socioeconomic and environmental benefits already discussed in this report, it is considered that the proposal, viewed in the round, could be supported from a heritage conservation perspective. The scheme is

therefore considered to accord with Policy SQ1 of the MDE DPD and the requirements of Chapter 16 of the NPPF.

- 6.45 Turning to visual impact, the site lies within a town centre location, where buildings of differing height, form, age and architectural style already exist, collectively creating a varied and diverse character within the immediate surroundings. At a more localised scale, however, the buildings fronting Avebury Avenue and River Lawn Road are predominantly two to three storeys in height, with Tonbridge Library, located to the southwest of the site, representing the tallest nearby building at four storeys when viewed from Avebury Avenue.
- 6.46 The proposed development would be marginally taller than the library on the opposite side of Avebury Avenue while increasing the height of the previously approved building by approximately 3m. The profile of the building however would remain largely the same as that of the approved scheme in 2019, retaining a recess at top floor level used as a terrace. At local level, the Development Plan contains no specific policies relating to development for tall buildings so each of these should be assessed on a case-by-case basis against the generic design policies including CP24 of the TMBCS and SQ1 of the MDEDPD, also having due regard to the site-specific circumstances.
- 6.47 Nationally, Paragraph 125 of the NPPF does provide some guidance particularly pertinent to the development in question. It states that planning decisions should *“support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions.....where the development would be consistent with the prevailing form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers”*.
- 6.48 Paragraph 130 of the NPPF offers bespoke advice on density, requiring all developments to make optimal use of the potential of each site. It follows that a significant uplift in the average density of residential development within cities and town centres well served by public transport should be encouraged unless it can be shown that there are strong reasons why this would be inappropriate.
- 6.49 In this instance, although the development would be taller and bulkier than the previously approved scheme, it would remain broadly consistent with the prevailing height and form of neighbouring properties, as demonstrated in the proposed street scene drawing. Furthermore, the selected material palette, especially the use of brickwork, timber cladding and glazing to the east elevation, would help to visually break down the bulk and massing of what is otherwise a substantial building.
- 6.50 The building’s considerable setback from the High Street would provide a degree of mitigation against the perceived visual impact of its scale, reducing the extent to which it would appear overbearing in the street scene. In addition, when read alongside the adjacent library, the proposal could act as a visual anchor, reinforcing

the sense of place and marking a gateway into the historic town centre, particularly when approached from the railway station.

Buildings of a similar height are not uncommon within the Tonbridge skyline. In recent years, a number of residential schemes of comparable scale have been granted permission, including application 21/02298/FL for two blocks of up to eight storeys at Tonbridge P R S, Medway Wharf Road. Within the town centre itself, a cluster of taller buildings of up to seven storeys already exists along Sovereign Way. The Tonbridge Town Centre Masterplan, published in June this year, appears to endorse and reinforce this emerging development pattern, supporting the Council's ambition to deliver higher-density development in the most accessible and sustainable settlement within the Borough. The Masterplan identifies building heights in the range of two to six storeys, capped at 18m at the highest point, to ensure both viability and deliverability. In addition, a four-storey apartment block of comparable built form and fenestration is located on the same road (nos. 31–35 Avebury Avenue), which contributes to the established character of the site's immediate surroundings. Mindful of the local context, character, and the need to optimise development potential of land in highly sustainable locations, it is considered that the scale and density of development could be supported from a visual amenity perspective, subject to it being of a satisfactory design.

- 6.51 The built form and fenestration of this proposal would remain largely unchanged compared to those of the approved scheme. No concerns were raised in the 2019 delegated report regarding these matters. Indeed, on the point of design, the report noted that *“the proposal is in keeping with the surrounding character and that the scheme still represents an acceptable design solution to this corner plot.”* It further highlighted that *“the building has been designed to provide active street frontages with multiple entrances and they successfully ‘turn’ the corner to provide a visual link between Avebury Avenue and River Lawn Road. The development will have a softer appearance within the street scene and improve views into and out of the site.”*
- 6.52 The proposal would retain an active street frontage on both Avebury Avenue and River Lawn Road and, in fact, would introduce additional street-level windows at the corner. This fenestration arrangement, together with the internal layout, would maximise opportunities for natural surveillance and thereby help to deter both crime and the fear of crime.
- 6.53 Following the initial statutory consultation, and taking on board the comments and concerns raised by members of the public, elected members and other stakeholders, the proposal has been revised so that the façade is now finished predominantly in brickwork, complemented by decorative vertical cedar-textured cladding. In addition, the architectural detailing has been enhanced through the inclusion of decorative brick features and aluminium trim details, particularly around the corner where the building would be most prominent and visible in the street scene. Overall, the revised proposal would achieve a satisfactory quality of design that is sympathetic to the established character of the town centre.

- 6.54 A schedule of external materials has been provided for assessment, and this is considered acceptable. To ensure a satisfactory appearance is achieved upon completion of the development, a condition should be imposed requiring the development to be carried out in strict accordance with the approved schedule of materials.
- 6.55 Construction on the site commenced shortly after the grant of planning permission in 2019, with several iterations to the approved scheme secured through the non-material amendment procedure. However, progress has since stalled following the original developer entering administration. The presence of a partially completed project in a relatively prominent town centre location is considered to have a negative impact on the townscape character of Tonbridge. Accordingly, any opportunity to reignite redevelopment of the site should be afforded positive weight in the overall planning balance, not only for the socioeconomic benefits it would deliver but also for the potential visual enhancement it could bring to the built environment.
- 6.56 To conclude, subject to the recommended planning conditions, it is considered that the proposal is of an appropriate scale, form, design and appearance, with minimal impact on the character and appearance of nearby buildings, the wider town centre and the adjoining conservation area. In conclusion, officers are satisfied that the proposal complies, and can be made to comply through conditions, with Policies CP23 and CP24 of the TMBCS, Policy SQ1 of the MDEDPD, and Chapters 12 and 16 of the NPPF.
- 6.57 Impact on Residential Amenity
- 6.58 The site is set well away from nearby residential properties so the impact on the amenities of neighbouring dwellings is minimal. The size and scale of the overall proposed building, albeit one storey higher than previously approved, is not considered to be overbearing within the street scene and relates well to the scale of the buildings in the nearby vicinity. Equally, given the town centre location of the site, the nature of the proposed use would not give rise to any harmful impact on amenity arising from levels of activity in and around the site.
- 6.59 The daylight and sunlight assessment submitted in support of the application covers the properties directly adjacent on High Street and Avebury Avenue and concludes that the proposal is unlikely to result in a significant adverse impact on neighbouring occupiers through loss of daylight or sunlight. Whilst the impact on certain windows may marginally exceed the relevant BRE guidelines, paragraph 130 of the NPPF is clear that local planning authorities should take a flexible approach to applying policies or guidance on daylight and sunlight where rigid adherence would otherwise inhibit the effective use of land, provided the resulting scheme would deliver acceptable living conditions.
- 6.60 Furthermore, given the site's town centre location, where buildings typically cluster more closely and development densities are higher than in suburban or rural contexts, it is considered that the degree of overshadowing potentially arising from

the development would not be so significant as to warrant refusal of planning permission on residential amenity grounds, especially given the findings detailed in the daylight and sunlight assessment., especially given the finding detailed in the daylight and sunlight assessment.

6.61 Impact on Biodiversity

6.62 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.

6.63 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.

6.64 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.

6.65 It is now a statutory requirement for all major development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. However, there are specific exemptions from biodiversity net gain for certain types of development, which include amongst other things de minimis exemption. This exemption applies to development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m by 5m) of onsite habitat, or 5 metres of linear habitats such as hedgerows.

6.66 The site is in an urban area, fully surfaced, surrounded by buildings to all aspects. Its connection to the wider ecological network appears to be minimal. In light of the above, the proposal would be in general conformity with Policies NE2 and NE3 of the MDE DPD and Chapter 15 of the NPPF.

6.67 Impact on Highway Safety and Parking

6.68 Policy CP1 of the TMBCS seeks the location of development which will reduce the need to travel, again highlighting the benefits of this edge of town centre location for new residential development. Policy CP23 of the TMBCS also aims at promoting a sustainable development pattern of housing amongst other uses to regenerate and

enhance the vitality and viability of the Town Centre. One way to achieve this policy objective is by ensuring an appropriate level of accessible and safe car parking provision.

- 6.69 Policy SQ8 of the MDEDPD states that development proposals should comply with the parking standards. It also stipulates that development proposals will only be permitted where they would not significantly harm highway safety and where the traffic generated by the development can adequately be served by the highway network.
- 6.70 Policy TCA12 of the TCAAP (insofar as it is relevant to this development) states that the mix of town centre development will be aimed at reducing the need to travel and each development site will be required to bring forward proposals that are complementary to the Transport Strategy. The emphasis will be on measures to support sustainable forms of transport.
- 6.71 Similarly, Paragraph 116 of the NPPF advises that *“development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network, following mitigation would be severe, taking into account all reasonable future scenarios”*.
- 6.72 Given the proposal constitutes a major development, with potential of causing a wider implication on the local highway network, Kent County Council as the Local Highway Authority has been consulted and subsequently offered the following advice.
- 6.73 *“It is noted that the revised proposal retains a less than 1 space per flat ratio of parking spaces. Parking Provision should be calculated in line with recommended standards, detailed in IGN3 Guidance for Residential Parking, which refer to maximum standards in town centre locations. As such the level of provision is considered acceptable.”*
- 6.74 KCC Highway Officer concluded that “provided the ..... requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority”. The requirements relate to provision and retention of cycle and vehicle parking facilities, completion and maintenance of the vehicular access and the submission of a construction management plan. The recommended planning conditions would be imposed in the event of approval.
- 6.75 Having regard to the advice of the local highway authority, the availability of alternative public or active modes of transport, shops and local services, and the sustainability of the site location, the level of parking provision and vehicular movements associated with this development would cause no concern in respect of highway safety, cycle and car parking. On that basis, the proposal is deemed to be in general conformity with the aims of Policy CP23 of the TMBCS, Policy SQ8 of the MDEDPD and Chapter 9 of the NPPF.

6.76 Noise, Air Quality and Odour

6.77 The site is close to High Street, a classified B road, partly designated as an Air Quality Management Area (AQMA). Although the site falls well outside this designation, regard must be had as to whether the development when taken individually or cumulatively with other developments in the vicinity would impact upon the AQMA and Policy SQ4 of the MDE DPD applies. This requires that:

(a) the proposed use does not result in a significant deterioration of the air quality of the area, either individually or cumulatively with other proposals or existing uses in the vicinity;

(b) proposals would not result in the circumstances that would lead to the creation of a new Air Quality Management Area;

(c) proximity to existing potentially air polluting uses will not have a harmful effect on the proposed use; and

(d) there is no impact on the air quality of internationally, nationally and locally designated sites of nature conservation interest or appropriate mitigation is proposed to alleviate any such impact.

6.78 Some units proposed would have windows facing towards High Street, although not immediately adjacent. The previous approvals were judged to not have an adverse impact on air quality and thus not conflict with the aim of Policy SQ4 of the MDE DPD. The issue with noise was considered resolvable by way of a planning condition, requiring the implementation of all noise mitigation measures detailed in the noise impact assessment submitted as part of the previous applications.

6.79 The current application is accompanied by a Noise Impact Assessment conducted by Acoustic Principles in November 2024, which relates solely to the addition of a fourth floor at nos.2-12 Avebury Avenue, instead of the proposal entirely. However, reading it alongside the report prepared by MRL Acoustics Report in connection with the previous application, it is concluded that the impact of noise and air quality could be effectively mitigated through a combination of mechanical ventilation and glazing system. The Council's Environmental Health Service did not object to the previous and current proposals but did recommend several planning conditions if planning permission is forthcoming.

6.80 Full details of the ventilation and glazing system for the entire proposal are not currently available, so it is reasonable and necessary to secure these details by way of a carefully worded condition for the same reason given in the report of the original application and in accordance with the advice of the relevant consultee. With this condition imposed, the proposal could be made compliant with Policies SQ4 and SQ6 of the MDEDPD in terms of noise and air quality.

6.81 The scheme, first approved in December 2018 and again in November 2019, was not considered to be exposed to an unacceptable risk of odour. However, the subsequent grant of planning permission in 2019 at no6 High Street for a change of use from a shop to a hot food takeaway represents a material change in circumstances that now requires further consideration, particularly in relation to the potential impact of odour.

6.82 The application site is close to no.6 High Street, currently occupied by a hot food takeaway. An Odour Risk Assessment has thus been undertaken to evaluate the likely impact upon the future residents of the development proposed from the adjacent hot food takeaway. This assessment concluded that, by virtue of the abatement measures required to be incorporated into the kitchen exhaust as part of the approval of the hot food takeaway, the occupiers of the flats proposed are unlikely to be exposed to unacceptable risk of odour impact. The Environmental Health Officer is content with the information provided in the assessment and recommend no planning condition concerning odour control.

6.83 Planning Obligation (Other than Affordable Housing)

6.84 Policy OS3 in the Managing Development and the Environment DPD (MDE DPD, adopted April 2010), which forms part of the Council's Local Development Framework (LDF), requires open space provision for all residential developments of 5 units or above (net) in accordance with the standards in Policy Annex OS3. Annex D to the MDE DPD sets out the methodology that was followed for implementing Policy OS3 in respect of the development proposal.

6.85 As no open space is provided on site, the applicant is being asked to provide a financial contribution of **£77,604** towards enhancement of existing off site open spaces.

6.86 NHS Kent and Medway has assessed the implications of this proposal on delivery of healthcare services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution. It is requested that a sum of **£21,744** is provided towards

- Refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or
- Healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.

6.87 The financial contributions summarised above are considered directly relevant to the proposal and proportionate to the scale of development.

6.88 As already discussed in the affordable housing section, the proposal generates a deficit of - **£96,721**, according to the independent financial viability consultant appointed by the Council. The deficit is however based in part on the assumption that

a financial contribution of £99,378 would be made in the event of approval, although this figure has never been discussed with or agreed by the Council. Taken this element out of the equation would therefore make the scheme financially viable with a small surplus of **£2,657**. This could be spent towards health care or open space, although substantially below the amount originally sought.

6.89 Concluding on planning obligation, even adopting the lowest reasonable profit target of 17.5% for residential and 15% for commercial respectively as recommended by the Council's independent financial viability consultant would not generate a surplus sufficient to fund the financial contribution requested by the relevant consultees. In the event of approval and in accordance with the Council's consultant advice, it is recommended that a late-stage review mechanism is secured by way of a legal agreement so 50% of any windfall surplus arising following the grant of permission is captured and directed towards fulfilling planning obligations.

#### 6.90 Public Sector Equality Duty – Equality Act 2010

6.91 Section 149 of the Equality Act 2010 introduced the Public Sector Equality Duty (PSED), which came into force in April 2011. This duty requires public authorities, including the Council, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, and victimisation;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

6.92 In the context of planning, equalities considerations are embedded throughout the planning process. This begins with the formulation and adoption of planning policies at the national, strategic, and local levels, including any supplementary planning guidance. These policies are subject to statutory processes that include assessments of their impacts on protected groups.

6.93 For individual development proposals, further consideration is given to the potential equality impacts where relevant. In this case, all relevant policies from the Tonbridge and Malling Development Plan and the National Planning Policy Framework (NPPF) have been considered in the assessment of the application. These policies have been subject to equality impact assessments during their adoption, in accordance with the Equality Act 2010 and prior legislation and the Council's obligations under the PSED.

6.94 Accordingly, the adopted planning framework used in the assessment of this application is considered to reflect and support the needs of individuals with protected characteristics, as defined by the Equality Act 2010 and previous legislation. These characteristics include: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

- 6.95 The Local Planning Authority can confirm that the application of local and national planning policies in the determination of this planning application has been carried out with due regard to the provisions of the Equality Act 2010.
- 6.96 In conclusion, it is considered that Tonbridge and Malling Borough Council has had due regard to its duties under Section 149 of the Equality Act 2010 in the assessment of this application and the recommendations set out in this report.
- 6.97 Conclusion and Planning Balance
- 6.98 Having regard to the above assessment, it is considered that the proposal is acceptable and in general conformity with the aims of the Development Plan policies and the National Planning Policy Framework. The failure to contribute towards the provision of affordable housing and the enhancement of healthcare and leisure services is a matter of deep regret. However, the evidence provided in support of the application, independently corroborated by the Council's appointed financial viability consultant, demonstrates that the scheme could not be viably delivered if it were required to fully satisfy these policy obligations. This is a matter to which I attribute moderate negative weight in the overall planning balance.
- 6.99 Weighed against this, the proposal would make effective use of previously developed land in a highly sustainable location for new homes. In the absence of a five-year supply of deliverable housing sites across the borough, the scheme's contribution to housing delivery and the optimisation of brownfield land carry substantial weight in accordance with the National Planning Policy Framework. The visual enhancement resulting from the redevelopment of a derelict site, together with the socioeconomic benefits associated with job creation, increased town centre footfall, and potential consumer expenditure, also weigh positively in favour of granting planning permission. A number of outstanding technical matters, for example, in relation to noise and flood risk could be satisfactorily mitigated through the imposition of appropriate planning conditions to ensure compliance with the relevant policies.
- 6.100 Applying the tilted balance set out in paragraph 11(d) of the NPPF, I am satisfied that the benefits of the proposed development would significantly and demonstrably outweigh the identified harm arising from its failure to fully satisfy policy requirements relating to affordable housing, open space, and other contributions. On this basis, and on balance, it is recommended that planning permission be granted, subject to planning conditions and obligations.

## **7. Recommendation:**

### **7.1 APPROVE subject to S106 and the following conditions:**

#### **Heads of Terms**

Developer to pay the Council's reasonable legal costs (amount TBC).

Payment of a Section 106 monitoring fee of £460.00, payable upon completion of the Agreement.

Off-site public open space contribution of £2,657.00, payable on commencement of development.

A late-stage viability review mechanism, triggered upon the completion of sale of 25<sup>th</sup> residential unit.

### **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 hereby permitted shall be carried out in accordance with the following approved plans and documents:

Proposed site plan 2024-860(P)-Proposed-200(2)  
Proposed first floor plan 2024-860(P)-Proposed-206(1)  
Proposed second floor plan 2024-860(P)-Proposed-207(1)  
Proposed third floor plan 2024-860(P)-Proposed-208(1)  
Proposed fourth floor plan 2024-860(P)-Proposed-209(1)  
Proposed roof plan 2024-860(P)-Proposed-210(1)  
Proposed ground floor plan 2024-860(P)-Proposed-205(4)  
Proposed north and west elevations 2024-860(P)-Proposed-215(3)  
Proposed south and east elevations 2024-860(P)-Proposed-216(3)  
Proposed street scene A, B & C 2024-860(P)-Proposed-220(2)  
Site location plan 2024-860(P)-Existing-001  
Planning statement  
Transport statement  
Daylight and sunlight assessment  
Financial viability assessment  
Heritage statement  
Flood risk assessment and drainage strategy  
Noise impact assessment  
Odour assessment  
Material schedule

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 plans and the material schedule hereby approved.

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

4. The residential units hereby approved shall not be occupied, until the area shown on the submitted layout as vehicle parking space 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: In the interests of highway safety

5. Prior to the first occupation of the development hereby approved, details of the lockable bollards to be installed to the approved parking spaces shall be submitted to and approved by the Local Planning Authority. These shall be installed as approved prior to the first occupation of any residential unit and retained at all times thereafter.

Reason: To prevent unauthorised use of spaces, leading to increased pressure for on street parking

6. The development hereby approved shall not be occupied unless and until the bike and bin stores as shown in the approved ground floor plan have been provided in accordance with the approved details. The bike and bin stores shall thereafter be retained permanently for their intended purposes.

Reason: To ensure appropriate bin and bike storage facilities are provided to the future residents at the time of occupation and ensure they remain available throughout the lifetime of development.

7. The proposed vehicular access serving both the external and internal car parking spaces shall be provided, surfaced and drained in accordance with the approved ground floor plan (P)205 P02. 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 to preclude vehicular access

Reason: In the interests of highway safety, to ensure safe vehicular access is provided and maintained in support of the development proposal.

8. The development hereby permitted shall not commence until a Construction Management Plan comprising the following details has been submitted to and approved in writing by the Local Planning Authority.

- (a) Routing of construction and delivery vehicles to / from site.
- (b) Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths.
- (c) Timing of deliveries, avoiding network and school peaks where possible.
- (d) Provision of wheel washing facilities.
- (e) Measures to prevent the discharge of surface water onto the highway.
- (f) Temporary traffic management / signage.
- (g) Environmental management control of all demolition and construction works

The Construction Management Plan shall thereafter be implemented strictly in accordance with the approved details throughout the construction phase.

Reason: In the interests of highway safety and to ensure the potential of disruption caused to the local highway network is minimised as far as reasonably practicable during the construction.

9. The measures for the implementation and monitoring arrangements for the Interim Travel Plan prepared by DHA, dated December 2024, shall be fully adhered to at all times.

Reason: In the interests of the proper management of traffic and highway safety and in order to encourage more sustainable modes of transport to/from the site by staff and visitors.

10. The measures for mitigation of both environmental and commercial noise as set out in a) the Noise Impact Assessment and Survey by MRL acoustics ref MRL/100/1311.2V1 dated January 2019 and b) The Noise Impact Assessment and Survey by Acoustic Principles ref- MRL/100/1311.2V1 dated 07 November 2024 shall be fully adhered to and a report containing photograph and written evidence confirming full implementation of the details of the acoustic work shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development.

Reason: In the interests of the protecting the amenities of the future residents of the flats.

11. No part of the building shall be occupied until full details of the mechanical ventilation of the building have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the building to which it relates and shall be retained at all times thereafter.

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

12. Prior to start of works on site, the applicant shall submit in writing to the satisfaction of the local authority details to demonstrate the proposed substation will remain flood resilient and operational during the design flood event, where the flood level is estimated to be 23.5mAOD. The details shall include a maintenance and management plan of the substation to ensure flood resilience is maintained.

Reason: To ensure the substation remains operational during times of flood as required by Table 2 and the Exception Test of NPPF. This is supported by Policy CP10 of the LDF: Core Strategy – September 2007.

13. Prior to construction, the applicant shall submit in writing, to the satisfaction of the local authority, details to demonstrate all necessary infrastructure necessary to maintain all utilities for water, heat and power during a flood event, will be located at a suitable location above design flood level.

Reason: To ensure continuity of supply and wellbeing of residents during and immediately after flood conditions. This is supported by Policy CP10 of the LDF: Core Strategy – September 2007.

14. The development hereby permitted shall not be occupied unless and until the foul and surface water drainage system and all other recommendations set out in the Flood Risk Assessment and Drainage Strategy prepared by DHA dated Nover 2024 (34379/JM/CS) have been installed and fully implemented in accordance with the approved details.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 181 of the National Planning Policy Framework

**Informative:**

1. The effect of paragraph 13 of Schedule 7A of the town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition) that development may not begin unless:
- (a) A Biodiversity Gain Plan has been submitted to the planning authority ;
  - and
  - (b) The planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Tonbridge and Malling Borough Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Based on the information available this planning permission is considered to be one which will not require the approval of a biodiversity gain plan, before development is begun because of the statutory exemption listed below is considered to apply:

**De minimis exemption (development below the threshold).**

2. Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water. To make an application visit Southern Water's Get Connected service: <https://developerservices.southernwater.co.uk> and please read our New Connections Charging Arrangements documents which are available on our website via the following link: <https://www.southernwater.co.uk/developing-building/connection-charging-arrangement>. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119)
3. Kent Police recommend you to follow SBD guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998. Your attention is drawn to the recommendations for the layout and design of the scheme set out in our consultation response.
4. In the event of approval, site security is required for the construction phase. There is a duty for the principal contractor "to take reasonable steps to prevent access by unauthorised persons to the construction site" under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant, machinery, supplies, tools and other vehicles and be site specific to geography and site requirements.
5. Once planning approval for any development has been granted by the LPA, it is the responsibility of the applicant to ensure that before development commences, all necessary highway approvals and consents have been obtained, and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Further guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and

Transportation may be contacted by telephone: 03000 418181.

6. To avoid undue disturbance to neighbours, during the demolition and construction phase, the hours of working (including deliveries) shall be restricted to Monday to Friday 07:30 hours to 18:30 hours. On Saturdays 08:00 to 13:00 hours, with no work on Sundays or Public Holidays.

Contact: Josh Kwok