## REPORT SUMMARY

<table>
<thead>
<tr>
<th>REFERENCE NO</th>
<th>16/07189/FULL</th>
</tr>
</thead>
<tbody>
<tr>
<td>APPLICATION PROPOSAL</td>
<td>Demolition of existing public house and erection of 4 No dwellings</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>Sir Alf Ramsey 120 Broadmead Royal Tunbridge Wells Kent TN2 5RW</td>
</tr>
<tr>
<td>RECOMMENDATION</td>
<td>GRANT subject to conditions (see section 11 of report for full recommendation)</td>
</tr>
</tbody>
</table>

### SUMMARY OF REASONS FOR RECOMMENDATION

- It has been demonstrated that the proposal conforms with adopted development plan and national policy in respect of the maintenance of community facilities.
- There would not be a significant impact on the residential amenity of the occupants of neighbouring dwellings.
- The proposal would not cause significant harm to the character of the area or the street scene.
- The proposal would not cause harm to highway safety and makes sufficient provision for the parking of cars.
- The proposal would not cause significant harm to the long-term health of the nearby protected trees (subject to Tree Preservation Order (TPO)).
- The proposal is in accordance with the Development Plan and national guidance.
- The proposed dwellings would be in a sustainable location and make a modest contribution to housing supply.

### INFORMATION ABOUT FINANCIAL BENEFITS OF PROPOSAL

The following are considered to be material to the application:

**Contributions (to be secured through Section 106 legal agreement/unilateral undertaking):** n/a

**Net increase in numbers of jobs:** None (loss of 1.5 - 2 jobs)

**Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs:** between minus £20,198 and minus £26,930

The following are not considered to be material to the application:

**Estimated annual council tax benefit for Borough:** £654.00

**Estimated annual council tax benefit total:** £6,544.00

**Annual New Homes Bonus (for first 4 years):** £4,000

**Estimated annual business rates benefits for Borough:** minus £7,050 (£2,820 TWBC loss)

### REASON FOR REFERRAL TO COMMITTEE

Called in by Cllr Woodward for the following reasons:

- Material planning grounds on which the request is made
  - The application would result in the loss of an important community building which is registered as an Asset of Community Value (ACV).
The grounds on which it warrants discussion by the Planning Committee
The proposal will have a wider impact upon local residents and the community. This, together with the fact that the building is registered as an ACV justifies consideration by Members of the Planning Committee.

<table>
<thead>
<tr>
<th>WARD</th>
<th>PARISH/TOWN COUNCIL</th>
<th>APPLICANT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broadwater</td>
<td>N/A</td>
<td>Abstrkt-Dsign</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DECISION DUE DATE</th>
<th>PUBLICITY EXPIRY DATE</th>
<th>OFFICER SITE VISIT DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>EOT to 28/07/17</td>
<td>09/12/16</td>
<td>15/12/15, October 2016, 13/11/16</td>
</tr>
</tbody>
</table>

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

<table>
<thead>
<tr>
<th>REFERENCE</th>
<th>DESCRIPTION</th>
<th>DECISION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>15/509779/FULL</td>
<td>Demolition of existing public house and erection of 4 No dwellings. (Resubmission of 14/502950/FULL).</td>
<td>Withdrawn</td>
<td>01/03/16</td>
</tr>
<tr>
<td>14/502950/FULL</td>
<td>Demolition of existing public house and erection of 4 dwellings</td>
<td>Withdrawn</td>
<td>04/08/15</td>
</tr>
<tr>
<td>91/01468/FUL</td>
<td>Use of garage and store as residential accommodation</td>
<td>Granted</td>
<td>10/03/92</td>
</tr>
<tr>
<td>86/00636/FUL</td>
<td>Renewal - Single storey extension</td>
<td>Granted</td>
<td>27/06/86</td>
</tr>
<tr>
<td>86/00245/FUL</td>
<td>Lounge bar extension and additional bedroom over garage</td>
<td>Refused</td>
<td>28/04/86</td>
</tr>
<tr>
<td>81/00171/FUL</td>
<td>Single-storey extension to public area</td>
<td>Granted</td>
<td>05/05/81</td>
</tr>
<tr>
<td>SW/1/71/597</td>
<td>Broadmead extension Stage 4: new roads, public house with living accommodation and three shops, three flats and garages</td>
<td>Granted</td>
<td>06/04/72</td>
</tr>
<tr>
<td>SW/1/71/288</td>
<td>Broadmead extension Stage 3: New church, three shops and</td>
<td>Granted</td>
<td>02/07/71</td>
</tr>
</tbody>
</table>
MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 This site relates to a public house, the Sir Alf Ramsey, built in the 1970s as part of a wider housing estate in Broadmead, on the south side of Tunbridge Wells. The pub is a confirmed ACV. It is accessed from Surrey Close, a small residential cul de sac off Broadmead. The pub forms part of a small parade of commercial units, fronting onto but set back from Broadmead behind a service road and strip of mature landscape planting on a grassed bank to the front of the site. The service road can also be accessed from Essex Close to the east. At the rear there is vehicular access (from Surrey Close). The parade comprises three retail units (Nos. 122, 124 and 126-128) with four first floor flats above. The owner of the pub has advised it will be closing at the end of August 2017. From site visits, the retail units do not appear to be in active use; Nos 124 and 126-128 are empty (save for some left-over stock in No. 124) and No. 122 appears to be in office use.

1.02 The building is largely single storey providing the public house element, and it includes a three bedroom flat within a two storey section, the occupation of which is not tied to the use of the pub by way of a condition on the original planning permission. The building is a brick built structure beneath a flat roof. The front elevation of the commercial facility is predominantly single-storey height glazing with a plinth brick stall riser, being arranged as a series of angular sections. The staff/residential accommodation is arranged as kitchen and living accommodation at an elevated ground floor level toward the rear of the site with bedrooms and bathroom at first floor level. The public commercial areas, understood originally to have resembled a football terrace, form a split level single storey bar facility. There is a small storage office and kitchen to the rear (which serves both the pub and the flat) but no dedicated commercial catering facilities. There is a small pub garden and external yard to the rear.

1.03 There are two parking areas; one (informal) directly in front of the pub and the other (demarcated spaces) on the far side of the service road. The mature landscape planting separating the service road from Broadmead is a mixture of tree species which are protected by a TPO (047/2003) and numbered 1-10 inclusive on the submitted Tree Survey. A group of trees to the south of the site (G1 on the submitted tree survey) and to the front of Nos 1 & 2 Sussex Close are not protected. There is a further group of TPO protected trees to the rear of No. 122 to the east and to the east of No. 1 Sussex Close (also under 047/2003).

1.04 To the south (rear) and the west of the building is a cul-de-sac of eight dwellings (Surrey Close) and a church. To the east of the site the small parade of shops is divided from the site by a public footpath (WB68) which leads south to Broadwater Park. Beyond the parade is the access, to Essex Close.

1.05 Land levels fall sharply from south to north between Broadwater Park and the rear of the site, and level out between the site and Broadmead although there is a further bank between the landscape strip and Broadmead.

1.06 The character of the wider area is predominantly residential and reflects the 1970s era housing that dominates the wider area. The northern side of Broadmead, at this point, is characterised by detached two storey and chalet bungalow dwellings. On the
southern side, to the west of the small pocket of development formed by the church/pub/retail units and Surrey Close, the dwellings are set up from the road and appear three-storey in nature, as they have integral garages at ground floor level with two floor of accommodation above. There is a three storey sheltered housing scheme (Furnival Court) away to the north east. Surrey Close itself comprises 2 ½ storey detached dwellings with top floor accommodation set within mansard roofs.

1.07 The boundary of the Conservation Area is 75 m away to the south. The site is also set within a designated Neighbourhood Centre, which covers the pub, church and parade of retail units; the primary school to the north (accessed from Broadwater Lane/School Rise), Furnival Court and including housing within Schools Rise, Leicester Drive, Broadmead, Surrey Close, Essex Close and Stuart Close.

2.0 PROPOSAL

2.01 The application proposes to demolish the pub and the attached flat and construct 4 No. three-bedroomed 2½ storey dwellinghouses in a traditionally-designed staggered terrace, with associated amenity areas, in its place. The design uses 45 degree pitched roofs with a mixture of barn hips and gable ends, with front dormer windows serving the habitable roof space.

2.02 The plans show living accommodation being configured over two floor areas with further accommodation provided within the pitched roof configuration. External materials are shown to be a mixture of plain clay tiles on the roof and to clad the first floor areas, facing red brick on the ground floor and timber doors with UPVC windows. The first floor elements on the two most westerly proposed units would project further than the ground floor to the front and rear. 8 no. parking spaces would be provided on the existing car parking area at the front (on the opposite side of the service road), with works in this area restricted to resurfacing on a dig basis only.

2.03 Boundary treatment is shown to be a mixture of an existing 3m high laurel hedge to the rear with close boarded fencing. The agent has set out that the current proposal is to remove the laurel hedge only so far as is necessary to facilitate the works where the flank elevation is in close proximity to the new structure.

2.04 The design of the dwellings remains virtually unchanged since the first application was submitted in 2014. The main difference between the applications relates to their respective levels of supporting information. The first application included only a viability assessment by Porters Chartered Surveyors, whilst the second included this plus a Qualitative Assessment of the premises; neither demonstrated a period of sustained commercial marketing. The current application includes the above (updated) along with marketing reports for a 12 month period, plus profit and loss accounts.

3.0 SUMMARY INFORMATION

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Proposed</th>
<th>Change (+/-)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Area</td>
<td>679sqm</td>
<td>679sqm</td>
<td>No change</td>
</tr>
<tr>
<td>Land use(s) including floor area(s)</td>
<td>Public House (128 sq m) and 1 x flat</td>
<td>4 x dwellings</td>
<td>-128 sq m pub, + 3 dwellings</td>
</tr>
<tr>
<td>Number of jobs</td>
<td>1.5 plus a</td>
<td>0</td>
<td>-1.5</td>
</tr>
</tbody>
</table>
cleaner for a few hours a week (set out by agent in a separate e-mail)

<table>
<thead>
<tr>
<th></th>
<th>Car parking spaces</th>
<th>No. of storeys</th>
<th>Max height</th>
<th>Max eaves height</th>
<th>No. of residential units</th>
<th>Mix of residential units</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>9 No. spaces to the front</td>
<td>Part single, part two storey</td>
<td>7.2m</td>
<td>7.2m</td>
<td>1</td>
<td>1 x 3-bedroom flat</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Two with habitable roof space</td>
<td>9.6m</td>
<td>8m</td>
<td>4</td>
<td>4 x 3-bed houses</td>
</tr>
</tbody>
</table>

4.0 PLANNING CONSTRAINTS

Confirmed Asset of Community Value - Sir Alf Ramsey

Tree Preservation Order 047/2003 – groups G15 and G16 are to the south east and north of the site respectively

KCC Public Right of Way WB68 runs to the immediate east of the site, outside the red line

Boundary of Tunbridge Wells Conservation Area is 75m to the south of the site (statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990)

Inside Limits to built development (LBD)

Ashdown Forest 15 Km Habitat Regulation Assessment Zone

5.0 POLICY AND OTHER CONSIDERATIONS


National Planning Practice Guidance (NPPG): March 2014 and updated online thereafter

Site Allocations Local Plan July 2016

Policy AL/RTW30

Tunbridge Wells Borough Core Strategy (CS) 2010:

Core Policy 1: Housing
Core Policy 4: Environment
Core Policy 5: Sustainable Design and Construction
Core Policy 6: Housing Provision
Core Policy 7: Employment Provision
Core Policy 8: Retail, Leisure and Community Facilities Provision
Core Policy 9: Development in Tunbridge Wells

**Tunbridge Wells Borough Local Plan (LP) 2006:**

Policy EN1: Development Control Criteria
Policy EN5: Conservation Areas
Policy H5: Residential development within the Limits to Built Development
Policy CR13: Retention of Community Facilities in Neighbourhood Centres
Policy TP4: Access to the road network.
Policy TP5: Vehicle Parking Standards.

**Supplementary Planning Documents (SPDs)**

Kent Design Guide Review: Interim Guidance Note 3 (IGN3) (Residential parking)

**Other documents**

HRA Special Area of Conservation and Special Protection Area Advice Note

Community Right to Bid: Non-statutory advice note for local authorities

### 6.0 LOCAL REPRESENTATIONS

#### 6.01
A site notice was displayed and the application was advertised in the local press in November-December 2016.

#### 6.02
57 objections have been received from 45 persons citing the following matters which are summarised below. One letter has been received from Greg Clark MP, enclosing a letter from a neighbouring resident;

- Loss of the public house and designated ACV which serves a large area and a broad cross section of the community;
- The Lord Cornwallis has already been lost in the area (Officer’s Note: this was a pub that formerly stood on the junction of Nevill Terrace (near to Sainsburys) and Eridge Road, which was demolished in the late 1980s for road improvement works at the junction);
- The area embraces probably the most deprived area of the Borough, for which community facilities are in short supply;
- Insufficient alternative venues – walking distances to them are unrealistic (as the crow flies) especially for elderly people etc; and are longer than stated in the report. The pub is a safer and more welcoming alternative to town centre pubs (aimed at tourists) and is used for functions such as wakes etc;
- The pub employs a number of staff and utilises local suppliers;
The pub supports clubs and groups around golf, football, darts, pool, multi-day outings, etc;
- Not the case that the smoking ban has affected the pub’s popularity;
- Dispute that the owners/landlords have done their best to market the premises;
- The pub is viable but has not been allowed to grow in recent years – alleged to have been run down and thus has not attracted new customers;
- Other comments state the landlords have done their best to support pub-based sports teams, work hard for the locals and provide good food;
- Local tradespersons have offered to repair the pub free of charge;
- The pub should have been offered for freehold sale, not just for rent and the proposed leasehold figure is too high;
- The main clientele of the Sir Alf Ramsey is local tradesmen and small business owners which is a hub for work flow among those people. The pub is a traditional ‘community’ pub unlike wine bars/gastro pubs etc;
- The pub kitchen is commercial – It regularly caters for parties, wakes etc and has a commercial food rating (5) from TWBC;
- Insufficient consultation with the local community;
- Objections to design, scale and roof form of new dwellings which are overdevelopment and too close to other houses;
- Houses are too tall and have blank walls. Do not integrate well with existing houses in the area;
- Object to removal of evergreen hedge;
- Impact on trees;
- No need for additional dwellings in this area;
- Issues with sewerage capacity;
- No garages and associated parking/lack of visitor parking. Only provides one space per house (Officers’ Note: the plans show two spaces per dwelling)
- Harmful to highway safety by adding to parking pressures and traffic in the area. In particular, events at the church result in on street parking blocking sight lines at exit from Surrey Close to Broadmead;
- Proposal is contrary to Local Plan and NPPF policy;
- Supporting statements are inaccurate and erroneous;
- Should take into account objections submitted in relation to the previous applications on this site;
- Some respondents query the nature of the advertising;
- One objector has submitted projected profit/loss figures if they were to take it over.

7.0 CONSULTATIONS

Scotia Gas Networks  
7.01 (23/11/16) – Low pressure mains to the rear of the site and along Broadmead (map provided). There should be no mechanical excavations above or within 0.5 metres of a low/medium pressure system or above or within 3.0 metres of an intermediate pressure system.

KCC Highways  
7.02 (24/11/16 – directed to comments dated 15/12/14 in respect of previous application) - The highway authority would not seek to raise objections to residential development at this site subject to no encroachment upon the public highway and no doors or windows opening across the public highway. Extension of the parking area beyond the existing hardstanding will require the status of the bank to be checked and will need to accommodate a change in levels and may affect a large tree. It is not therefore certain that the provision of the end bay as shown can be readily delivered. (Officers’ Note: the proposal involves re-surfacing of the existing parking area only)
A condition to secure (revised?) parking for the units would be appropriate together with (an) informative re: necessary highway approvals and consents.

**KCC Public Rights of Way & Access Service**

7.03 (01/12/16) - The site is adjacent to public footpath WB68 to the north-eastern boundary. From the information supplied, KCC does not believe the proposals will affect the public right of way. The public right of way should remain open and available. No materials or waste arising from the development should be stored on the public right of way.

**KCC Development Contributions**

7.04 (08/11/16) – No. requirements. Since the original applications upon this site, the Ministerial threshold of 10 units or more for seeking contributions has been reinstated. Thus KCC will be unable to pursue any contribution request.

**Mid-Kent Environmental Protection**

7.05 (17/11/16) - No concerns in relation to noise or air quality. Due to the current commercial use and date of development it is possible that land contamination may have occurred which will affect the more sensitive end use proposed. Land contamination condition recommended.

**TWBC Parking Services**

7.06 (09/11/16) – No comment to make.

**TWBC Client Services**

7.07 (08/11/16) – No objection. Each property will require individual bins/boxes to be placed out for collection. The bins for these properties will be required to be purchased from TWBC by the developer or their client prior to occupiers moving in.

**TWBC Economic Development**

7.08 (26/06/17): Officer Note: These comments represent the final comments from Economic Development, which supersede those made previously on 18/11/16). No objection. The Sir Alf Ramsay public house was confirmed as an ACV on 19 March 2015 as the pub is considered to be “an actual current use that furthers the social well-being of the local community”.

7.09 The Sir Alf Ramsay is the remaining public house within the neighbourhood centre, therefore viability considerations do need to be taken into account in reaching a decision on this application. The nearest alternative licensed premises include the following:

- The Bull, 79 Frant Road, Tunbridge Wells, Kent, TN2 5LH (distance circa 1k by most direct walking route)
- Smith and Western, Linden Park Road, Tunbridge Wells, TN2 5QL (distance circa 1.2k by most direct walking route)

7.10 The Economic Development team has previously expressed concerns regarding the vitality of the nearby commercial units (122-128), adjacent to the Sir Alf Ramsay. Whilst Broadmead Church appears to be in active use most of the units appear to be vacant and in poor condition, with the exception of carpet and flooring retailer Endurance Carpets (124), that now operates limited opening hours. This scenario does nothing to support the attractiveness of this retail parade to prospective customers, some of whom could be drawn to the Sir Alf Ramsay as a consequence of visiting another retailer. Given the position of the commercial units on a
predominantly residential road, they do not benefit from high volumes of passing footfall and vehicular trade throughout the day. The units are well screened from the road and whilst creating an attractive environment, this limits the visibility and awareness of the units to those who pass. Those which are vacant do not appear to be actively marketed at the present time. Having checked the public access system no recent planning applications have been submitted for these premises.

7.11 The trading accounts suggest that the Sir Alf Ramsey is not a highly profitable business. The accounts showing a trend of broadly growing sales until 2013. Wages and salaries have also increased over time, peaking in 2014. 2014 also being a year in which net profit performance was very low, second only to 2013 during which the business made a loss of several thousand pounds. There does not appear to be adverse or fluctuating costs between years apart from a spike in directors/staff salaries during 2011 and some higher repairs and maintenance costs during 2006 and 2011. Whilst not highly profitable the business has been sustainable between 2003 to present.

7.12 Notwithstanding that the current owner of the site does not wish to sell the freehold, the marketing of the leasehold for the premises by Porters and/or other commercial agents for a period of 12 months (or less if an acceptable offer is received), has clarified the desirability of the premises. ED are satisfied with the marketing efforts to date, which have taken place over a period of 12 months and which have involved marketing the property using a variety of means. What has been submitted is robust and detailed evidence that demonstrates that a genuine attempt has been undertaken to market the premises (on a flexible leasehold basis) and as such the premises appears to have very limited viable future employment use. There is sufficient evidence to justify its loss.

TWBC Tree Officer
7.13 (28/06/17) – No objection. Some of the trees on site are covered by a TPO. There is not likely to be an important impact upon trees, subject to suitable conditions covering tree protection and requiring an Arboricultural Method Statement.

8.0 APPLICANT’S SUPPORTING COMMENTS

8.01 Sir Alf Ramsey is a modestly proportioned purpose built, principally wet trading public house located on a confined plot in the ‘Broadmead Neighbourhood Centre’ (concerns expressed by others regarding the viability of commercial activity in this location) within the wider residential area. The premises have operated for a significant period on an unsustainable basis (within a declining aspect of the industry) and it is asserted that the loss of this facility can be readily accommodated elsewhere within reasonable proximity.

8.02 The potential for the premises ongoing/alternative commercial use has been explored alongside an appropriate period of active but unsuccessful marketing. The proposal seeking change of use to residential (erecting a limited number of dwellings) is asserted to be supported by the submission documents, current design criteria, 'saved' policy and the precedent set by previous related decisions. It is respectfully requested that favourable consideration be given to a grant of Consent.

9.0 BACKGROUND PAPERS AND PLANS

9.01 Application form
Planning Statement
14226se-01
Planning Committee Report
9 August 2017

Drawing 20140306-PL01B
Drawing 20140306-PL02A
Drawing 20140306-PL03A
Drawing 20140306-PL04A
Drawing 20140306-PL05A
Shadow study
Tree Survey and attached plans
Final marketing report with appended marketing updates and Qualitative Assessment
E-mail from owner advising pub will close with effect from 31/08/17
E-mail from agent dated 21/07/17 regarding hedge to rear on site.
Letter from agent dated 21/07/17

Documents not available on public access part of website due to commercial confidentiality;

9.02 Profit and Loss accounts 2003-2014 and covering letter
Profit and Loss accounts 2015-16 and covering e-mail
Qualitative Assessment dated 28 October 2016
Draft Final marketing report dated 17/03/17
Email from agent dated 23/01/17 and attached interim marketing update
Letter from agent dated 02/08/16 and attached marketing update
E-mails from agent dated 13/01/17, 17/01/17 and 03/07/17
E-mail exchange between Agent, Porters CS and case officer dated 9-11/01/17
Viability assessment from Porters CS dated 07/10/15
E-mail from owner dated 11/07/17

10.0 APPRAISAL

10.01 In this case, the main issues to be considered are;

- The principle of the development (including the loss of the existing public house/employment site);
- Design, layout and visual impact (including Conservation Area);
- Residential amenity;
- Trees;
- Highways and parking;
- Contaminated land, air quality and gas main;
- Public Right of Way impact;
- Developer contributions and affordable housing;
- Impact on the Ashdown Forest 7km zone.

Principle of Development

10.02 The proposal will result in the loss of a building providing both a community facility and employment. At the outset it is considered important to set out that the planning system cannot prevent the pub from closing, nor require it to remain open. It can only control works of ‘development’ that involve its use being changed or the building being altered/demolished. Any decision as to whether or not to continue trading from the current building is one that is outside the control of the legislation controlling planning and ACV. The first consideration is therefore whether the loss of the public
house is acceptable in principle. Secondly, it needs to be considered whether the redevelopment of the site for residential use is acceptable in principle.

**Policy relating to community facilities**

10.03 Core Policy 8 (8) sets out that the loss of community facilities will be resisted as far as practicable. Where there is a demonstrable continuing need, the provision of additional facilities will be supported where they are deficient. With regards to the loss of community facilities (pub unit) contained within the application property, LP Policy CR13 is considered up to date and in accordance with the relevant paragraphs contained within the NPPF 2012. CR13 states that proposals that would result in the loss of a community facility within a neighbourhood centre ‘will not be permitted unless it can be demonstrated that suitable alternative provision is available’ [Officers’ emphasis] or that:

- in the case of a commercial enterprise, it can be demonstrated that the facility is no longer viable; or
- in the case of public facilities, it can be demonstrated that demand within the locality no longer exists, or there are clear operational reasons for closing or moving the facility and the wider importance of the facility to the community has been taken into account.’

10.04 Additionally, paragraph 5.142 of the supporting text to CR13 states, ‘Government guidance indicated the mix of uses in local centres should be carefully managed to provide easily accessible shops and local services. Local Authorities should… seek to protect existing facilities which provide for people’s everyday needs. In meeting sustainable objectives it is important that existing clusters of facilities within neighbourhood and village centres are retained and enhanced… It is important to retain existing clusters of community facilities.’ Whilst it is acknowledged para 5.142 is not contained within the actual wording of Policy CR13 itself, it does set the policy context of Policy CR13, which in this instance (particularly in relation to the maintenance of clusters of facilities) is considered important to this proposal. CR13 is re-iterated by Policy AL/RTW29 within the SALP 2016, which confirms the continuing role of neighbourhood centres. Para 69 of the NPPF sets out that; “The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities…..Planning policies and decisions, in turn, should aim to achieve places which promote:

- opportunities for meetings between members of the community who might not otherwise come into contact with each other, including through mixed-use developments, strong neighbourhood centres and active street frontages which bring together those who work, live and play in the vicinity”.

10.05 Para 70 states that: “To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;
- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community
10.06 Policy CR13 has previously given rise to differing interpretations of its wording/subtext. The first broad interpretation is that if there are alternative facilities within a reasonable walking distance, then the loss of a community facility is justified. The second interpretation of Policy CR13 concerns whether there would be an alternative premises available for a community facility or other public house (A4) use to relocate to within a particular settlement or neighbourhood centre. If there are not, then the proposal would fail the first test of Policy CR13. An Inspector in a recent appeal decision at Holly Villa, Langton Road, Langton Green, Tunbridge Wells (TWBC ref: 16/500812/FULL) clarified this issue by finding that;

- There were a variety of community facility uses within five minutes' walking distance of the application site;
- There was also a regular bus service to Tunbridge Wells, which is a major centre with a wide range of retail and community facilities;
- The current use of the premises did not provide for the day to day requirements of local residents;
- There was conflicting evidence as to the marketing of the site for A1 purposes;
- There was no evidence to suggest that the existing business occupying the A1 premises was no longer viable;
- The premises were nevertheless located at the eastern extremity of the retail sector of Langton Road. They were of limited size and, having regard to the availability of existing retail uses to serve Langton Green residents; a continued retail use was not justified.
- Therefore the loss of the A1 retail unit would accord with the thrust of Core Policies 7 and 8 of the Core Strategy and "saved" Policy CR13 of the Local Plan.

10.07 Clearly the circumstances of both sites differ; Holly Villa was an A1 retail premises in a village location which was not argued to be unviable for continued commercial use, whereas this assessment relates to a public house in a housing estate which is argued to be financially unviable. Nevertheless it indicates that the first interpretation of the policy set out in para 10.06 is the correct approach.

**Asset of Community Value (ACV)**

10.08 The Sir Alf Ramsey is designated as an ACV. This indicates that it is land or property of importance to a local community which is subject to additional protection from development under the Localism Act 2011. ACV status is a material consideration that must be taken in to account in a planning decision. Voluntary and community organisations can nominate an asset to be included on their local authority's 'register of assets of community value', which is the case with the Sir Alf Ramsey. Broadly this has several implications;

- Buildings in use as a public house (Class A4 of the Use Classes Order) normally have permitted development (PD) rights for change of use to alternative uses, such as A1 retail without the need for a planning application – the ACV designation removes this PD right;
- ACV status is a material consideration in a planning application;
- Community right to bid: in certain circumstances this allows an ACV to be purchased by a group representing its users or the local community.

10.09 At this stage it is considered important to emphasise that an ACV designation does not preclude the loss of a community asset through the planning process, nor does it require that asset to continue to be operated, remain trading or to remain open to the public. It only means that designation must be taken in to consideration in a planning decision.
10.10 The ACV designation brings requirements that take effect if the owner decides to dispose of it, either through a freehold sale, or the grant or assignment of a qualifying lease (i.e. originally granted for at least twenty-five years). Unless an exemption applies, the owner will only be able to dispose of the asset after a period of time has expired.

10.11 The first part of this window is a 6 week interim period, starting from the point the owner notifies the local authority of their intention to sell or lease the property (qualifying lease). This will allow community interest groups to make a written request to be treated as a potential bidder. If none do so in this period, the owner is free to sell their asset at the end of the 6 weeks. If a community interest group does make a request during this interim period, then the full 6 month moratorium (again from the point the owner notifies the local authority) will operate. During this period the owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later) unless they are selling to a community interest group.

10.12 After the moratorium period – either the 6 weeks if there has been no community interest, or the full 6 months – the owner is free to sell to whomever they choose and at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date of when the owner notified the local authority of wishing to sell). There is a long list of property transfers that are excluded from the ACV rules at Annex 1 of the document ‘Community Right to Bid: Non-statutory advice note for local authorities’ such as disposals between certain family members, disposals as gifts or disposal of land under bankruptcy or other insolvency proceedings.

10.13 The ACV provisions do not;

- Restrict in any way who the owner of an ACV can sell their property to, or at what price;
- They do not confer a right of first refusal to community interest groups;
- They do not place any restriction on what an owner can do with their ACV property so long as it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However the ACV status may affect planning decisions - it is open to the Local Planning Authority to decide whether the ACV is a material consideration if an application for change of use is submitted, considering all the circumstances of the case;
- Preclude a building from being demolished without being sold - the moratorium provisions apply only to disposals, so the moratorium rules do not apply here. However, the PD rights that normally allow buildings to be demolished with only a simple prior notification to be submitted beforehand outlining the methods of demolition etc. do not apply to ACVs. Therefore planning permission would be required to demolish the building.

10.14 In this case the Qualitative Assessment document submitted with the applications sets out that the owner has only offered the premises on a leasehold basis and would seek to develop it themselves. This is addressed in more detail below.

Supporting evidence

10.15 The application includes various supporting evidence, which will be addressed in turn.
Appraisal by Porters Chartered Surveyors dated 7 October 2015

10.16 This sets out that;

- The pub was built in the early 1970s but has been in ‘general and sustained’ decline since the late 70s;
- This reflects national trends over the same period and pubs such as the Sir Alf Ramsey which are ‘wet led’ are particularly hardest hit;
- The pub trades on a limited basis, having long-since abandoned week day lunch time opening – relies on evening and weekend wet trade;
- The adjacent retail premises are not in active use – are either empty or in use for other non-retail purposes;
- The public area is within split level accommodation, it suffers from limited back-room storage and has no commercial catering facility;
- The unorthodox layout and limited scope for expansion places a natural cap on the ability to extend the premises;
- Property is structurally stable, free from significant defects and in a generally satisfactory decorative state;
- However the non-standard form of construction, angular front windows and split level accommodation limits any internal re-organisation or a more open plan use and complicates any new service provision;
- The non-standard form of lightweight and flat roofed construction to the ground floor can be perceived to hamper vertical development, compromise security etc;
- Split level accommodation limits DDA compliant access;
- The accounts from 2003 to 2014 consistently show profit levels significantly below a modest return, which would be expected to be £20,000 per annum *(Officers’ Note: the accounts ending 2015 and 2016 show similar figures to those from 2003 – 2014 and similarly low profit levels)*;
- The owner has derived no rental income or other such return from the premises since 2003 (a subsequent e-mail clarifies that rent is not charged on either the pub or the first floor flat);

10.17 The agent argues that the current situation of the pub is that;

- A logical progression from a wet-led pub would be a bar/restaurant/bistro type facility;
- However any use that generates significant noise etc would be inappropriate in this predominantly residential area;
- Simply preserving the existing public house and advertising it more intensively is unsustainable;
- Evolving the limited accommodation and facilities would require substantial alteration and disproportionate expense given the topography within the building and tight layout - anything to the contrary is speculative and fundamentally flawed;
- The current client demands, catchment and site limitations are the reasons the original facility has been retained without substantial alteration since it was built;
- The site and demand will not support significant changes and these factors have hampered attempts to find an alternative use for it;
- The commercial premises (compounded in part by their modest proportions, limited facilities, issues associated with alteration and disproportionate anticipated costs and declining trade figures) possess little realistic opportunity to remedy this decline even if someone proposed significant additional funding;
- The fundamental problem with viability is its very nature as a declining demand community pub, its location on a private residential estate with very limited passing trade, difficult to find and with limited designated parking; its ongoing
sustainability as a commercial venture is (and has been for some considerable time) in decline and is and has been for some time below a sustainable level;
- The Sir Alf Ramsey is close to a number of more competitive pubs which are more prominent/closer to the town centre;
- The small private kitchen in the domestic accommodation cannot provide commercial scale catering.

10.18 Wider licensed trade issues are also referred to;
- Increased licensing hours and relaxed licensing requirements have led to a shift in popularity towards town centre pubs;
- Smaller pubs have been disproportionately affected by changes such as minimum wage legislation, annual premises licence fees, plus increases in utility costs and business rates;
- Smoking ban that came in to effect in July 2007;
- Significant shift towards town centre bar usage;
- Declining market for pubs which are not of a size, quality or location to diversify;
- Preponderance of small ‘local shops’ and supermarkets selling far cheaper alcohol;
- These conditions have led to a failure to increase trade year-on-year and have seen an accelerated decline over the last 5 years;
- Had the Sir Alf Ramsey been owned by a brewer or a pub chain, where tenant income is directly linked to sale/promotion of the brewer’s products the pub would have closed some time ago and simply been boarded up;
- Only the personal financial stability of the present freeholder has left it running.

10.19 Alternative uses are considered to be restricted;
- The only viable alternative is residential use – site is poorly located for other commercial uses;
- A supermarket chain approached the owner two years ago with regards to establishing an ‘express’ store – however they were put off by lack of surrounding commercial activity, lack of through traffic, lack of space, split levels and the significant need for investment to adapt it for retail use. The use would have been unviable;
- In 1986 planning permission was refused for a lounge bar extension on the basis that the site was too closely located to dwellinghouses and would be detrimental to residential amenity – the surrounding residential features have not changed (Officers’ Note: a differently designed lounge bar extension was however later permitted);

10.20 Conclusion is that there is insufficient profit generated from the pub to make it commercially viable in the long term and it is not considered that any substantial investment will improve trade.

10.21 Nearby public houses within 20 minutes’ walk are;
- The Bull, 79 Frant Road, Tunbridge Wells TN2 5LH (0.8 miles by road/12 minute walk);
- Sussex Arms, Sussex Mews, Tunbridge Wells TN2 5TE (0.8 miles by road/12 minute walk);
- Duke of York, 17 The Pantiles Tunbridge Wells TN25TD (0.9 miles by road/15-18 minute walk);
- No.9 Smokehouse, 9 Nevill Street, Tunbridge Wells TN2 5RU (0.9 miles by road/15-18 minute walk);
- The Ragged Trousers, 44 The Pantiles, Tunbridge Wells TN2 5TN (1 mile by road/15-18 minute walk);
- Cassidy’s Sports Bar, 10-12 Castle Street, Tunbridge Wells TN1 1XJ (1.2 miles by road/20-22 minute walk).

10.22 There are also many other venues beyond this in the town centre. The submission argues that the premises’ proximity to a considerable number of competitive public houses which are more prominent or closer to the town centre with larger established catchments and better/alternate facilities and potential further compounds matters.

Marketing appraisals

10.23 The previous application for four dwellings on this site was withdrawn when the applicants were advised that a reasonable marketing exercise had not been undertaken; it was suggested that this should be for 12 months. In the last application it was set out that the owner had discreetly and informally attempted to market the premises (rather than using a specialist agent) to avoid potential loss of trade and job security fears amongst the staff. Officers responded this was an insufficient marketing exercise.

10.24 The applicants have since provided three Marketing Appraisals (two interim, one final) which in summary sets out that:

- A 12 month marketing period commenced on 8 March 2016, offering the leasehold for a rent of £30,000 per annum;
- This was advertised by way of being featured on Porters Chartered Surveyors website (the managing agents), Rightmove.co.uk, Dalton’s Weekly, the Publican’s Morning Advertiser website, MoveHut and by a sign displayed outside the premises;
- Porters sent the details to their client base of approximately 650 contacts;
- Details of the property were sent to 300 - 350 estate agents in the South East via an Estate Agent’s Clearing House in May and December 2016;
- Regular press adverts were placed in the Courier, the Publican’s Morning Advertiser, the Caterer, Hotelier and Licensee and the Times of Tunbridge Wells (seven in total);
- 22 requests for particulars have been responded to over the above period;
- One request was declined as the applicant was known to have previously been evicted from a public house for non-payment of rent.

10.25 Officers have noted that as of June 2017 details of the premises are no longer available online. The planning agent has confirmed the property is not being actively marketed at the present time, however the marketing signage has been left outside the premises and that Porters will pass any enquiries on to the owner (the marketing board remains in place as of 25 July 2017). The responses to the marketing exercise were:

- As of August 2016, five enquiries had been received via Rightmove, but none had been progressed despite being pursued appropriately by the agent;
- In the 60-day period prior to mid-January 2017, there had been 1069 Rightmove viewings;
- In one ‘snapshot’ period of 14 days in October the property appeared on 10,867 different internet search results but only 266 people then went on to ‘click’ for more information;
Over the same period the Dalton’s Weekly advert had been viewed 376 times with 14 enquiries flowing from it, but only two of these were progressed despite all of them being pursued by the agent;

Only two viewings have been arranged: August 2016, when the viewer did not show and made no contact or did not return subsequent phone calls/e-mails from the agents. A further viewing by a day nursery operator occurred in January 2017 but this was not progressed;

An offer of £10 – 15,000 p/a for the leasehold was made which was turned down as being ‘derisory’;

Reference was also made in January 2017 to a cursory expression of interest from one of the pub customers who never progressed to mentioning a price, their long-term intentions or formally pursuing the matter any further;

One interested party wanted to purchase the freehold and convert it in to teaching rooms, but he did not wish to consider leasehold;

Some interest was shown by a couple of restaurant owners – one visited the general area, another e-mailed only – the former considered the location unsuitable;

Some e-mail interest has been expressed by other day nursery operators which has never been pursued;

A national convenience store chain expressed interest in the pub a couple of years ago to establish an ‘Express’ store but did not pursue the matter due to the awkward layout, restrictive space, poor levels of through-traffic and split level nature of the premises – similar concerns have been voiced by other traders and agents seeking commercial premises prior to the 12-month marketing exercise;

A similar enquiry from a convenience store chain was received in January 2017 but this was only to redevelop the site;

Of all the interest outlined above, very few have been in respect of continuing the business as a public house - only two, which have never been formally pursued.

Some objectors have stated they are aware of offers being made for the premises that were rejected out of hand, but no substantive evidence of these has come forward. Two specific names of local people who have expressed interest in the pub have been forwarded to the case officer; Porters advise they have no records of one name (Mr M Damper, who has stated in an objection letter that he made an offer for it). The other is known to them after having enquired after at least three other pubs, but there is no evidence they have formerly enquired in relation to the Sir Alf Ramsey.

With regards to the terms of the sale, concern has been raised by objectors that ‘leasehold only’ is too restrictive. In January 2017 the case officer was advised by e-mail that Porters have received no speculative freehold interest. An enquiry was received in November 2016 regarding the freehold which was not rejected but not pursued by the enquirer either. The agents argue that ultimately only two passing expressions of interest in buying the property do not suggest it is viable on a freehold basis.

The agent has responded to requests for clarification from Officers as to why the property has only been offered on a leasehold, not freehold basis. The response was that;

- The objective for this site (which the freeholder has owned commercially as part of an investment portfolio since the 1980’s and which has not provided a viable return for some considerable time) is to seek to establish a viable i) ongoing use, ii) suitable alternate commercial use or if beyond demand iii) another viable alternate use as part of the wider investment portfolio;
Given the nature of the investment this property represents (which has been made clear from the outset) it is not intended to dispose of the freehold on the basis that a suitable ongoing or alternate profitable use can be secured;
- The premises have consequently been marketed on the basis of leasehold acquisition on the most flexible of terms possible (being free of any ties for beer purchase or machine income) focussing exclusively on the ongoing/alternate commercial use of the premises;
- Offering the premises leasehold opens up the market to more people due to the low capital input required. Purchase of such a property freehold conversely would be very expensive in addition to the likely investment needed to increase its appeal to customers or achieve an alternate use;
- Anyone interested in running the premises as a public house would logically make an offer on the rental figure and negotiate terms, but the Agent has no record of any such proposition. Whilst the Agent cannot definitively differentiate between publicans and alternative commercial users, the only viewers thus far appear to have been looking for alternative use;
- The Agent has deliberately been vague with regards length of lease purely to attract as much interest as possible. Anyone enquiring has been advised that the owner has no fixed ideas on term, it would be by negotiation to satisfy any reasonable request made;
- They also advised that none of the respondents have raised the terms of the lease as an issue and that some pub operators such as Enterprise Inns now generally only offer five-year leases;
- The agent summarise that they consider the marketing of the premises on a leasehold commercial use basis is entirely appropriate and valid.

10.29 The Agent has confirmed that they have not received any strong interest from anyone in acquiring the freehold. If anyone was strongly interested it would be expected that they would have inspected the property, submitted an offer for the freehold and provided proof of funds to show that they were able to go ahead with the purchase should their offer have been accepted. No one has progressed an enquiry to this stage; the fact that it is only offered on a leasehold basis is not considered to completely preclude anyone genuinely interested in purchasing the freehold to at least make a speculative enquiry. The Council’s Economic Development team do not object to the terms of the marketing.

10.30 One objector has set out their own projected figures relating to the operation of the business. The agent has responded to this in a letter dated 21st July 2017 and has refuted its contents. It has been re-iterated by the agent that there has been no serious expression of interest in the ongoing operation of the premises as a public house on either a freehold or leasehold basis.

10.31 It is also considered pertinent to set out that offering the premises on a freehold basis is likely to attract speculative enquiries from developers, which in turn will influence the freehold price. The ACV does not control the price the premises can be sold at, and does not restrict who the premises can be sold to. Thus, any community group wishing to purchase the freehold would also be competing against developers seeking to purchase the site for alternative purposes. The agent sets out in the Qualitative Assessment document that the site has been the subject of several speculative enquiries from housing developers in the past.

10.32 Consideration has been given as to whether the leasehold nature of the marketing is designed to circumvent the requirement for an ACV moratorium period that would follow any freehold offer. However this is not considered the case as the marketed figure would also trigger the ACV moratorium period. Government guidance on ACVs
indicates that if the lease value exceeds £25,000, an offer from a community interest group would trigger the moratorium period. The advertised lease here is £30,000 (although it is accepted this is a guide and a lower figure could in theory be negotiated). Additionally, the ACV owner can sell the freehold to whomever they choose at whatever price they wish – this is key here because the Sir Alf Ramsey will inevitably be viewed as a potential development site by prospective developers, regardless of how it is advertised. The Qualitative Assessment sets out that it is not the owner’s intention to dispose of the property, but to develop it under their own auspices. Again, the Council’s Economic Development team has not objected the leasehold-only basis of sale.

10.33 Officers also note that the £30000 per annum leasehold figure includes the three bedroomed first floor flat. Market rental for flats of this size in the Tunbridge Wells area is likely to average £1200 - £1300 per month (£14,400 - £15,600 per annum). This leaves an approximate average rent of £1,250 per month/£15,000 per annum for the pub which the accounts do not show is sustainable. The occupiers of the flat would also have to pay rent for that domestic part of the premises, which has not been charged either however this would be expected to be paid out of the wage they take from the business.

10.34 As set out earlier, the freehold owner has not been charging rent to the pub operators since 2003 and this is likely to be a significant factor that has led to the pub remaining open thus far. The table below illustrates the level of losses that would have been incurred had rent on the pub been charged over the last five years. The rent figure is only approximate and is based on subtracting the average current rent for a three bedroomed flat in Tunbridge Wells (£15,000 per annum) from the published leasehold figure of £30,000. Nevertheless, this figure subtracted from the low profit levels over the last five years broadly illustrates that significant losses would have been incurred if rent had been charged for the pub alone.

<table>
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<tr>
<th>Year end</th>
<th>Published profit/loss</th>
<th>Profit/loss taking in to account approximate rent of £15,000 per annum</th>
</tr>
</thead>
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<tr>
<td>August 2016</td>
<td>£5,583.00</td>
<td>-£9,417.00</td>
</tr>
<tr>
<td>August 2015</td>
<td>£8,474.00</td>
<td>-£6,526.00</td>
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<tr>
<td>August 2013</td>
<td>£10,797.00</td>
<td>-£4,203.00</td>
</tr>
<tr>
<td>August 2012</td>
<td>£5,435.00</td>
<td>-£9,565.00</td>
</tr>
</tbody>
</table>

Qualitative Assessment dated 28 October 2016

10.35 This re-iterates details of the marketing exercise and many of the matters discussed elsewhere however additional points are made;

- The premises is located only 1.5 miles outside of the town centre which could be construed as an issue for some business opportunities but beneficial to others;

- The premises being situated within such a significant residential area (within a designated Neighbourhood Centre) should in theory make it ideal for a number of commercial and community orientated uses (newsagent, local shop, etc) – but this demands the community’s engagement and ongoing patronage whatever the ultimate usage which already appears to be an issue with both the pub and the
adjacent retail premises. The effectively isolated business location, the lack of passing trade and associated commercial activity mean that a conventional retail outlet is unlikely to flourish in such a location;

- The nature and location would likely preclude any industrial, engineering or significant manufacturing use as would the presence of protected trees; the bespoke (multiple levelled) internal and external nature of the structures disadvantage alternate use of the premises or site;

- On-street parking is at times unofficially recorded as an issue;

- Proximity to neighbours, road configuration and potential restrictive delivery arrangements may deter potential business investment in the site;

- The existing residential accommodation would likely become redundant (in its current form) in any commercial re-invention of the site. This will increase the level of financial commitment of any such undertaking;

- The vacant commercial premises adjacent will likely have an adverse impact upon the subject property and of its perceived potential;

- Retention as a public house, being solely reliant as it currently is upon the ‘Wet Trade’, will make any venture (commercial or community driven) extremely difficult to sustain in the longer term;

- Logical evolution of the existing facility will be to embrace the food trade however the limited scope for improvement, issues with the layout, levels etc makes alterations difficult and expensive; the small private kitchen in the domestic accommodation cannot provide catering on a commercial scale. Therefore such a conversion would require significant (and likely disproportionate) funding/investment in the premises in the creation of an appropriate commercial kitchen and associated storage facilities, etc;

- Any reasonable expectation of a viable return from such an undertaking, based upon current demand as supported by the accounts, would similarly not appear to support same as a viable proposition and would be speculative;

- Whilst wealthy benefactors or collective communities can in some instances rally to maintain a venue in philanthropic perpetuity, these are rarely sustained, especially if the venture shows little if any return on investment as is anticipated to be the issue in this instance;

- The premises offer little if any architectural or aesthetic merit to the area;

- Alternative commercial uses would be limited given that such a financially significant undertaking would imply an existing, well established and viable end user with current staff looking to relocate to owner occupied premises.

10.36 As set out in paras 7.08 – 7.19, the Economic Development team have not objected to the manner in which the building has been marketed; nor the findings of the various viability reports, qualitative assessment and other supporting evidence; nor have they objected to the pub only being offered on a leasehold basis. The marketing has been undertaken over an appropriate period of time and it is clear there has been limited interest in the building for any kind of commercial use.
It is also clear that there are various issues with the design and layout which make conversion to alternative uses costly and impractical. The pub and the adjacent row of shops are sited behind a belt of trees which limits passing trade, and Broadmead is not a key route. It is not doubted that the pub draws support form local people however the accounts indicate that the public house is not financially sustainable – the pub only appears to have survived to date by being occupied rent-free. The adjacent retail premises exhibit clear signs of long-term decline and are not used in a particularly active way. The potential for alternative community or employment uses of the building (such as retail) appear quite limited. Furthermore, there are alternative public house facilities nearby. It is recognised that the nature of the shared kitchen with the first floor flat limits the potential of the pub to provide a food-led offer and that there are no planning conditions that would prevent the flat (and its attached kitchen) from being occupied separately to the pub.

Objectors have previously referred to a private covenant on the site dating from 1980, which restricts how the land can be used. Regardless of its provisions, deeds and covenants are private civil matters and not material planning considerations.

Whilst the loss of any community facility is regrettable, the LPA need to be mindful of wider market signals which in this case indicate that the potential for a continued community facility use on this site is limited. It is considered that the applicant has satisfactorily demonstrated that the facility is no longer viable as a public house, and is unlikely to be viable in an alternative community use. It does not therefore need to be considered whether there is alternative suitable provision within the defined neighbourhood centre. The principle of the loss of the public house as a community facility is therefore considered acceptable.

**Loss of employment site**

*Policy relating to retention of employment sites*

The pub currently employs a full-time manager, a full-time assistant and a cleaner for a few hours a week. With regards to the loss of employment (in the retail unit), Core Policy 7 of the CS 2010 states the Council will safeguard employment use areas and buildings in existing employment use across the Borough if they:

- are well located to main roads and public transport networks;
- provide, or are physically and viably capable of providing, through redevelopment, good quality modern accommodation attractive to the market;
- are capable of meeting a range of employment uses to support the local economy.'

Para 22 of the NPPF states that;

“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”

In summary there would be a very limited loss of employment, given the limited potential for new commercial use for the reasons set out previously.

**New residential development**
10.43 Turning to the matter of whether redevelopment of the site to create four dwellings is acceptable in principle, Para 47 of the NPPF requires the Council to meet the full, objectively assessed needs (OAN) for market and affordable housing in the Borough and to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional 5% buffer. The Council currently cannot demonstrate a five year housing supply compliant with the OAN figure (albeit untested). In such situations the NPPF advises that:

“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites’’ (Para 49).

10.44 Paragraph 14 of the NPPF states that where such policies are out-of-date a presumption in favour of sustainable development applies and local planning authorities should grant permission:

“unless 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; or

specific policies in this Framework indicate development should be restricted”.

10.45 The issue of sustainability is multi-faceted, incorporating economic, social and environmental considerations. The location and accessibility of the site is sustainable in its proximity to services/facilities. The site is located within the LBD of Tunbridge Wells where adopted (but now out of date) Policy H5 of the Local Plan indicates that conversion to residential use can be acceptable. The provision of a net three additional dwellings would modestly contribute to the Borough’s housing need, which would have social and economic benefits. The site is not located within a designated landscape.

10.46 In summary, it is considered that the applicant has satisfactorily demonstrated that the facility is no longer viable as a public house, and is unlikely to be viable in an alternative community use. The principle of the loss of the public house as a community facility is therefore considered acceptable and the site is sustainable in its relative location to facilities and services. The site is therefore considered to be acceptable in principle for redevelopment for residential purposes.

Design, layout and visual impact (including Conservation Area)

10.47 It has previously been suggested by local residents that the Alf Ramsey was subject to a design award, although Officers can find no record of this. The premises are neither nationally nor locally listed. On this basis the loss of the existing building is not considered significantly harmful to the character of the area including the setting of the nearby Conservation Area.

10.48 LP Policy EN1 requires the design of the proposal to respect the context of the site. CP4 (1) requires the Borough’s urban landscapes to be conserved and enhanced. Part 7 of the NPPF addresses good design, which is a key aspect of sustainable development (para 56). Para 58, inter alia, requires that developments respond to local character and history, and reflect the identity of local surroundings and
materials, while not preventing or discouraging appropriate innovation; also that they are visually attractive as a result of good architecture and appropriate landscaping.

10.49 Importantly, para 60 of the NPPF states that ‘Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness’. Para 61 states that integration of new development into the natural, built and historic environment is important; para 64 states that ‘permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions’.

10.50 There is also design guidance within the NPPG. It states that ‘good design is about creating places, buildings, or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations’. Well-designed housing should be functional, attractive, sustainable and adaptable to the changing needs of its occupants. This encompasses layout, siting of refuse storage and the residential curtilage.

10.51 The area around the site is typified by modern housing set in amongst open spaces, with open grassed areas and pockets of trees. It has previously been set out there is a distinctive, well established group of protected trees on the frontage with Broadmead. There is also a wide, open grass verge between the church and Broadmead; this green area continues to the west in the form of open gardens which stretch down to the pavement edge, often punctuated by trees and shrubs. The whole area has the character and appearance of a planned, designed estate, which reflects its development in the early 1970s. The dwellings are generally typified by modern, dark materials, generally using hanging tiles on the upper floors and brick ground floors. Staggered arrangements are evident across the road and in the adjacent retail units. Buildings are a mixture of two storey and three storey, arranged quite closely together or within terraces. Heights generally respond to the prevailing fall in levels within the area, which fall from south to north. These are the distinctive characteristics of the area.

10.52 The proposal is clearly a different design approach to the adjacent flats/shops, and different to the houses behind. It is a more traditional approach with quite large roofs. The height, scale, bulk and massing of the development is considered appropriate in its context. Their ridge heights are 2 – 2.75m higher than the adjacent flats/retail units but this in itself is not considered poor design; the overall height of the dwellings broadly corresponds to the land levels, the church and also the surrounding dwellings within Surrey Close. Similarly the use of materials, pitched roofs and dormer windows reflects the general design motifs found in the surrounding area. The staggered design of the four new dwellings is considered to reflect the design of the adjacent flats/retail units, which they are not considered to be too close to. The layout provides a reasonable area of garden space. The use of the front area beneath the trees for parking will be little changed from the current situation where it is used for pub car parking. It is recognised that the proposal is different to the surrounding area, but not necessarily harmful to the distinctive character. There will be no loss of the distinctive open spaces that characterise the estate and the overall design approach is not considered to significantly depart from the surrounding area. The proposal therefore reinforces that distinctiveness and does not detract from the factors which are important to it. Details of a screen around the bin storage area and landscaping can be secured by condition.
10.53 The site is 75m from the Tunbridge Wells Conservation Area. The distance, along with the intervening land level changes, buildings and vegetation, is such that there is considered to be no impact on the setting of the CA or the other local designations.

**Residential Amenity**

10.54 The most potential for impact is towards Nos. 1-3 Surrey Close to the rear (south) and towards No. 122A, the first floor flat above the nearest retail units to the side (east).

10.55 Nos. 1-3 Surrey Close are 2 ½ storey dwellings with the third floor of accommodation within a mansard roof. There are a combination of dormer windows in the roof, with a combination of ordinary windows, high-level windows and patio-door style windows below. There is a distance of just over 19m between the front elevations of Nos. 1-3 Surrey Close and the rear elevations of the new dwellings. The slab level of the new dwellings would be approximately 4m lower than that of Nos. 1-3 Surrey Close. Given the distance between the dwellings and the levels relationship, whilst there will be some impact on Nos 1 – 3 Surrey Close, this is not considered to be significantly harmful in terms of overlooking, loss of light or the proximity of the development to the boundary. It is noted there are two windows in the elevation facing No. 1 Surrey Close and given the new dwellings will be sited further away from the common boundary, this is considered to be an improvement in respect of overlooking.

10.56 No. 122A is a two-bedroomed flat. Photos from the last sale of the flat in 2006 show that the three first floor windows which face towards the application site serve a dining room at the front of the property. However whilst the east elevation will be 4.2m from these windows, they are not the sole light and outlook source to that room; the primary light/outlook source is through the front (north), which is fully glazed and leads to a balcony. Light will also be able to flow towards the side windows, albeit with some loss which given the above is not considered significantly harmful, nor a matter on which it is considered that refusal can be recommended. There would be no significant loss of privacy towards this flat or its balcony as no clear-glazed side windows are proposed (and can be precluded by condition) nor would there be an impact towards the other habitable rooms at the front as they do not face towards the development. There is a recessed front-facing window at one side of the flat but this serves a kitchen.

10.57 With regards to the amenity of future occupiers of the development, there will inevitably be some ability to see towards the rear gardens and rear windows of the new development from the front elevations of Nos. 1-4 Surrey Close, but the distance, intervening boundary treatment and relative heights are such that this is not considered to constitute a poor level of amenity for future occupiers of the dwellings. The rooms and private amenity spaces are considered to benefit from sufficient levels of light/outlook.

**Trees**

10.58 As set out earlier in the report, there are two groups of protected trees close to the site. These are identified in the submitted tree survey. The drawing accompanying the tree survey identifies these as numbers 1-10 (this corresponds with the trees designated as TPO group 16, north of the site) and 13-18 (this corresponds with the TPO group 15 to the south). There is a third group, which are not protected, to the immediate rear of the site (noted as G1a – G1g) in the front garden area of No.1 Surrey Close.

10.59 The survey identifies that the proposed hard surfacing treatment could potentially cause conflict with the root protection areas (RPAs) of trees 1, 2, 6 and 8 but this can
be overcome through working above ground level only and utilising a 'no dig' approach. It also identifies that the removal of the foundations of the existing building could be an issue within the RPAs of the non-protected group, but that these can either be retained or removed under supervision by an arboriculturist.

10.60 The Council’s Tree Officer has raised no objections to the scheme (either through potential damage to the roots or through likely excessive shading towards the new dwellings), subject to two conditions. These are included in the recommendation below.

Highways and parking

10.61 The proposal involves the loss of a pub and a residential unit and the gain of four residential units. Parking would be located entirely in the area currently set aside for vehicle parking for the pub at present and the layout of the private road that currently runs in front of the pub, linking Essex Close with Surrey Close, would remain unchanged. KCC guidance within IGN3: requires 1.5 spaces for three-bedroomed houses in suburban areas with visitor parking directed to on-street areas. Whilst at peak times the church may well present local parking issues this is a pre-existing problem. There is already a degree of parking associated with the pub and it is not considered the development would exacerbate any pre-existing parking problem. Given the above parking provision for the new dwellings, it is not considered on-street parking matters and any associated highways safety issues constitute a refusal reason. The agent refers to existing parking issues in the area within their submissions, however this is a suburban area with available roadside parking, where many dwellings benefit from off-road parking and where there are few parking controls.

10.62 KCC Highways raise no objections. They do discuss the issue of the parking area encroaching close to the trees, however this matter is addressed under the ‘Trees’ heading earlier in the report. Reference is also made to the status of the bank, however the application form confirms the red lined area is in the control of the applicant.

Contaminated land, air quality and gas main

10.63 Mid Kent Environmental Protection has been consulted regarding these matters. Any land contamination can be addressed by way of condition; air quality is not considered to be a significant issue on this site.

10.64 The representation from SGN indicates that there are two gas mains close to the site; one to the immediate south of the existing building and one running beneath the bank in front of the car parking area. The developer would be expected to liaise with SGN at the build stage and comply with their safety requirements accordingly.

Public Right of Way (PROW)

10.65 As set out in the constraints section of the report, the development is close to the public footpath that currently divides the retail premises and the Sir Alf Ramsey; however KCC do not consider there will be any impact upon it and their consultation reply carries the standard advice regarding keeping the PROW open.

Developer contributions and affordable housing

10.66 Paragraph: 031 Reference ID: 23b-031-20160519 within the PPG section ‘planning obligations’ states that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1000sqm. Neither upper limit is breached.
Ashdown Forest HRA zone

10.67 This application is located within, but 40m away from, the outer edge of the 7-9 km zone. As a small development this would not therefore be affected by the Ashdown Forest Habitat Regulations. This matter need not be considered further.

Summary

10.68 The report has assessed whether the proposal accords with other elements of policy in the NPPF and the Development Plan. Having regard to the presumption in favour of sustainable development and the requirements of paragraph 14 of the NPPF, it is considered that planning permission should therefore be granted as other material considerations are not considered to indicate otherwise.

11.0 RECOMMENDATION – GRANT subject to the following conditions.

CONDITIONS to include

1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

   Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

   20140306-PL02 Rev A
   20140306-PL03 Rev A
   20140306-PL04 Rev A
   20140306-PL05 Rev A

   Reason: To clarify which plans are approved.

3) Notwithstanding the details submitted with the application, written details including source/manufacturer, and photographic samples of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority before any above ground construction and the development shall be carried out using the approved external materials.

   Reason: In the interests of visual amenity

4) No development shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS shall include details of arboricultural supervision, demolition, construction phasing of works and construction of the parking area within the RPA of nearby trees. The development shall be carried out in strict accordance with the approved details.

   Reason: This is a pre-commencement condition to safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

5) No development shall take place until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or
ground protection.

Reason: This is a pre-commencement condition to safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

6) The area shown on the approved drawings as vehicle parking space and turning shall be provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority before any of the dwellings hereby permitted are first occupied. They shall be retained for the use of the occupiers of, and visitors to, the development and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting that Order), shall be carried out on that area of 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 parking inconvenient to other road users

7) Prior to the first occupation of the development hereby approved, the existing buildings and any resultant rubble or demolition materials shall be removed entirely from the site.

Reason: In the interests of visual amenity

8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification), no development shall be carried out within Classes A-E of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior planning permission of the Local Planning Authority.

Reason: In the interests of protecting the character and amenities of the locality in accordance

9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting that Order), no windows, or similar openings shall be constructed in the first floor of the east elevation of the building other than as hereby approved without the prior written planning permission of the Local Planning Authority.

Reason: In the interests of the amenity of occupants of the adjoining property

10) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:
   - all previous uses
   - potential contaminants associated with those uses
   - a conceptual model of the site indicating sources, pathways and receptors
   - potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment
of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11) A landscaping scheme for the site (which may include entirely new planting, retention of existing planting or a combination of both) including means to screen bins/refuse in the most westerly dwelling hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is first occupied. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion of the development. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.

Reason: In order to protect and enhance the amenity of the area.

12) Before any dwelling is occupied, details for the storage and screening of refuse shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To facilitate the collection of refuse, preserve visual amenity and to reduce the occurrence of pests.

Case Officer: Richard Hazelgrove

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council’s website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.