



A G E N D A

PLANNING COMMITTEE

Wednesday 11 August 2021 at 5.00 pm
Council Chamber, Town Hall, Royal Tunbridge Wells, TN1 1RS

Members: Councillor Bland (Chairman), Councillors Backhouse (Vice-Chairman), Atwood, Dr Hall, Hamilton, Funnell, Poile, Pound, Warne, Hills, Goodship, Fitzsimmons, Patterson and Pope

Quorum: 5 Members

- 1 **Chairman's Introduction** (Pages 5 - 6)
Announcement on procedural matters.
- 2 **Apologies** (Pages 7 - 8)
Apologies for absence as reported at the meeting.
- 3 **Declarations of Interest** (Pages 9 - 10)
To receive any declarations of interest by Members in items on the agenda.
- 4 **Declarations of Lobbying (in accordance with the Protocol for Members taking part in the Planning Process, Part 5, Section 5.11, Paragraph 6.6)** (Pages 11 - 12)
If a Member has been lobbied in connection with any application on the agenda, this should be declared at the start of the meeting, whether by, or in support of, the applicant or objectors.

Members in doubt about such a declaration are advised to contact the Legal Services Manager/Monitoring Officer before the date of the meeting.
- 5 **Notification of Persons Wishing to Speak** (Pages 13 - 14)
- 6 **Site Inspections** (Pages 15 - 16)
To note the application sites visited, as recorded at the meeting.
- 7 **To approve the minutes of the meeting dated 21 July 2021** (Pages 17 - 24)
- 8 **Reports of Head of Planning Services (attached)** (Pages 25 - 26)

The running order of the applications listed below is subject to change and will be agreed by the Chairman and announced at the meeting.

- (A) Application for Consideration - 21/01487/FULL - Auction Hall, Linden Park Road, Royal Tunbridge Wells (Pages 27 - 40)
- (B) Application for Consideration - 21/01389/FULL - 131-133 St Johns Road, Royal Tunbridge Wells (Pages 41 - 64)
- (C) Application for Consideration - 21/02019/FULL - C L Tunbridge Wells Ltd, 65-67 St Johns Road, Royal Tunbridge Wells (Pages 65 - 72)

9 Appeal Decisions for Noting - 09/07/2021 to 30/07/2021 (Pages 73 - 74)

10 Urgent Business (Pages 75 - 76)

To consider any other items which the Chairman decides are urgent, for the reasons to be stated, in accordance with Section 100B(4) of the Local Government Act 1972.

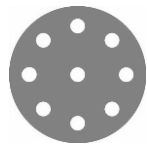
11 Date of Next Meeting (Pages 77 - 78)

The next Planning Committee was scheduled for Wednesday 1 September 2021 at 5:00pm.

Democratic Services Team

Committee@TunbridgeWells.gov.uk

**Town Hall
ROYAL TUNBRIDGE WELLS
Kent TN1 1RS
Tel: (01892) 554413**



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All visitors wishing to attend a public meeting at the Town Hall between the hours of **9.00am and 5.00pm** should report to reception via the side entrance in Monson Way. **After 5pm**, access will be via the front door on the corner of Crescent Road and Mount Pleasant Road, except for disabled access which will continue by use of an 'out of hours' button at the entrance in Monson Way

Notes on Procedure

- (1) A list of background papers appears within each report, where appropriate, pursuant to the Local Government Act 1972, section 100D(i).
- (2) Members seeking factual information about agenda items are requested to contact the appropriate Service Manager prior to the meeting.
- (3) Members of the public and other stakeholders are required to register with the Democratic Services Officer if they wish to speak on an agenda item at a meeting. Public places are limited to a maximum of four objectors and four supporters. The deadline for registering to speak is 4.00 pm the last working day before the meeting. Each speaker will be given a maximum of 3 minutes to address the Committee.
- (4) All meetings are open to the public except where confidential or exempt information is being discussed. The agenda will identify whether a meeting or part of a meeting is not open to the public. Meeting rooms have a maximum public capacity as follows:
Council Chamber: 100, Committee Room A: 20, Committee Room B: 10.
- (5) Please note that the public proceedings of this meeting will be recorded and made available for playback on the Tunbridge Wells Borough Council website. Any other third party may also record or film meetings, unless exempt or confidential information is being considered, but are requested as a courtesy to others to give notice of this to the Democratic Services Officer before the meeting. The Council is not liable for any third party recordings.

Further details are available on the website (www.tunbridgewells.gov.uk) or from Democratic Services.

If you require this information in another format please contact us, call 01892 526121 or email committee@tunbridgewells.gov.uk

Accessibility into and within the Town Hall – There is a wheelchair accessible lift by the main staircase, giving access to the first floor where the committee rooms are situated. There are a few steps leading to the Council Chamber itself but there is a platform chairlift in the foyer.

Hearing Loop System – The Council Chamber and Committee Rooms A and B have been equipped with hearing induction loop systems. The Council Chamber also has a fully equipped audio-visual system.

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Chairman's Introduction

For Planning Committee on Wednesday 11 August 2021

Procedural Item

Announcement on procedural matters.

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Apologies for Absence

For Planning Committee on Wednesday 11 August 2021

Procedural Item

Apologies for absence reported at the meeting.

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Declarations of Interest

For Planning Committee on Wednesday 11 August 2021

Procedural Item

To receive any declarations of interest by members in items on the agenda in accordance with the Members' Code of Conduct. For any advice on declarations of interest, please contact the Monitoring Officer before the meeting.

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Declaration of Lobbying (in accordance with the Protocol for Members taking part in the Planning Process, Part 5, Section 5.11, Paragraph 6.6)

For Planning Committee on Wednesday 11 August 2021

Procedural Item

If a Member has been lobbied in connection with any application on the agenda, this should be declared at the start of the meeting, whether by, or in support of, the applicant or objectors.

Members in doubt about such a declaration are advised to contact Legal Services Offices/Monitoring Officer before the date of the meeting.

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Notification of Persons Registered to Speak

For Planning Committee on Wednesday 11 August 2021

Procedural Item

To note any Visiting Members or members of the public wishing to speak, of which due notice has been given in accordance with Council Procedure 3 of the Planning Committee Procedure Rules and which item(s) they wish to speak on.

Information for members of the public wishing to speak.

Members of the public are encouraged to participate and those wishing to comment on an agenda item will need to register with Democratic Services in advance. Registration opens when the agenda is published and closes at 4pm on the last working day before the meeting.

The number of speakers per planning application are as follows:

- A maximum of 4 objectors.
- A maximum of 4 supporters.
- A Parish/Town representative.
- Borough or ward members who are not also Committee Members.

A maximum of 3 minutes is permitted per speaker.

Once registered, speakers may submit their comments in writing to Democratic Services no later than 4pm on the last working day before the meeting. Your comments will then be read during the meeting by an independent officer.

If you would like to attend the meeting in person, once registered, further instructions will be sent.

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Site Inspections

For Planning Committee on Wednesday 11 August 2021

Procedural Item

To note the application site visits, as recorded at the meeting.

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PLANNING COMMITTEE

Wednesday, 21 July 2021

**Present: Councillor Godfrey Bland (Chairman)
Councillors Backhouse (Vice-Chairman), Atwood, Dr Hall, Funnell, Poile and Pound**

Officers in Attendance: Marie Bolton (Principal Planning Officer), Canan Clatworthy (Principal Planning Officer) and Caroline Britt (Democratic Services Officer)

Other Members in Attendance: Councillor McDermott

CHAIRMAN'S INTRODUCTION

PLA28/21 The Chairman opened the meeting, introduced Committee members and officers in attendance, and outlined procedural matters of the meeting.

APOLOGIES

PLA29/21 Apologies were received from Councillors Hamilton, Hills, Pope and Warne.

DECLARATIONS OF INTEREST

PLA30/21 With reference to Planning Application 21/00427, Bethany School, Jarvis Lane, Goudhurst, Kent, Councillor Dr Linda Hall made the following statement:

“There is an application on the Agenda (Item 8(F)) which involves development at Bethany School. I own property and live within close proximity to Bethany school. I am also involved in higher tertiary education and am an Inspector for the HEFCE, but my roles in these capacities does not affect or influence development matters or decision making either in general or specifically in relation to Bethany School. I have not been involved in any decisions relating to the proposed development at Bethany School. I am coming to the meeting with an open mind and propose to fully take part in and vote on the application.”

DECLARATIONS OF LOBBYING (IN ACCORDANCE WITH THE PROTOCOL FOR MEMBERS TAKING PART IN THE PLANNING PROCESS, PART 5, SECTION 5.11, PARAGRAPH 6.6)

PLA31/21 No declarations of lobbying were made.

NOTIFICATION OF PERSONS WISHING TO SPEAK

PLA32/21 Details of Members and Members of the public who have registered to speak would be given under the respective planning applications.

SITE INSPECTIONS

PLA33/21 Due to the current restrictions Members had not undertaken any site visits.

TO APPROVE THE MINUTES OF THE MEETING DATED 23 JUNE 2021

PLA34/21 In respect of Planning Application 21/00848/FULL, Breakstones, Speldhurst Road, Langton Green, Tunbridge Wells, under section Committee Debate

and Officer responses, Members agreed the first bullet point to be amended as follows:

- It was accepted by some but not all Members that the proposed fence was required for privacy reasons. The current fence was dilapidated and the new proposal had been discussed with the neighbours.

RESOLVED – That the minutes of the meeting dated 23 June 2021 be recorded as a correct record.

REPORTS OF HEAD OF PLANNING SERVICES (ATTACHED)

PLA35/21

APPLICATION FOR CONSIDERATION - 21/00427/FULL - BETHANY SCHOOL, JARVIS LANE, GOUDHURST, KENT

PLA36/21 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application PLA 21/00427/FULL, Bethany School, Jarvis Lane, Goudhurst, Kent and this was summarised at the meeting by Canan Clatworthy, Principal Planning Officer and illustrated by means of a visual presentation.

Updates and additional representation – Two letters of objection had been received from residents raising issues concerning the level of hedgerows, ecology loss, the potential commercial use of the facility, lighting and noise. All these issues were dealt with in the report under the AONB and ecology sections and with the attachment of suitable conditions. In addition, following the publication of the revised NPPF (published on 20 July 2021), no additional considerations needed to be taken into account save for the changes to paragraph numbers. Para 95a of the revised NPPF (94a of the revoked NPPF) continues to give great weight to the need to create, expand and alter schools.

Registered Speakers – There were three speakers registered in accordance with the Council's Constitution (Planning Committee Procedure Rules)

Danielle Lawrence – DHA Planning on behalf of the applicant
Parish Councillor Antony Harris – Chair of Goudhurst Parish Council
Mr Ed Bates – Local Resident

Matters of Clarification by Officers and Committee Members' Questions to Officers – Members raised a number of questions and officers confirmed the following:

- A CCTV survey of the existing surface water would be likely including the car park (as a new area of hard standing) and would be undertaken as part of the Conditions.
- Condition 19 was strong enough to prevent the use of the new facilities for any other purpose other than by the school.
- Removal of the hedgerow was required to provide better visibility at the entrance/exit to the car park.
- Additional landscaping enhancements in other areas of the development would be provided.
- Condition 12 had been added to ensure that details of any lighting provision would have to be submitted to the Council.

- A Noise Survey to include the Amphitheatre and proposed building was suggested to ensure that any noise impact was minimised or mitigated upon the amenities of local residents.
- Use of the new facilities for charitable purposes e.g. local schools was considered important to the local community and should be allowed. This would be similar to what was currently being done with the swimming pool. It was unclear as to whether the Condition 19 allowed for this, or whether it could be left to the discretion of the school. It was further determined that ancillary use could be left to the discretion to Bethany School.
- A transport report was included and determined that there would be no additional traffic to what was currently experienced at the school.
- With regards to flooding, the wording of the relevant Condition ensured that mapping would be required to show where the existing ditches and drainage were and how any issues would be addressed through discharge of conditions.

Committee Debate and Officer Responses – Members of the Committee took account of the presentations made and raised a number of questions and issues within their discussions. These included:

- There was general support for the application, with the caveat there was a Condition to survey the impact of performance noise from the proposed Amphitheatre and the indoor theatre.
- The proposal included the reuse of the old swimming pool which should be applauded.
- There remained concern about the wording of Condition 19. That it should be amended to ensure the use of facilities for charitable purposes, including local schools.
- The current wording was deemed as quite succinct in that it made clear the new facilities could not be used for commercial or business purposes. This prevented the school from turning the facilities into a commercial enterprise. However, the school had a moral duty to extend the use of its premises to other similar organisations e.g. local schools, similar to what was already being done with the swimming pool.
- The current wording of Condition 19 left the decision to the school.
- The addition of a noise Condition to be included, based along the following lines ‘an additional survey on the impact of performance noise from the Amphitheatre and indoor theatre measured by the impact from local properties’.
- Officers confirmed such a condition could be agreed with the Chair.

Decision/voting – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Pound, seconded by Councillor Dr Hall and a vote was taken to approve the application in line with the officer recommendation but subject to confirmation that the application included a sufficient requirement to ascertain the noise impact of both the Amphitheatre and the indoor theatre.

RESOLVED – That application PLA21/00427/FULL, Bethany School, Jarvis Lane, Goudhurst, Kent be granted subject to the plans, conditions and informatives as set out in the agenda report, plus confirmation that the report included sufficient requirements relating to noise for the purposes of the application.

APPLICATION FOR CONSIDERATION - 21/01735/FULL - TWO BRIDGES, ALTERNATIVE PUPIL PROVISION, YMCA, ROYAL TUNBRIDGE WELLS, KENT

PLA37/21 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application PLA21/01735/FULL, Two Bridges, Alternative Pupil Provision, YMCA, Royal Tunbridge Wells, Kent and this was summarised at the meeting by Canan Clatworthy, Principal Planning Officer and illustrated by means of a visual presentation.

Updates and additional representation – Following the publication of the revised NPPF (published 20 July 2021), no additional considerations needed to be taken into account save for the changes to paragraph numbers. Para 95a of the revised NPPF (94a of the revoked NPPF) continues to give great weight to the need to create, expand and alter schools.

Registered Speakers – There were no speakers that registered in accordance with the Council's Constitution (Planning Committee Procedure Rules)

Decision/voting – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Pound, seconded by Councillor Backhouse and a vote was taken to approve the application in line with the officer recommendation.

RESOLVED – That application PLA21/01735/FULL, Two Bridges, Alternative Pupil Provision, YMCA, Royal Tunbridge Wells be granted subject to the plans, conditions and informatives as set out in the agenda report.

APPLICATION FOR CONSIDERATION - 21/01701/FULL - THE FORUM, THE COMMON, ROYAL TUNBRIDGE WELLS, KENT

PLA38/21 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application PLA21/01701/FULL, The Forum, The Common, Royal Tunbridge Wells and this was summarised at the meeting by Canan Clatworthy, Principal Planning Officer and illustrated by means of a visual presentation.

Updates and additional representation – Following the publication of the revised NPPF (published 20 July 2021), no additional considerations needed to be taken into account save for the changes to paragraph numbers.

Registered Speakers – There were no speakers that registered in accordance with the Council's Constitution (Planning Committee Procedure Rules)

Matters of Clarification by Officers and Committee Members' Questions to Officers – Members raised a number of questions and officers confirmed the following:

- The material being used for the construction of the building was thermal wood and was considered appropriate for the area.
- The colour of the proposed building had been deemed acceptable.
- It was suggested the proposed layout would not be intrusive.
- There was concern that the proposal did not fit with the character of

the Forum.

- The application was for a permanent structure (to replace the existing temporary structure).
- The application did not include provision for any alcohol, just for hot drinks.
- An informative could be included for a conversation with the Conservators to include sufficient provision for litter bins in the immediate and surrounding area.

Committee Debate and Officer Responses – Members of the Committee took account of the presentations made and raised a number of questions and issues within their discussions. These included:

- The existing provision was very popular and was widely used by local residents.
- There remained concern about the look of the structure, which was out of keeping with the local area.
- The Conservation Officer required that the proposed structure did not blend in with the existing structure.
- Supporting local businesses was paramount and the temporary structure had been extremely popular during the pandemic.

Decision/voting – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Backhouse, seconded by Councillor Atwood and a vote was taken to approve the application in line with the officer recommendation with an additional informative for the provision of sufficient litter bins.

RESOLVED – That application PLA21/01701/FULL, The Forum, The Common, Royal Tunbridge Wells be given delegated powers to grant subject to no new planning matters being raised and the plans, conditions and informatives as set out in the agenda report with an additional informative regarding the mitigation of litter in the immediate and surrounding area.

APPLICATION FOR CONSIDERATION - 21/01755/FULL - FORMER DAY IN THE WELLS BUILDING, ROYAL TUNBRIDGE WELLS, KENT

PLA39/21 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application PLA21/01755/FULL, Former Day in the Wells Building, Royal Tunbridge Wells and this was summarised at the meeting by Canan Clatworthy, Principal Planning Officer and illustrated by means of a visual presentation.

Updates and additional representation – Following publication of the revised NPPF (published 20 July 2021), no additional considerations needed to be taken into account save for the changes to paragraph numbers.

Registered Speakers – There were no speakers that registered in accordance with the Council’s Constitution (Planning Committee Procedure Rules)

Matters of Clarification by Officers and Committee Members’ Questions to Officers – Members raised a number of questions and officers confirmed the following:

- Dandara's temporary permission did not expire until 2023.
- It was confirmed that the opening hours were 0700 to 0700 i.e. 24 hours. This allowed for maximum flexibility for the users, access to the building and accords with the approach for the Corn Exchange.
- It was confirmed the extant planning permission for the cinema was still valid.

Decision/voting – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Backhouse, seconded by Councillor Dr Hall and a vote was taken to approve the application in line with the officer recommendation.

RESOLVED – That application PLA21/01755/FULL, Former Day in the Wells Building, Royal Tunbridge Wells be granted subject to the plans, conditions and informatives as set out in the agenda report.

APPLICATION FOR CONSIDERATION - 21/01990/ADV - THE AMELIA, MOUNT PLEASANT, ROYAL TUNBRIDGE WELLS, KENT

PLA40/21 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application PLA21/01990/ADV, The Amelia, Mount Pleasant, Royal Tunbridge Wells and this was summarised at the meeting by Marie Bolton, Principal Planning Officer and illustrated by means of a visual presentation.

Updates and additional representation – Following publication of the revised NPPF (published 20 July 2021), no additional considerations needed to be taken into account save for the changes to paragraph numbers.

Registered Speakers – There were no speakers that registered in accordance with the Council's Constitution (Planning Committee Procedure Rules)

Matters of Clarification by Officers and Committee Members' Questions to Officers – Members raised a number of questions and officers confirmed the following:

- Discussions had taken place with the Conservation Officer about form of the adverts, that followed pre-application advice.

Committee Debate and Officer Responses:

- It was disappointing that given the amount of time and money that had gone into the building that a modern version of advertising was considered unsuitable.

Decision/voting – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Poile, seconded by Councillor Funnell and a vote was taken to approve the application in line with the officer recommendation.

RESOLVED – That application PLA21/01990/ADV, The Amelia, Mount Pleasant, Royal Tunbridge Wells be granted subject to the plans, conditions and informatives as set out in the agenda report.

APPLICATION FOR CONSIDERATION - 21/01515/LBC - THE AMELIA, MOUNT PLEASANT ROAD, ROYAL TUNBRIDGE WELLS, KENT

PLA41/21 **Planning Report and Presentation** – The Head of Planning Services submitted a report in respect of application PLA21/01515/LBC, The Amelia, Mount Pleasant, Royal Tunbridge Wells and this was summarised at the meeting by Marie Bolton, Principal Planning Officer and illustrated by means of a visual presentation.

Updates and additional representation – Following publication of the revised NPPF (published 20 July 2021), no additional considerations needed to be taken into account save for the changes to paragraph numbers.

Registered Speakers – There were no speakers that registered in accordance with the Council's Constitution (Planning Committee Procedure Rules)

Matters of Clarification by Officers and Committee Members' Questions to Officers – Members raised a number of questions and officers confirmed the following:

- Lightning Tape was used for earthing lightning strikes to the building.

Committee Debate and Officer Responses:

- It was commented that attaching security lights to the building was permissible, which seemed contrary to advice given on the previous application regarding the use of electronic advertising.

Decision/voting – On the basis that members were satisfied that all relevant planning considerations had been covered within the report, a motion was proposed by Councillor Atwood, seconded by Councillor Poile and a vote was taken to approve the application in line with the officer recommendation.

RESOLVED – That application PLA21/01515/LBC, The Amelia, Mount Pleasant, Royal Tunbridge Wells be granted subject to the plans, conditions and informatives as set out in the agenda report.

APPEAL DECISIONS FOR NOTING 15/06/2021 TO 08/07/2021

PLA42/21 **RESOLVED** – That the list of appeal decisions provided for information, be noted.

URGENT BUSINESS

PLA43/21 There was no urgent business for consideration.

DATE OF NEXT MEETING

PLA44/21 The next Planning Committee meeting was scheduled for Wednesday 11 August 2021 at 5:00pm.

NOTE: The meeting concluded at 12.28 pm.

Reports of Head of Planning Services

For Planning Committee on Wednesday 11 August 2021

Procedural Item

The running order of the applications listed below is subject to change and will be agreed by the Chairman and announced at the meeting.

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REPORT SUMMARY

REFERENCE NO - 21/01487/FULL
<p>APPLICATION PROPOSAL</p> <p>Change of use of the Auction House (sui generis) to flexible Class E (commercial, business and service) use (excluding uses falling within E c(iii) (any other service which is appropriate in a commercial, business and service locality) and f) (creche and day nurseries)</p>
ADDRESS Auction Hall Linden Park Road Royal Tunbridge Wells Kent TN2 5QL
RECOMMENDATION to GRANT planning permission subject to conditions (please refer to section 11.0 of the report for full recommendation)
<p>SUMMARY OF REASONS FOR RECOMMENDATION</p> <ul style="list-style-type: none"> • The proposal would result in the delivery of employment, leisure and other uses on a site allocated for this purpose within the Site Allocations Local Plan (July 2016); • The proposal would not prejudice the ability to deliver the mixed use development for which the site is allocated under Policy AL/RTW 24 of the Site Allocations Local Plan (July 2016): • The site benefits from an extant planning permission for office and financial/professional services uses and associated external alterations; • The proposal would preserve the significance of the Conservation Area and nearby listed buildings; • The proposal would not cause significant harm to the nearby residential amenity spaces. • The proposal would not have an adverse impact on the character and visual amenities of the street scene. • The proposal would not have an adverse impact upon highway safety. • Other issues raised have been assessed and there are not any which would warrant refusal of the application or which cannot be satisfactorily controlled by condition
<p>INFORMATION ABOUT FINANCIAL BENEFITS OF PROPOSAL</p> <p>The following are considered to be material to the application:</p> <p>Contributions (to be secured through Section 106 legal agreement/unilateral undertaking): N/A</p> <p>Net increase in numbers of jobs: 10 full time</p> <p>Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs: £146,432.00</p> <p>The following are not considered to be material to the application:</p> <p>Estimated annual council tax benefit for Borough: N/A</p> <p>Estimated annual council tax benefit total: N/A</p> <p>Estimated annual business rates benefits for Borough: Current liability is £7680.00. The Mid Kent Revenues and Benefits Partnership estimate there would be an increase of up to</p>

double the existing Business Rates.		
REASON FOR REFERRAL TO COMMITTEE		
Tunbridge Wells Borough Council is the freehold landowner		
WARD Pantiles & St Marks	PARISH/TOWN COUNCIL N/A	APPLICANT Lower Pantiles LLP AGENT Mrs Louise Caney
DECISION DUE DATE 01/09/21	PUBLICITY EXPIRY DATE 18/06/21	OFFICER SITE VISIT DATE Various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		

Application site

18/01928/FULL	Change of use of ground and first floors from auction house (sui generis use) to business centre comprising open plan offices within use classes B1 (Business) and A2 (Financial and professional services), together with ancillary operation works to facilitate the new uses to include the introduction of new window openings and minor internal works	Granted (not implemented)	24/09/18
87/00861/FUL	Minor amendments to approved development	Granted	30/09/87
86/00563/TWBRG3	Regulation 4 - Temporary car park	Granted until 30/11/86	29/06/85
84/00343/LBC	Listed Building Consent - Part demolition	Granted	18/01/85
84/00342/FUL	Shops, offices, restaurant, heritage museum, health club, auction hall, parking	Granted	18/01/85

The Corn Exchange

21/01755/FULL	Change of use of basement, ground floor and first floor of the Former Day at the Wells Building & entrance foyer and partial basement area to Corn Exchange from temporary sales centre (for Dandara) (17/03413) and extant cinema use (15/502422/FULL) to Class E (commercial, business, service) and extant cinema use (sui-generis) with ancillary cafe/bar/foyer as permitted by 15/502422/FULL.	Granted	22/07/21
20/03410/FULL	Change of use from existing uses comprising B1 (business), A2 (financial and professional services) and D1 (education), to Flexible Class E (commercial, business and service) and/or F1(a) (education).	Granted	05/03/21

19/02252/FULL	Change of Use of units 5-9 and 14-15 from B1a (Office) to D1 (Adult Education) [no physical alterations proposed] for a temporary period of 3 years	Granted	10/10/19
17/03413/FULL	Temporary change of use of the ground floor of the Former Day at the Wells Building for a period of 6 years from cinema use (Class D2) to use as a sales centre (Class A2) and associated internal changes	Granted	14/12/17
17/02097/FULL	Change of use of ground floor from retail, entertainment, drinking establishment, leisure and food and drink uses to a business centre comprising open plan offices falling within Use Classes B1 (Business) and A2 (Financial and Professional Services) and continued lawful use of part of the basement, together with ancillary minor operational works to facilitate the new use(s)	Granted	22/08/17

Union House:

17/03715/FULL	Variation of Condition 2 of planning permission 16/504331/FULL (Demolition of existing building and redevelopment of the site to provide 127 new residential apartments, alongside circa 850 sq.m of Class A1 / A3 / A4 (Retail, Restaurants and Cafes, Drinking Establishments), Class D1 / D2 (Community) and Class B1 Office floorspace, with associated new public square, water feature, public car parking and residents car/cycle parking.) - Minor Changes to design	Granted	08/04/18
16/504331/FULL	Demolition of existing building and redevelopment of the site to provide 127 new residential apartments, alongside circa 850 sq.m of Class A1 / A3 / A4 (Retail, Restaurants and Cafes, Drinking Establishments), Class D1 / D2 (Community) and Class B1 Office floorspace, with associated new public square, water feature, public car parking and residents car/cycle parking.	Granted	29/06/17

Recent permissions for other business uses in the Pantiles area:

14/00849/FULL	Royal Victoria House 51 - 55 The Pantiles	Granted	20/05/14
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	Change of use of part of lower ground floor from Class B1a (Office) to Class D2 (Assembly and Leisure) as health and pilates studio		
12/03193/FUL	<p>5 - 8 The Corn Exchange, Dowding House, Frant House, Eridge House The Pantiles</p> <p>Part change of use of ground floor shop (Use Class A1) to form delicatessen and cafe (Use Classes A1 & A3) with frontage to Sussex Mews. Works to support the creation of a new pedestrian passage to link the Corn Exchange with Sussex Mews. New 'street' frontage to Sussex Mews, to include shopfronts and covered pedestrian colonnade (glazed canopy over). Frant House and Dowding House - first and second floors (part), change of use from office (Use Class B1) to form a Rosemary Shrager Cookery School (Use Class D1) with ancillary Head Chef's apartment (Use Class C3). Canopy over central portion of Sussex Mews</p>	Granted	23/01/13

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site lies on the southern side of the Lower Walks area of the Pantiles. The area as a whole provides a wide variety of small specialist shops, art galleries, cafes and restaurants. The site is within the Tunbridge Wells Conservation Area with a large number of listed buildings to the north.
- 1.02 The Auction House is an unusual brick-built octagonal building, which is integrated into the Linden Road multi-storey car park, which is available for public car parking for a charge. The Auction Hall and Car Park are in the freehold ownership of TWBC, and form part of a wider site which is leased to the applicant. The lower ground floor of the whole structure is the covered part of the public car park, which is accessible from a paved roadway leading off Linden Park Road (which also services the nearby commercial and residential buildings). The ground floor comprises the lower level of the auction house and the open air part of the car park – the latter is accessible directly from Linden Park Road. The main door to the Auction Hall opens on to the higher car park level. The first floor of the building is a mezzanine 'half floor'.
- 1.03 Both structures were built in the late 1980's, pursuant to wider planning permissions 87/00861/FUL and 84/00342/FUL. The combined structure has been built into the hill, reflecting the natural fall of the land along Linden Park Road from the south east, towards The Pantiles, to the north west. A large glazed lantern sits centrally over the building and lights the interior space. The eight elevations of the building are simple, windowless brick walls. The building was previously used for the sale / auction of a wide variety of goods, however it has been empty for several years now.

- 1.04 The building and the car park are orientated NW-SE within the site. Beyond the car park to the south east is a detached dwelling (Edensor). To the north is the Pantiles Lower Walk and Sussex Mews where there are largely business uses; some residential uses are concentrated in flats to the NW in Nos. 57-61 The Pantiles and 1-12 Sussex Mews.
- 1.05 To the south, construction of a six storey block of nine apartments in place of a redundant church is nearing completion. There is also a block of 20 flats at Regency Hall, which are set back from the road. Beyond this is the Union House site, where a mixed use residential and commercial development is also nearing completion.

2.0 PROPOSAL

Use

- 2.01 In September 2020, the Government introduced a new use Class E (Commercial, business and service) in to the Use Classes Order. Class E subsumes previous use classes which were specified in the Schedule to the Use Classes Order as Class A1 (Shops), Class A2 (Financial and professional services), Class A3 (Restaurants and cafes) and Class B1 (Business). Class E includes;
- the display or retail sale of goods, other than hot food;
 - restaurants/cafes;
 - the provision of the following kinds of services principally to visiting members of the public—
 - financial services,
 - professional services (other than health or medical services), or
 - *any other services which it is appropriate to provide in a commercial, business or service locality;*
 - indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public;
 - for the provision of medical or health services, principally to visiting members of the public;
 - *a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*
 - offices;
 - the research and development of products or processes; or
 - a light industrial process.
- 2.02 The proposal involves the change of use of the Auction Hall to a broad Class E use, but excluding the two uses marked in italics above. This differs from the extant planning permission granted in September 2018 for change of use of this building to former classes B1 (Business) and A2 (Financial and professional services), which has never been implemented..
- 2.03 No change would be made to the existing public car parking provision within the building.
- ### *Physical alterations*
- 2.04 The structure is purpose built. The blank walls enabled goods for sale to be displayed against or hung on walls and, during the auction, focussed the attention of those in attendance on the auctioneer.
- 2.05 The external physical alterations are very similar to those previously permitted in 2018. The changes involve opening up the building over the two floors to allow

additional light to enter and to provide an outlook for the occupants. The building will continue to be lit by the large square lantern and would be additionally lit by new large floor to ceiling window openings, which sit within the existing brick relief pattern on the elevations of the building. The 2018 scheme also included the extension of the partial first floor mezzanine across the whole building, whereas this application seeks to retain the existing floorspace.

2.06 The application has been amended since submission to alter the red line within the site location plan, serve notice on an additional freehold owner and make slight amendments to the external alterations.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Floor area	307sqm	307sqm	none
Land use(s)	Auction House (Sui generis)	Class E (with some exclusions)	
Number of jobs	3 full time, 2 part time	5-15	+approx. 0-10 FT positions
Car parking spaces (inc. disabled)	None specifically allocated	None specifically allocated	No change
No. of storeys	One plus partial first floor (mezzanine)	Two storeys	No external increase; additional half storey within building
Max height	7.7m (taken from Linden Park Road footway)	7.7m (taken from Linden Park Road footway)	No change

4.0 PLANNING CONSTRAINTS

- Area of Special Advert Control
- Tunbridge Wells Conservation Area (*statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*)
- Inside the Limits to built Development (LBD)
- Grade II Listed buildings to the immediate north (The Sussex Arms and Nos. 51-61 The Pantiles) (*statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*)

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) 2021
National Planning Practice Guidance (PPG)

Site Allocations Local Plan July 2016

AL/STR 1 Limits to Built Development

AL/RTW 24 Auction House and Car Park, Linden Park Road Mixed use development

Tunbridge Wells Borough Core Strategy 2010

- CP1 Delivery of Development
- CP3 Transport
- CP4 Environment
- CP5 Sustainable Design and Construction
- CP7 Employment
- CP9 Development in Royal Tunbridge Wells

Tunbridge Wells Borough Local Plan 2006

- EN1 Development Control Criteria
- EN4 Demolition in Conservation Areas
- EN5 Development in Conservation Areas
- EN13 Trees
- EN16 Protection of Groundwater and other Watercourses;
- EN18 Flood Risk
- TP4 Access to the Road network
- TP7 Tunbridge Wells Central Parking Zone (Commercial)
- TP9 Cycle parking

Supplementary Planning Documents

The Royal Tunbridge Wells and Rusthall CA Appraisal SPD (Nov 2000);
Noise and Vibration SPD (2014);

Other documents:

Practice Note: “*Screening of planning applications for compliance with the Habitat Regulations*”, adopted at the Full Council meeting on the 25th April 2018.

TWBC Town Centre Office Market Review (March 2018)

Draft Local Plan: AL/RTW 2

6.0 LOCAL REPRESENTATIONS

6.01 Three site notices were displayed on the streets surrounding the application site on 23rd May 2021. The application was also advertised in the local press.

6.02 No responses have been received to the site notices.

7.0 CONSULTATIONS

Historic England

7.01 **(20/05/21)** – below threshold for comment

KCC Highways

7.02 **(21/05/21)** - below threshold for comment

Mid Kent Environmental Protection

7.03 **(10/06/21)** – No objections. Main points considered: Noise. Amenity. Air Quality. Land contamination. Asbestos. Lighting. Odour. Accumulations. Sewage. Private Water Supplies.

7.04 Depending on the business units involved there is a potential for noise & odour issues etc, but these could be dealt with on a case by case basis. Any demolition or

construction activities may have an impact on local residents and so the usual conditions/informatives should apply in this respect. Any parts of the building being converted should be checked for the presence of asbestos and any found should only be removed by a licensed contractor.

TWBC Principal Conservation Officer

- 7.05 **(28/05/21)** – No comment.
- 7.06 **(20/07/18 – comments from previous application)** - The existing building is simple in form and not particularly appropriate for the location. However it is equally not particularly harmful and its effect on the character of the area is correspondingly slightly negative. The proposal for change of use and the associated alterations will have a significant effect on the appearance of the building and are for the most part likely to be an improvement.
- 7.07 Would however suggest that the nature of the windows and the manner in which the openings for them are created are important. Suggest that details be sought by condition for the new glazing and details of the proposed reveal construction

8.0 APPLICANT'S SUPPORTING COMMENTS (Planning Statement summary)

- 8.01 The acquisition of the Lower Walks by the Lower Pantiles LLP (part of the Nevill Estate) in 2012, together with their long held desire to improve and regenerate the area, will continue to seek improvements to the vitality and viability of the area. In particular, through the proposed change of use to Class E at the Auction House, in addition to parallel applications being prepared for the Day at the Wells Building and Sussex Mews.
- 8.02 Notwithstanding the repercussions of the Covid pandemic, these evolving times have identified substantial changes to the planning system, which are still being refined. The 2020 amendment to the Town and Country (Use Classes) Order 1987 to incorporate a broad town centre use class, Class E, to encompass business, service and commercial uses are just some of the changes which have recognised the inflexibility of the former system.
- 8.03 The introduction of additional complementary uses alongside the permitted business use of the building will widen the marketing reach of the premises to increase the chances of the building being occupied in the future, in turn supporting the wider regeneration proposals being implemented by the Lower Pantiles LLP.
- 8.04 The ability to allow flexibility of use to this building in the future within such a central location will encourage further employees/clients/visitors to the area and daytime trade into the Pantiles, which will build upon the early stimulus to growth created by other nearby businesses that have established in recent years. This is firmly in accordance with the provisions of the Government's NPPF that sets up a presumption in favour of economic development and sustainable forms of growth.
- 8.05 These proposals require no additional internal or external alterations to the building, other than those approved under the 2018 application (windows/doors), and the application proposals will provide the following benefits:
- Support the vitality and viability of The Pantiles, as a whole, and help maintain the position of the Auction House as an important building at a significant entrance point into the town.

- Provide new and improved commercial, business and service facilities in a central location within Tunbridge Wells within easy access on foot to nearby homes on the southern side of the town and the local bus network with bus stops located 100 metres north west on London Road (A26). The mainline Train Station lies 500 metres to the north east, within a five-minute walk, providing direct access to central London;
- Create an exciting, flexible, working environment for a wide range of small-scale business interests;
- Introduce business/commercial/service activity that will help to support and increase spend to the local economy and help to redress some of the loss of employment floorspace through the widespread permitted changes of use as part of the Town and Country Planning (General Permitted Development Order) (England), 2015 (as amended);
- The re-use of the building will 'draw' staff, clients and visitors down into the Lower Walks area, across the level change between the Upper and Lower Walks - the change in level acts as a physical and psychological barrier to free movement; and
- Continue the regeneration stimulus for the Lower Pantiles to encourage other businesses to embrace the area and to build upon the successes of the various regenerative initiatives that have taken place.

9.0 BACKGROUND PAPERS AND PLANS

- 9.01 Application form and amended ownership certificate
Planning Statement
Existing drawings 101A, 102A, 103A, 104A, 105A and 106A

10.0 APPRAISAL

- 10.01 The main issues are:

- The principle of the development;
- Impact upon the CA, including design and visual impact;
- Residential amenity;
- Highways and parking;
- Flooding, drainage and sewer capacity;
- Other matters.

Principle of Development

- 10.02 Section 38(6) of the Planning and Compulsory Purchase Act 1990 requires that the determination of a planning application must be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF does not change the status of the development plan as the starting point for decision making. The Council's Site Allocations Local Plan (July 2016) (SALP) forms part of the adopted Development Plan and sets out the specific sites to be developed to meet the levels of growth set out in the adopted Core Strategy.

Site Allocations Local Plan (SALP) 2016

- 10.03 In light of the above, the starting point of this appraisal of the principle of development will be Policy AL/RTW 24 of the SALP. This specifically allocates the car park, auction hall with a small open area to the rear and the road frontage site for mixed use development comprising employment, retail, residential, hotel, leisure and health-related uses.

- 10.04 The policy states that existing public car parking shall be re-provided as part of the development unless alternative provision is made available in a suitable location in the vicinity; green infrastructure links shall be provided and opportunities should be explored to improve pedestrian access between The Pantiles and Policy AL/RTW4 (The Union House area to the south); development shall enhance the area as a gateway into The Pantiles; and public realm improvements shall be delivered along the site's boundary with Linden Park Road. This allocation follows the requirement of NPPF para 23 to *"allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres"*.
- 10.05 SALP policy AL/RTW24 remains current and carries full weight. The red edge around the application site is tightly drawn around the building and includes only a small part of the adjoining car parking area. It forms only part of site allocation AL/RTW24. Given this and the fact that Policy AL/RTW24 seeks to redevelop the whole of the allocated site for mixed use, the application in its submitted form could in theory prejudice the comprehensive redevelopment of the site.
- 10.06 The agent advises that feasibility options for re-developing the wider site have been explored through pre-application discussions with the Council for an alternative development, including the complete redevelopment of the auction house and car park sites for a mixed-use scheme to include residential apartments sited over retail and/or offices uses. However this is a separate issue – there is no certainty such a scheme will come forward in time. This application is only for the re-use of the existing building.
- 10.07 Ultimately it is not considered that this application will compromise the wider aims and comprehensive redevelopment of the area covered by AL/RTW 24 and wider Core Strategy objectives. This is due to the reuse of an existing commercial building, the physically contained nature of the Auction Hall and the inclusion of uses required to be provided by the SALP policy. It is not considered the grant of full planning permission for the change of use to Class E will preclude the future redevelopment of the application site and the wider car park area for a mixed-use scheme in accordance with the policy.
- 10.08 AL/RTW 24 contains a number of requirements such as maintaining existing car parking levels, providing additional pedestrian linkages/routes or green infrastructure/links and public realm improvements. These however are not within the gift of this application to provide and would be for other proposals to address. Those which are relevant to this proposal will be addressed under the separate headings below, but in summary it is considered that the proposal meets these requirements where relevant.
- 10.09 The site is also allocated in the Draft Local Plan for a mix of town centre uses *'and could comprise a mix of Class E Uses: commercial (a), shops, (b) restaurants, (c, i, ii, iii), financial services, professional and other services, sui generis uses, and residential (as part of a mixed-use scheme)'* (Policy AL/RTW 2). However this policy also permits redevelopment of the site and many of the criteria are geared towards this. Again, some of the criteria are outside the ability of this application to provide, such as public realm enhancements, Ultimately only limited weight would be given to the DLP policy at this stage as it has yet to be submitted for examination.

- 10.10 Overall, for the reasons set out above and the points discussed in more detail later in this appraisal, the proposal is considered to be in overall compliance with current Policy AL/RTW24.

Core Strategy

- 10.11 The strategic objectives of the Core Strategy (Chapter 3, page 13) include the objectives to stimulate and sustain the economic growth and competitiveness of the town (SO2) and to target regeneration efforts where necessary, particularly in the borough's town centres to ensure that residents have the opportunity to access the services and facilities they require.
- 10.12 Core Policy 7 seeks to retain employment use within the Borough through maintaining the overall net amount of employment floor space for a range of employment generating uses. The application site falls within the Tunbridge Wells Town Centre Key Employment Area. Here, the policy seeks to safeguard employment areas and buildings that are well located in terms of main roads and public transport networks and that provide or are physically and viably capable of providing good quality modern accommodation that is attractive to the market. It is considered that the office re-use of the Auction House meets all three criteria given the age of the building, the proximity to the A26 and within the town centre area.
- 10.13 Core Policy 9 also seeks to promote the sensitive development of the town for a mix of uses, including employment. It also seeks to maintain existing employment floorspace (Criterion 4) and encourages increases in the proportion of office space, through either redevelopment of existing floorspace or new purpose built accommodation. The policy states that development must conserve and enhance the assets of the town and its special character.

NPPF

- 10.14 Para 81 of the NPPF states that;

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

- 10.15 On this basis, given the above policy support for the proposal and its compliance with the SALP and the Core Strategy, the development is considered acceptable in principle.

Design and impact on the setting of the Conservation Area / listed buildings

- 10.16 LP Policy EN1 requires the design of a proposal to respect the context of its site. CP4 (1) requires the Borough's urban landscapes to be conserved and enhanced. Part 12 of the NPPF addresses good design, which is a key aspect of sustainable development (para 124). Para 130, *inter alia*, requires that developments respond to local character and reflect the identity of local surroundings and materials, whilst not preventing or discouraging appropriate innovation; also that they are visually attractive as a result of good architecture and appropriate landscaping. Importantly, para 134 of the NPPF states that significant weight should be given to development which reflects local design policies.
- 10.17 The site is located within the CA. Para 197 of the NPPF states that Local Planning Authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Para 206 states;

“Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.”

- 10.18 Impact on the CA also falls to be considered under LP policy EN5; then more broadly under EN1 and CS Policy 4, which seeks to conserve and enhance the Borough’s urban environments (including CAs) at criteria (1) and (5).
- 10.19 Whilst they have not commented this time, the comments of the PCO on the physical changes last time were supportive. They considered that the proposal would result in an enhancement to the CA at this point. The building presently appears somewhat bland and functional and contributes little to this important arrival point at the south western end of the Pantiles. In combination the Auction Hall and car park create an inactive, uninteresting and unwelcoming frontage to the street. The elevated position on the Linden Park Road frontage, where the brick structure sits proud above the car park exacerbates this. The proposed external alterations are, like last time, limited; the dimensions of the building would remain unchanged. However the insertion of windows in to the existing reveals would create a more active frontage to the building, along with a more visible use and help reverse those negative impacts.
- 10.20 It is not considered that any harm is caused to the significance of the nearby listed buildings.

Highways and parking

- 10.21 Policy AL/RTW 24 requires that in the event of the loss of public car parking spaces, any development should reinstate at least the same amount. However in this instance, there would be no loss of public car parking spaces.
- 10.22 KCC Highways does not raise additional traffic generation as a significant issue with regards to this development. It is proposing an increase in floor space but with uses that are acceptable in principle in this location owing to AL/RTW 24. The site is in a very sustainable location and is already well serviced by existing public car parks. In addition the town centre very well served by public transport and the development is considered acceptable in this regard.

Residential amenity

- 10.23 Given the existing commercial use of the building and the surrounding commercial uses it is not considered the proposal will create significant noise impacts, either from the use itself or visitors to the building. The description of development excludes the two more problematic uses within Class E in terms of noise and disturbance – nurseries/creches/day centres and the ‘catch all’ *‘any other services which it is appropriate to provide in a commercial, business or service locality’*. This is not strictly a ‘commercial, business or service locality’ as there are residential uses nearby at the former Union House site. Conditions can be used to control the impacts on near neighbours and these form part of the recommendation below.
- 10.24 The Planning Statement advises that windows are not proposed to be inserted in to the NW elevation due to overlooking concerns towards the nearby dwellings. This can be secured by condition, as offices benefit from PD rights for external alterations.

Flooding, sewage disposal and other utility providers

- 10.25 The site is not within an EA Flood Zone, meaning there is a very low fluvial risk. The existing site is connected to the combined sewer (foul and surface water) and this

situation would remain as none of the proposed changes would affect foul and surface water discharge arrangements.

10.26 The informative requested by Southern Water in 2018 appears to remain relevant and has been included below.

11.0 RECOMMENDATION – GRANT subject to the following conditions:

- 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:

Drawing numbers 107D, 108D, 109A, 110A

Reason: To clarify which plans are approved.

- 3) Prior to the installation of the new window openings hereby approved, cross sections at a scale of 1:5 (horizontal) and 1:20 (vertical) of the new glazing and details of the proposed reveal construction 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 preserve the setting of the Conservation Area and to ensure a satisfactory standard of development.

- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order revoking or re-enacting that Order) no windows shall be inserted in the NW elevation of the building.

Reason: To safeguard against overlooking and loss of privacy in the interests of the amenity of occupiers of neighbouring properties

- 5) The development hereby approved shall only be used for the purposes within Class E that are listed in the description of development (and not those listed as excluded) and not for any other purpose without the express written planning permission of the Local Planning Authority, whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order).

Reason: In the interests of residential amenity, retaining employment space and to control and regulate development on this site

- 6) Prior to the installation of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission 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. The scheme shall ensure that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 as defined by BS8233: 2014 Sound Insulation and Noise Reduction for Building Code of Practice and the latest edition of the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide.

The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever it's operating. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority

Reason: In the interests of the residential amenity of nearby occupiers

- 7) In the event of the premises being used for light industrial purposes, all works shall be carried out within the building, the doors and windows of which shall be kept closed, except when required to be open for the purposes of access. Except with the consent of the Local Planning Authority, use of the premises shall be restricted to the period between the hours of 07.00 and 18.00 on Mondays to Fridays, 07.00 and 13.00 on Saturdays, and at no time whatsoever on Sundays and Bank Holidays.

Reason: In the interests of the residential amenity of nearby occupiers

- 8) In the event of the premises being used for café/restaurant or indoor sport, recreation or fitness purposes; except with the consent of the Local Planning Authority, the premises shall not be used between the hours of 12.00am and 07.00am.

Reason: In the interests of the residential amenity of nearby occupiers

INFORMATIVES

- 1) For the purposes of clarity, the above permission does not pertain to the public car park at lower ground floor level, nor at the ground floor level.
- 2) As the development involves demolition and / or construction, broad compliance with the Mid Kent Environmental Code of Development Practice is expected.
- 3) Detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding.

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.

REPORT SUMMARY

REFERENCE NO - 21/01389/FULL
APPLICATION PROPOSAL New driveways to no. 131 and 133 with dropped kerb and entrance crossover (joint application from owners of both properties)
ADDRESS 131 And 133 St Johns Road Royal Tunbridge Wells Kent TN4 9UG
RECOMMENDATION Refuse (see section 11.0 of the Report for the full recommendation)
<p>SUMMARY OF REASONS FOR REFUSAL</p> <p><i>Visual amenity matters</i></p> <ul style="list-style-type: none"> • The removal of the front wall, plus the creation of the front parking areas and tarmacked dropped kerb, plus the appearance of parked cars within the relatively limited frontage widths and depths of Nos. 131/133 along with the need to provide pedestrian visibility splays would cause significant and detrimental harm to the character and appearance of the street scene. This is consistent with the findings of an appeal Inspector in 2017 on a similar proposal at this site and in 2020 at No.139 (see Appendices 1 & 2). • KCC Highways have indicated that the access arrangements are unsatisfactory and that additional sections of front wall would need to be removed to accommodate safe and suitable access for vehicles. This would cause additional harm and result in a scheme little different from that dismissed at appeal in 2017 (Appendix 1). • In addition there is insufficient evidence that the proposed development could be successfully accommodated around the existing street trees outside/near the application site without harming their long term health. • In combination these factors would result in a hardened form of development incongruous to the immediate locality. <p><i>Highway safety matters</i></p> <ul style="list-style-type: none"> • There is a pinch point outside the terraces forming 119 – 141 St Johns Road that forces cyclists to move into the busy traffic lane. Whilst provision of safer and enhanced cycle lines is an identified priority for the Council, this application would not resolve that issue as it is only for one access and would not remove the whole of the on-street parking bay, which is much wider. • A project to remove the parking bays and paint double yellow lines (or extend the cycle lane) outside the two terraces comprising nos. 119 – 141 St Johns Road is a more realistic solution to addressing the ‘pinch point’. This would be facilitated by non-planning means such as a Traffic Regulation Order, rather than through an ad-hoc or piecemeal approach to permitting off-road parking. • The application proposes the use of a mechanised turntable to facilitate off-street turning with a consequent narrow access point from the highway. The access arrangements as a whole are not considered safe or suitable by the highway authority. • There would be no wider public safety benefits to the proposal as it would result in the gain of two vehicle spaces on private land, a loss of parking spaces on the public highway and no realistic betterment in conditions for cyclists outside the application site. • The application therefore fails to demonstrate that safe and suitable access to the site can be achieved for all users and there are no wider highway safety (or other) benefits (which include the provision of two private EV charging points in the gardens) that would

outweigh this harm.			
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: N/A			
Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs: N/A			
The following are not considered to be material to the application:			
Estimated annual council tax benefit for Borough: N/A			
Estimated annual council tax benefit total: N/A			
Estimated annual business rates benefits for Borough: N/A			
REASON FOR REFERRAL TO COMMITTEE			
Called in by Cllr Ellis on the grounds that;			
<ul style="list-style-type: none"> • It has been a long term aim of TWBC to remove the 6 parking spaces in front of these premises to remove a kink point for both General Traffic and Cyclists; • If the residents wish to arrange for a drop kerb and turntables in their front gardens, they are assisting the borough towards this goal; • Disagreement with KCC Highways safety assessment of the application. 			
WARD St Johns	PARISH/TOWN COUNCIL N/A	APPLICANT Mr & Mrs Vaughan-Davies And Godley AGENT Mr Paul Hagell	
DECISION DUE DATE 16/08/21 EOT	PUBLICITY EXPIRY DATE 22/06/21	OFFICER SITE VISIT DATE Various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
16/505048/FULL	Conversion of front garden/land into off-road parking area and dropped kerb <i>Reason: 'The creation of the dropped kerb would result in the loss of the tree, which is worthy of retention and as a result would cause significant detrimental harm to the character and appearance of the street scene. This harm would be exacerbated through the creation of an extensive area of hardstanding across the frontage of two dwellings for vehicle parking that would result in a hardened form of development incongruous to the immediate locality. The proposal would be contrary to The National Planning Policy Framework 2012, The National Planning Practice Guidance 2014, Core Policy 5 of the Tunbridge Wells Borough Core Strategy 2010, and Policies EN1 and EN13 of the</i>	Refused	05/09/16

	<p><i>Tunbridge Wells Borough Local Plan 2006.</i></p> <p>Appeal dismissed 09/02/17 – tree ground dismissed by Inspector). PINS Appeal ref: APP/M2270/D/16/3163744</p>		
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Similar application at No.139 St Johns Road

20/00196/FULL	<p>Proposal: Dropped kerb crossover and off street parking to front of property</p> <p>Reason: <i>‘The removal of the front wall, plus the creation of the dropped kerb and front parking area along with the need to provide pedestrian visibility splays would cause significant and detrimental harm to the character and appearance of the street scene. This harm would be exacerbated through the creation of an extensive area of hardstanding across the frontage of the building for vehicle parking. In combination these factors would result in a hardened form of development incongruous to the immediate locality. The proposal would be contrary to The National Planning Policy Framework 2019, The National Planning Practice Guidance, Core Policy 5 of the Tunbridge Wells Borough Core Strategy 2010, and Policy EN1 of the Tunbridge Wells Borough Local Plan 2006.’</i></p> <p>Appeal dismissed 13/11/20 – refusal reason upheld). PINS Appeal ref: D/4001150</p>	Refused	16/03/20
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MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site comprises two residential dwellings - Nos. 131 and 133 St Johns Road. These are contained within two terraces of three-storey residential properties fronting St Johns Road (the A26). The two terraces number 119-141 (odds only). All are divided into flats except Nos 131 and 133.
- 1.02 Both Nos. 131 and 133 have a front garden each with a hedge forming the boundary between these two amenity spaces. The front boundary of both units comprises a low brick wall with a pedestrian access gate and path for each property.
- 1.03 This reflects the rest of the front gardens, which are typified by lawns, some limited hard landscaping, hedges, shrubs, individual pathways to the front doors and low front boundary brick walls. Refuse stores and bins are also visible and none have vehicular access to the road.
- 1.04 Two street trees are located on the pavement – one to the north of No.133, the other outside No.129. There is an area of on-street parking (in the form of marked bays) directly in front of the two terraces that can accommodate up to seven cars (depending on car size and spacing), excluding the area occupied by a bus stop outside Nos 123 – 127 and double yellow lines at the junction with Southfield and Beltring Roads.

2.0 PROPOSAL

- 2.01 Proposed works to the front gardens of 131 and 133 St Johns Road include a new entrance crossover with dropped kerb, block paved drive, pathway to each property's front door, grass area and a 5.5m diameter turntable (intended to allow a vehicle to enter and exit the driveway in a forward gear) finished with artificial grass. Each driveway will accommodate 1 no. vehicle. No works are proposed to change the built form of the properties themselves.
- 2.02 Sections of the existing brick walls to the frontage of both properties are to be demolished to allow room for a vehicle into either driveway. The length of wall on the frontage (between the pillars) measures 12.7m, and a 4.5m gap in the centre is shown to be created. The crossover would be constructed of bound tarmac. New boundary planting and hedging is proposed to the periphery of each driveway, with the central hedge between the two dwellings partly retained. It is not proposed to remove or carry out any works to the existing trees on the pavement outside the properties.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area	587m ²	587 m ²	None
Car parking spaces (off-street)	0 (space for approximately 2 cars on the road in front of Nos 131-133)	2 (one for each dwelling)	+2 (and loss of approximately 2 on-street parking spaces in front of Nos 131-133)
Vehicle access gap	None (12.7m length frontage)	4.5m (8m gap proposed in refused 2016 application)	+4.5 – 8m gap (given KCC Highways consider 4.5m to be insufficiently wide)

4.0 PLANNING CONSTRAINTS

- Air Quality Management Area
- Limits to built development - Inside
- Potentially Contaminated Land + 50M Buffer

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) 2021
National Planning Practice Guidance (NPPG)

Site Allocations DPD (July 2016)

Policy AL/STR 1: Limits to Built Development

Tunbridge Wells Borough Local Plan 2006

Policy EN1: Development Control Criteria

Policy TP4: Access to Road Network

Policy TP5: Vehicle Parking Standards

Tunbridge Wells Borough Core Strategy 2010

Core Policy 4: Environment

Core Policy 5: Sustainable Design and Construction

Core Policy 9: Tunbridge Wells

Supplementary Planning Documents:
Landscape Character Area Assessment 2017

Other documents:

Kent Design Guide Review: Interim Guidance Note 3 (Residential parking);
Local Cycling and Walking Infrastructure Plan: Phase 2 (March 2021);
KCC Supplementary Planning Guidance SPG 4 (Kent Vehicle Parking Standards)

The draft new local plan has not progressed to the point where it can be given any more than limited weight.

6.0 LOCAL REPRESENTATIONS

- 6.01 One site notice was displayed on 20 May 2021. No comments have been received in response.

7.0 CONSULTATIONS

KCC Highways

- 7.01 **(30/06/21)** - With regard to the application at 139 St Johns Road, the presence of the double yellow lines have a number of advantages. They will provide improved visibility and also provide additional manoeuvring space such as space for a vehicle to pull out of the main flow of traffic and wait before carrying out a manoeuvre to reverse into the site.

- 7.02 In contrast manoeuvring on and off the parking area at this current site is more difficult and hence more hazardous as it will take place between parked vehicles which obscure visibility and make the manoeuvre itself more difficult for example in order to reverse onto the site vehicles are likely to have to stop within the main traffic flow – which is clearly hazardous. Similarly reversing into the main flow is more hazardous than entering in a forward gear.

- 7.03 The earlier application at this site provided an area across the whole frontage of the two units to accommodate on site turning with a wide crossover (10.8m) and access (5.0m) into the site. This current application 21/01389 has always promoted the turntable as a means of providing on site turning but as previously discussed the latter is not an acceptable solution to the highway authority. As noted in earlier comments this is due to ongoing issues of maintenance and likely usage in the long term.

- 7.04 As set out under TW/20/00196, applications for off street parking along the A26 require careful consideration:

'St Johns Road is the A26 which is identified as a primary distributor route and the removal of on street parking would bring benefit (to) the strategic route and cyclists in particular. However the highway authority would in general expect on site turning to be provided.'

However whilst the properties to the north of the site in general have on site turning, at the parade of shops to the south, vehicles are unable to turn within these sites

Also, the application site has the benefit of its proximity to the DYL which will afford some kerb space for the vehicle waiting to manoeuvre. Therefore, on balance I would not anticipate sustaining an objection in these terms alone.'

- 7.05 With this current application, to date the highway authority has requested swept path analysis to demonstrate how vehicles will manoeuvre on and off the highway and into the proposed parking spaces without the use of the turntable. It is evident that efforts to minimise the impact of the parking areas and crossover on the street scene, have resulted in very confined and possibly unworkable arrangements, and KCC consider that in practice a wider crossover and access will be required, which would again raise issues of the impact on the tree, as well as the street scene etc.
- 7.06 Any revised plans should also provide details of clearance from the lamp column as a minimum of 1.5m is also required.
- 7.07 **(22/06/21)** - As previously advised the highway authority cannot accept a solution requiring a turntable and this view has been supported at appeal. Therefore, any arrangement must demonstrate that it is safe and workable without relying on the turntable.
- 7.08 The application should therefore demonstrate through swept path analysis how vehicles will manoeuvre on and off the highway and into the parking spaces. The parking spaces should also be dimensioned with minimum dimensions of 2.5m x 5.0m and be surfaced in a bound material (not grass) and drained within the curtilage of the site. It is possible that the crossover will require additional width in order to serve both sites.
- 7.09 In addition the proposals show a clearance of only 2.565m from the tree - KCC's Arboricultural Officer has advised that distances of 4.5m/4.98m are required. Separate consent of the highway authority will be required for any works to the highway and it would therefore appear that this would not be forthcoming due to the impact on the highway tree.
- 7.10 **(08/06/21)** - This application follows an earlier appeal (16/505048) which was dismissed on planning grounds.
- 7.11 Note from a recent email exchange that the case officer has already queried the layout with the applicant and KCC can advise that the crossover would require standard KCC construction over the whole width of the footway and at an appropriate length so that the footway is strengthened over the whole of the area vehicles are likely to pass. As a result the works to the footway would not be limited to the small area identified as 'new crossover' on plan PD-02. It would also require standard tarmac construction as with all others in the brick footways of TWBC.
- 7.12 As a wider crossover would be required this again raises the issue of the impact on the highway tree and again KCC's Arboriculturalist (Aubrey.Ferner@kent.gov.uk) should be consulted. Note that TWBC were to request further additional information regarding the impact on the tree but as yet there are no further details on the web site. Will copy these comments to the KCC Tree Officer and ask him to respond directly to you.
- 7.13 Turntables are not generally acceptable to the highway authority or supported by the Planning Inspectorate due to ongoing issues of maintenance and likely usage in the long term. It is also considered unlikely that the total clearance shown would accommodate a family car.

KCC Tree Officer

7.14 **(25/06/21)** - have read through the Arboricultural Technical Note and comments/observations are as follows:

- 1) They advise that *'during the site visit an assessment of the tree was undertaken with measurements recorded following the guidance provided within British Standard 5837 2021 – tree in relation to Design, Demolition and Construction'*.

However, nowhere in the document do they provide the calculation for the Root Protection Area of the tree. This British Standard states that the RPA should be calculated as an area equivalent to a circle with a radius 12 times the stem diameter.

Taking the stem diameter measurement in the Arboricultural Technical Note (450mm), the RPA would be $450\text{mm} \times 12 = 5400\text{mm}$ or 5.4 metres. This 5.4 metre radius should be measured from the base of the main stem. No construction should occur within the RPA.

KCC's *Vehicle Crossing:- Guidance and Self-Assessment* document also contains the same information about calculating the RPA of a tree as it is based on BS5837:2012.

- 2) They advise that there is evidence of pavement displacement to the north which is most likely caused by radial expansion of a root which in their view poses a trip hazard.

However, this assessment has not used the criteria that Kent County Council uses to see whether or not intervention criteria is being met.

- 3) They advise that the installation of utility services (in this case water) within the rooting zone of T1 is likely to have involved the severance of tree roots, but they have no proof that this has occurred especially if the water company had undertaken works in compliance with the National Joint Utilities Group (NJUG) publication.
- 4) The Arboricultural Technical note seems to justify the installation of the crossover by using examples of previous crossover installations. However, we do not know when these other crossovers were installed as Kent County Councils criteria may have changed in the intervening years to take into consideration of the information contained in British Standard BS5837:2012.
- 5) In the discussion section, it states that *'No distortion of the pavement or kerb stones was observed that could be attributed to roots'*. They also advise that *'the removal of the existing kerb stones and replacement/repositioning is unlikely to have any major impact on the root system of T1'*.

This is likely to be an assumption that roots do not exist beneath the footpath surface for which they have not provided any evidence. It is my opinion, that tree roots will exist under the pavement surface, and these are likely to be severed during the construction of the crossover.

- 6) The construction of the crossover needs to comply with the standards that Kent County Council Highways have in place. The planning applicant will have to apply to Kent County Council Highways for a crossover irrespective of the planning decision made by Tunbridge Wells Borough Council (TWBC).

TWBC should advise the applicant that KCC Highways has a procedure for crossover applications, and it is KCC Highways that will either agree or refuse the crossover.

- 7.15 The applicant will have to apply to Kent County Council for the crossover consent as this is part of KCC Highways procedure. Attached below is the link to KCC's website concerning crossover applications:
https://www.kent.gov.uk/_data/assets/pdf_file/0004/27688/Vehicle-crossing-pre-application-guidance.pdf
- 7.16 **(08/06/21)** - can advise that the trees outside 129 and 133 St Johns Road, Tunbridge Wells are in good condition with no signs of ill health or major defects. They are also of high landscape and amenity value.
- 7.17 The construction of the new crossover would involve the excavation of the footpath surface as well as the removal of the soil/sub-soil. It is well known that tree roots occur in the first 600 to 900mm of soil and therefore any excavation beneath the crowns of the trees are likely to encounter tree roots. It is also well known that trees have lots of medium sized roots for anchorage rather than a tap root from which lateral roots grow. The protection of the root zone is therefore very important which is the reason for British Standard BS 5837:2012 Trees in relation to Design, Demolition and Construction.
- 7.18 Section 4.6 of BS5837:2012 is entitled 'Root Protection Area' (RPA) and states the 'For single stem trees, the RPA should be calculated as an area equivalent to a circle with a radius 12 times the stem diameter.
- 7.19 The diameters of single stem trees are measured at a height of 1.5 metres from ground level and are measured in millimetres (mm). Tree one which is situated outside number 129 St Johns Road has a stem diameter of 375mm whilst tree two which is located outside number 133 St Johns Road, Tunbridge has a stem diameter of 415mm. The calculation for the RPAs of the two trees are therefore as follows:
- a). Tree one - $375\text{mm} \times 12 = 4,500\text{mm}$ or 4.5 metres radius
 - b). Tree two - $415\text{mm} \times 12 = 4,980\text{mm}$ or 4.98 metres radius
- 7.20 No construction should therefore take place within a 4.5 metres radius from the stem of tree one or a 4.98 metre radius from the stem of tree two.
- 7.21 Also draw attention to Kent County Councils Vehicle Crossing:- Guidance and Self-Assessment document which can be found on our website. Link attached below for reference:
https://www.kent.gov.uk/_data/assets/pdf_file/0004/27688/Vehicle-crossing-pre-application-guidance.pdf
- 7.22 Please be aware that KCC's *Vehicle Crossing:- Guidance and Self-Assessment* document also contains the same information about calculating the RPA of a tree.
- Mid Kent Environmental Protection**
- 7.23 **(10/06/21)** - Based on information from the contaminated land & historic maps databases there is an indication of potential land contamination some 140m to the North-West, and some 50m to the South-East, but these are unlikely to impact this planning proposal. RECOMMENDATIONS: No objections.

8.0 APPLICANT'S SUPPORTING COMMENTS (summary at 4.0 of Design & Access Statement)

- 8.01 The overall visual appeal and built form on the site will not change. The amount of green landscaping compared to hardstanding has been carefully considered so as to not add any more hardstanding than is absolutely necessary to provide the driveways needed.
- 8.02 We conclude that the proposal will not have a greater impact on the character and visual amenity of the local area and street scene.
- 8.03 The proposals will make good use of the already existing front gardens which are large enough for vehicle parking, as opposed to other properties in the terrace whereby the gardens are simply used for waste bins and not necessarily well kept. It is clear that there is an increase in the amount of bins present to the flatted properties.
- 8.04 The proposal seeks to provide much needed parking for the two properties whilst making the absolute minimum amount of changes needed to achieve this, so as not to harm the character and visual amenity of the area.
- 8.05 The proposed drop kerb was previously found to be acceptable to the Appeal Inspector who stated that the kerb could be formed with no medium to long term effect on the health of T1

9.0 BACKGROUND PAPERS AND PLANS

- 9.01 7248-PD-01 Rev A
7248-PD-02
7248-PD-03 Rev A
Arboricultural Technical Note
Design & Access Statement

10.0 APPRAISAL

- 10.01 The main issues are therefore considered to be:

- Impact on visual amenity and the character and appearance of the streetscene;
- Highway safety

Procedural matter

- 10.02 A separate, additional application is required to be made to KCC Highways to construct a new vehicular crossover across the pavement. This is because it forms part of the public highway and is KCC property. Landowners wishing to gain access to their properties from the public highway are required to apply for a licence to drop the kerb from KCC. This is a process over which TWBC has no control or jurisdiction; it is entirely separate from a planning application to be determined under the Town and Country Planning Act 1990 (as amended).
- 10.03 The outcome of this 'licence' application is that KCC Highways will either agree or refuse a licence for the crossover. KCC can refuse a crossover application even if planning permission for the work has been granted by TWBC. KCC's decision as to whether that licence application will be approved or refused is final.

Impact on visual amenity and the character and appearance of the streetscene

- 10.04 The inspectors in the 2017 appeal at this site ('the 2017 appeal' – **Appendix 1**) and the 2020 appeal close by at No.139 ('the 2020 appeal' – **Appendix 2**) are both relevant material considerations that should be given significant weight in the determination of this application. Within the decisions the following descriptions about the current character and appearance of the terraces and the surrounds are included;

The 2017 appeal

5. As regards the change of the front gardens to a parking area, I saw on my visit that the two terraces of three storey buildings on this side of St Johns Road between Beltring Road and Southfield Road are a locally distinctive feature in the street scene. There is considerable symmetry between the individual buildings and together the terraces establish a strong rhythm of development. Whilst these factors are in themselves important to the character and appearance of the area, I consider the presence of the front gardens with their lawns, hedges, shrubs, individual pathways to the front doors and low front boundary brick walls is also significant to the visual amenity of the area.

6. A number of the properties have been divided into flats, as evidenced by the proliferation of satellite dishes and refuse collection bins, but overall the terraces have retained their traditional character. In my view this provides a pleasing contrast with the overtly commercial frontages to the south of Beltring Road.

The 2020 appeal

4. St Johns Road is characterised by dwellings facing the road across a treelined pedestrian footway and cycle route, including the properties that form an extended three-storey terrace that is located between Beltring Road and Southfield Road. The Edwardian style terrace contains the appeal property, Flat A, 139 St Johns Road, which is located behind a low wall and hoop top rail fence with a landscaped setback and pathway, that is similar in design and type to the remaining terrace on either side.

8. Indeed, the terrace with its garden style frontage provides a sense of rhythm and balance along this traditional style section of St Johns Road...

9..... the character and appearance of the immediate area [which] is typified by a continuous terrace of older style dwellings with front gardens, soft-landscaping and traditional low-key front boundary treatments.

- 10.05 In the intervening time since those decisions, the character and appearance of the terraces themselves have not materially changed. Both remain valid descriptions of the application site and the terraces of dwellings. Whilst the 2020 appeal refers to a different address, 139 is very similar to Nos 131-133 in its character and appearance and is within the same terrace.

- 10.06 In summarising the effects of the proposed off-road parking areas on the character and appearance of the streetscene of the two previous proposals, the Inspectors stated the following;

The 2017 Appeal

7. The introduction of frontage parking to the front of Nos. 131 and 133 would have a harmful effect on this part of St Johns Road, not only through the loss of gardens and front boundary walls but also the appearance of the cars within the relatively limited

frontage widths and depths. Furthermore, if I were to allow this appeal the Council could not reasonably refuse permission for the other properties in the terraces. Given the convenience of off road parking to the occupiers, I would expect considerable pressure for such permissions and the cumulative effect would significantly increase the harm caused.

9. ...a permission for just two adjoining properties in this case would be harmfully incongruous to the character and appearance of the western side of St Johns Road between Beltring Road and Southfield Road. It would weaken the pleasing local distinctiveness of the terraces.

10. Despite the likely retention of the pavement tree this would be in conflict with Policy EN1 of the Tunbridge Wells Borough Local Plan 2006; item 7 of Core Policy 5 of the Tunbridge Wells Borough Core Strategy 2010, and Government policy in the National Planning Policy Framework 2012.

The 2020 Appeal

7. While the submitted drawings show that the development would be possible, and notwithstanding that there are limited concerns for the effect of the proposal on highway safety or the living conditions of the neighbouring occupiers, the proposal would nevertheless be incongruous with the immediate surrounding area, which is typified by a range of landscaped front gardens bounded by low walls and hedges, which in tandem with the verdant qualities of the surrounding trees, help to soften and break down the hard lines of the built environment.

8. Indeed, the terrace with its garden style frontage provides a sense of rhythm and balance along this traditional style section of St Johns Road. Moreover, notwithstanding any materials used, the established pattern of the terrace would be eroded by the introduction of a relatively stark and open-style car parking space to the front of the dwelling, which in combination with the dropped kerb and width of the crossover would serve to emphasise the vertical elevation and hard lines of the appeal property.

9. Nonetheless, the Appellant contends that the proposal with its dedicated bin storage area and enhanced bedding section to the rear would be to the betterment of the surrounding area. To the contrary, in this specific location the proposal would be overly prominent and at odds with the character and appearance of the immediate area which is typified by a continuous terrace of older style dwellings with front gardens, soft-landscaping and traditional low-key front boundary treatments.

13. My attention has been drawn to a similar proposal [the 2017 appeal scheme] related to the dwellings of 131-133 St Johns Road. However, notwithstanding the modest scale and extent of the proposal before me, the submitted evidence only serves to reinforce my opinion. Indeed, I concur that development of the appeal site would be likely to lead to similar permissions along the terrace, and hence further erode the character and appearance of the immediate area.

- 10.07 This latest proposal would still result in a loss of front gardens and front boundary walls, plus add the appearance of the cars within the relatively limited frontage widths and depths of the dwellings. These are all effects the Inspectors described as harmful. Whilst the loss of landscaping and walls are proposed to be less than with the other appeal schemes, it would still be sufficient to harm the character of the streetscene. It would also lead the removal of the brick pavements and addition of a

tarmac crossover where one does not currently exist along this locally distinctive terrace, adding to the incongruity of the development.

- 10.08 For reasons detailed further in the highway safety section below, it is also noted that KCC Highways consider the 4.5 gap in the front wall insufficiently wide to allow vehicles to pass through and that no vehicle tracking details have been provided by the architect. The TWBC case officer requested these details on 30 June 2021, but no reply was received from the architect. If the plans were adjusted to allow for a sufficiently wide space it would not only add to the harm, but also result in a proposal that is even more like that dismissed on appeal in 2017 (which proposed an 8m gap).
- 10.09 Whilst artificial grass and landscaping is proposed to be retained/added, long term controls over these features are very limited. In Officers' experience, the standard landscaping condition is only deemed reasonable by Inspectors for a five year period. Artificial grass would not be supported by KCC on highway safety grounds either – as with other forms of loose surfacing such as gravel or pea shingle that they do not support in this type of road environment, it lacks permanency and there is a risk it would be torn from the ground and end up on the highway. The rest of the development – loss of walls, hard surfacing etc - would be a permanent change to the site.
- 10.10 Over time this visual impact would spread harm to the rest of the terraces, as both previous Inspectors considered that future comparable applications would be difficult to resist and lead to a long-term deterioration in the visual amenity of the area. It is however accepted that it is very unlikely off road parking would be permitted along part of the southern terrace where it conflicts with the safe use of the bus stop by pedestrians and public service vehicles.
- 10.11 Reference has been made to the new Henrietta Court development of six dwellings opposite, plus other crossovers elsewhere in St Johns Road. This was addressed in the 2020 appeal;

10. I noted at my site visit that there are properties nearby that have parking spaces to the front, including Henrietta Court. However, where these spaces exist, they are associated with detached, semi-detached or commercial properties that are located on a different section or side of the highway to the appeal dwelling. As such, these properties are typified by a different suburban character or building use. Indeed, many of these residential properties have larger forward spaces available to them in comparison to the appeal site, with the opportunity to shield a parking area behind hedges and other landscaping.

- 10.12 The same comparison is valid between Nos 131/133 and the Henrietta Court development; whilst landscaping is intended to play a greater part in this proposal than either of the appeal schemes, it is not considered that it is sufficiently meaningful to mitigate the harm arising from the development (as outlined earlier). References have also been made to the off-road parking in front of the retail units to the south of the application site - this is a historic arrangement that has been in place for many decades and pre-dates modern highway safety requirements.

Street trees

- 10.13 The Inspector in the 2017 appeal dismissed the part of the refusal reason relating to the tree (the tree north of 133);

4. In respect of the tree, I accept the evidence of the appellants' arboricultural assessment report that by careful adherence to the guidance in BS 5837 the

proposal could be implemented without any medium to long term adverse effects on its health and therefore longer term retention.

- 10.14 The trees are an integral part of the character of the area, as street trees have a strong presence of this part of St Johns Road. Since the 2017 appeal the trees and their root systems will have grown further.
- 10.15 The KCC Tree Officer has identified several shortcomings in the arboricultural document submitted with the application and refers to impacts on both street trees near the site, not just the northernmost one. Mindful of the Inspector's dismissal of the tree reason in 2017, the matter will still form part of the refusal reason but on 'insufficient information' grounds. This is particularly relevant given KCC Highways indicate the crossover will probably need to be widened further than what is shown on the plans – this has not been accounted for by the applicants' arboriculturalist, nor (in light of this) has the potential impact of a wider crossover upon the second street tree outside No.129 been considered.

Summary of design and visual impact matters

- 10.16 NPPF Para 130 emphasises that developments must function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Developments should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 10.17 NPPF Para 131 states that 'Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change'. Existing trees should be retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that solutions are found that are compatible with highways standards and the needs of different users.
- 10.18 NPPF Para 134 states '*Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design..*'. LP Policy EN1 (3) requires that the design of proposals, encompassing scale, layout, external appearance, materials and landscaping, would respect the context of the site; (4) requires that the proposal would not result in the loss of significant buildings, related spaces, trees, shrubs, hedges, or other features important to the character of the built up area.
- 10.19 As such, notwithstanding the differences between this and the 2017 appeal scheme, the proposal is still considered harmful to the character and appearance of the area and this matter will form recommended refusal reason 1. This would be the case even if no harm were to be caused to the long term health of the street trees: the Inspector dismissed the 2017 appeal on character and appearance grounds despite finding no harm to the long term health of the trees.

Highway safety

- 10.20 Neither of the two refusals that lead to the 2017 and 2020 appeals were based on highway safety grounds. KCC's comments on those applications were as follows;

2017 Appeal scheme (KCC Highways comments of 10/08/16);

'From a highway planning viewpoint, the proposal creates off street parking and also on site turning by removing the boundary hedge between the two plots although the

area will only accommodate 3 vehicles rather than the 4-6 assumed in the application. Users will be required to exercise caution due to the presence of parked vehicles and high pedestrian flows at times but on balance I would not seek to raise objections. The proposals will help to remove parked vehicles from the cycle lane.

I would recommend that the boundary wall along the whole frontage is reduced in height to 0.6m to ensure good pedestrian visibility and this may be dealt with by condition. Please also add conditions to ensure that the hardstanding is surfaced in a bound material and the driveway drains within the curtilage of the site and not over the highway and no gates to be erected.'

10.21 The Inspector summarised thus;

9. I fully recognise that increased off road parking provision in this area would have advantages, including reducing parking pressure on the roads, increasing the capacity of St John's Road and the removal of parked vehicles from the cycling lane. It may well be that at some point the Council takes the view that these advantages outweigh the harm that it has identified in the Notice of Refusal and the officer's report. However, a permission for just two adjoining properties in this case would be harmfully incongruous to the character and appearance of the western side of St Johns Road between Beltring Road and Southfield Road. It would weaken the pleasing local distinctiveness of the terraces.

2020 Appeal scheme (KCC Highways comments of 03/03/20)

This application requires careful consideration.

St Johns Road is the A26 which is identified as a primary distributor route and the removal of on street parking would bring benefit the strategic route and cyclists in particular. However the highway authority would in general expect on site turning to be provided.

However whilst the properties to the north of the site in general have on site turning, at the parade of shops to the south, vehicles are unable to turn within these sites . Also the application site has the benefit of its proximity to the DYL [double yellow line] which will afford some kerb space for the vehicle waiting to manoeuvre. Therefore on balance I would not anticipate sustaining an objection in these terms alone.

However the area should be surfaced in a bound material and drained within the curtilage of the site. Any loose material is not acceptable as it will spread to the highway and grasscrete is not suitable for all weathers and can also lead to the spread of mud to the highway. The plans should also demonstrate pedestrian visibility splays as pedestrian flows are high and this will require an alternative position for the vehicle and arrangement for the bins. No gates should be erected.

10.22 Highway safety was not discussed in the 2020 appeal decision, as it was not a matter on which the application was refused.

10.23 KCC Highways do not support the application on highway safety grounds. The A26 is a busy road and pedestrian environment at this point, the latter particularly during school times when large numbers of school pupils (mainly from the nearby Skinners and TWGGS schools) congregate on the pavement outside these terraces.

10.24 Vehicles reversing on to the highway is particularly difficult here; there are parked cars either side of the access point which restrict visibility in both directions. The applicants' own D&A statement confirms this;

'3.23 We also deduce the fact that any vehicles parked on these properties driveways would indeed be largely screened from view by other parked cars along the road and additional boundary planting along the front walls.'

- 10.25 In the 2020 appeal decision at No.139, visibility northbound could be achieved because there are double yellow lines precluding parking at the junction of Southfield Road and St Johns Road, as is often the case at junctions of side and main roads.

Use of turntable

- 10.26 The principal issue arises from the limited area within the application site where the turntables are placed. If the turntable malfunctioned, or was simply not used, there is insufficient room to turn a car within the site so it can exit in forward gear. Thus car turntables are not generally acceptable to the highway authority or supported by the Planning Inspectorate in busy road environments due to ongoing issues of maintenance and likely usage in the long term. There is no guarantee that residents will use the turntable, nor that it will be maintained and replaced when required. For example, would the owner realistically abandon their car and walk to the bus if there were a power cut or if the mechanism froze in winter? Or, if they were in a hurry and the car was facing the house, whether it would be more expedient to simply reverse out without waiting for the turntable to rotate. Turntables may well be acceptable in environments where the access is not unduly constrained, the traffic is lighter and there is sufficient turning space on site without the need for the turntable.
- 10.27 Landowners/occupiers cannot be compelled by planning condition to use the turntable, as any such condition would be likely to fail the 'six tests' of planning conditions. In the same vein, landowners cannot be compelled by condition to use parking areas or refuse stores either – such facilities can only be required by condition to be provided and made available for use.
- 10.28 The agent has suggested a condition that requires details of a maintenance contract. Likewise a condition could require the turntable to be kept in working order. However unlike a structure or a low maintenance hard surface (which can just be built with little likelihood of future circumstances making it unavailable) the turntable is essentially a piece of machinery that will no doubt require regular maintenance/servicing by a professional plus has the potential to malfunction. Whilst the current owners may be willing to invest in and subsequently maintain the turntable, planning permission is granted in respect of the land. What is proposed here is permanent development. A future occupier who sees the turntable as unnecessary or is unwilling to use it can simply drive on and off the site – they cannot be prevented from doing so.
- 10.29 Similarly, if the turntable arrangement (including access path) is too small/restrictive it will simply not be used and future occupiers will then be likely to reverse out on the A26 to the detriment of highway safety (and cannot be stopped from doing so). Any arrangement must demonstrate that it is safe and workable without relying on the turntable. It may be that Inspectors and other Councils have permitted turntables elsewhere in the past, but these will have been in different road environments with their own features and attributes with different characteristics to the application site.
- 10.30 KCC Highways have detailed an appeal where an Inspector held that whilst a condition could be imposed requiring a turntable's installation, retention and maintenance; a condition requiring it to be used would be difficult to enforce and cannot be assured in perpetuity. As this would have been the only way of making the arrangement safe, the appeal was dismissed.

- 10.31 KCC thus require evidence that a car can turn on site without using the turntable (as per the second set of KCC Highway comments). This would not be possible within the constricted layout shown in the submitted drawings. If the layout were amended, the highway safety issue may well fall away.
- 10.32 KCC Highways describe the layout (which has been designed in this way to limit the visual impact of the development) as very confined and possibly unworkable (comments of 30 June). No swept path analysis (in which the route of a vehicle on to the parking area and back off again is plotted and overlaid on to the proposed development) has been provided. KCC consider it unlikely that the total clearance shown would accommodate a family car. The car size is relevant as the development is permanent - the size of the current occupier's car cannot be taken in to account. KCC and TWBC use standard parking bay sizes in the determination of planning applications (minimum dimensions of 2.5m x 5.0m). The diameter is 5.5m which may exclude some larger family cars or a works van owned by the occupier.
- 10.33 KCC also advise that it is possible that the proposed 4.5m crossover will require additional width to serve both sites, which would require further sections of wall to be removed. As detailed earlier, this undermines the claim that the scheme would be less visually harmful than the 2017 appeal scheme because only limited sections of wall need to be removed. That dismissed scheme proposed an 8m gap in the wall.
- 10.34 It is not the case that there is an overriding necessity for the development nor is it intended to improve an existing driveway with poor space for manoeuvrability (and therefore providing tangible wider highway safety benefits). There would also be a loss of general on-street parking. There is no guarantee that the vehicles parked outside the application site all belong to the occupants of the two terraces. No wider public benefits would thus arise from the proposal (as set out below).
- Argued benefits for cyclists*
- 10.35 The removal of cars parked at the roadside has been cited as a benefit of the proposal. The on-street parking area is currently an issue for cyclists because they present one of only two interruptions to the cycle lane running between Tunbridge Wells and Southborough (the other being opposite Pennington Road in Southborough). Cyclists heading north must pull out from the dedicated cycle lane into the north-bound traffic outside the two terraces to avoid these parked vehicles on the roadside.
- 10.36 It is recognised that this short section of road (plus the areas in the immediate vicinity around Southfield Road, Beltring Road and Whitefield Road) is prone to parking saturation, although from Officer observations there is normally some, albeit limited availability for parking at all times of the day in those streets.
- 10.37 NPPF Para 112 states that applications for development should give priority first to pedestrian and cycle movements; create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles; and be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 10.38 The proposal would only result in the removal of parked cars directly outside Nos.131/133. The other on-street parking bays would remain, as would the bus stop at No.125 (which is heavily used throughout the day as many bus services, including school buses, run along St Johns Road). Whilst both previous Inspectors have identified a potential for precedent for further similar development within the terraces, there is no guarantee that all the properties fronting the parking bay will at some point

convert the front gardens to off-road parking in the near future; plus planning permission and the necessary KCC licences would need to be gained.

- 10.39 Neither can the planning system guarantee that (even if the parking bays are lost through the properties being granted planning permission for crossovers) double-yellow lines or a dedicated cycle lane would be painted.
- 10.40 Therefore this 'windfall' scenario whereby the on-street spaces are removed by attrition (i.e. through ad-hoc, piecemeal successive planning applications that gradually eliminate the on-street parking spaces) is unlikely to result in an improvement for cyclists in the area. Thus there would be no wider public benefit from this proposal, only a private benefit for the owners of Nos. 131-133. The only mild gain would be from two EV charging points, but again these would only be for private use
- 10.41 The more likely scenario is that TWBC and KCC would need to remove the parking bays and paint double yellow lines outside the two terraces comprising nos. 119 – 141 St Johns Road, or extend the cycle lane. This would not be facilitated by the planning system / legislation but by other means such as a Traffic Regulation Order (TRO). A TRO would be the most appropriate manner of addressing additional on-street parking pressure elsewhere through displacement of parking outside the application site, rather than through an ad-hoc or piecemeal approach to permitting off-road parking between Nos. 119-141 St Johns Road. The Inspector in the 2017 appeal alluded to this when they referred to separate future work by the Council to address parking in this spot.
- 10.42 It may be a source of frustration that the applicants cannot always park outside or close to their properties, however there is a difference between the inconvenience of high parking pressure to local residents and parking-related highway safety. Inspectors have, at appeal, traditionally only given weight to highway safety issues arising from parking. In previous appeals on this site, those benefits were not considered to outweigh the harm of the development.
- 10.43 As advised earlier, it would be difficult to directly attribute any parking or cycle-lane related safety benefit directly to this development, given the other on-street parking bays would remain in place either side of Nos 131/133. The Council clearly aspires to improve safety for cyclists on the A26 (as evidenced by the document *Local Cycling and Walking Infrastructure Plan: Phase 2* (March 2021) which forms part of the evidence base of the new Local Plan. However granting planning permission for this development in isolation will not realise those aims, which can be achieved through other means that sit outside the purview of the planning system.
- 10.44 As above, Inspectors have traditionally only given weight to concerns regarding highway safety. Additional private parking convenience for two dwellings is not considered to be a matter that would warrant a grant of permission of this application. In general terms (and unless there is a concern regarding highway safety), the provision of residents' parking schemes fall outside of the planning system, but for Members' information previous surveys conducted by Parking Services elsewhere in St Johns have not established an overriding desire by residents for a permit scheme.
- 10.45 The proposal has failed to demonstrate that it can provide safe and suitable access for all, nor that a safely located access with adequate visibility exists or could be created. It would thus be contrary to Paras 110 - 111 of the NPPF and TP4 (2) of the 2006 Local Plan.

Other issues

- 10.46 There would be no harm to residential amenity arising from the proposal and the land contamination matter is not a constraint on the development (as per comments from Mid Kent Environmental Services).

Summary

- 10.47 In summary, the proposal (including the installation of a turntable) is unacceptable based on impacts upon the character and appearance of the street scene and impacts upon highway safety. There are no tangible benefits to cyclists from the proposal and the only clear benefits are private 'user convenience' off-street parking benefits to Nos. 131/133 that do not (along with the provision of two private EV charging points within the garden) outweigh the identified harm.

11.0 RECOMMENDATION – Refuse for the following reasons:

- 1) The removal of the front wall, plus the creation of the front parking areas and tarmacked dropped kerb, plus the appearance of parked cars within the relatively limited frontage widths and depths of Nos. 131/133 along with the need to provide pedestrian visibility splays would cause significant and detrimental harm to the character and appearance of the street scene. In combination these factors would result in a hardened form of development incongruous to the immediate locality. In addition there is insufficient evidence that the proposed development could be successfully accommodated around the existing street trees outside the application site without harming their long term health. The proposal would be contrary to Part 12 of The National Planning Policy Framework 2021, The National Planning Practice Guidance, Core Policies 4 & 5 of the Tunbridge Wells Borough Core Strategy 2010, and Policy EN1 of the Tunbridge Wells Borough Local Plan 2006.
- 2) The application fails to demonstrate that safe and suitable access to the site can be achieved for all users. There are no wider highway safety (or other) benefits that would outweigh this harm. It is thereby in conflict with Part 9 of the National Planning Policy Framework 2021, and saved policy TP4 of the Tunbridge Wells Local Plan 2006.

INFORMATIVES

- (1) The plans taken into consideration in reaching the decision to refuse planning permission are:

7248-PD-01 Rev A
7248-PD-02
7248-PD-03 Rev A
Arboricultural Technical Note
Design & Access Statement

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.

Appendix 1: 2017 appeal decision for 131-133 St Johns Road

Appendix 2: 2020 appeal decision for 139 St Johns Road

Appeal Decision

Site visit made on 24 January 2017

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 February 2017

Appeal Ref: APP/M2270/D/16/3163744

131 & 133 St Johns Road, Tunbridge Wells, Kent TN4 9UG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Miss Julie Cons & Mrs Claire Godley against the decision of Tunbridge Wells Borough Council.
- The application, Ref. 16/505048/FULL, dated 2 June 2016, was refused by notice dated 4 September 2016.
- The development proposed is described on the appeal form as '*a change of ornamental garden features to the front of the properties to a shared dropped kerb to facilitate vehicle cross over at 131/133 St Johns Road TN4 9UG*'.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the street scene of St Johns Road.

Reasons

3. The Council's concern as to the effect of the proposal is twofold: the loss of a pavement tree in front of No. 133 and the loss of the front gardens to a hard surface. In both cases it is considered that the outcome would be a substantial loss of visual amenity to this part of St Johns Road.
4. In respect of the tree, I accept the evidence of the appellants' arboricultural assessment report that by careful adherence to the guidance in BS 5837 the proposal could be implemented without any medium to long term adverse effects on its health and therefore longer term retention. This is therefore an important point in favour of the appeal being allowed.
5. As regards the change of the front gardens to a parking area, I saw on my visit that the two terraces of three storey buildings on this side of St Johns Road between Beltring Road and Southfield Road are a locally distinctive feature in the street scene. There is considerable symmetry between the individual buildings and together the terraces establish a strong rhythm of development. Whilst these factors are in themselves important to the character and appearance of the area, I consider the presence of the front gardens with their lawns, hedges, shrubs, individual pathways to the front doors and low front boundary brick walls is also significant to the visual amenity of the area.

6. A number of the properties have been divided into flats, as evidenced by the proliferation of satellite dishes and refuse collection bins, but overall the terraces have retained their traditional character. In my view this provides a pleasing contrast with the overtly commercial frontages to the south of Beltring Road.
7. The introduction of frontage parking to the front of Nos. 131 and 133 would have a harmful effect on this part of St Johns Road, not only through the loss of gardens and front boundary walls but also the appearance of the cars within the relatively limited frontage widths and depths. Furthermore, if I were to allow this appeal the Council could not reasonably refuse permission for the other properties in the terraces. Given the convenience of off road parking to the occupiers, I would expect considerable pressure for such permissions and the cumulative effect would significantly increase the harm caused.
8. On the opposite side of the road and on both sides north of the junction with Southfield Road there is a more spacious and suburban character. Because of this difference I do not consider that comparisons with the appeal site and its neighbours as regards access and parking and its visual impact are particularly relevant.
9. I fully recognise that increased off road parking provision in this area would have advantages, including reducing parking pressure on the roads, increasing the capacity of St John's Road and the removal of parked vehicles from the cycling lane. It may well be that at some point the Council takes the view that these advantages outweigh the harm that it has identified in the Notice of Refusal and the officer's report. However, a permission for just two adjoining properties in this case would be harmfully incongruous to the character and appearance of the western side of St Johns Road between Beltring Road and Southfield Road. It would weaken the pleasing local distinctiveness of the terraces.
10. Despite the likely retention of the pavement tree this would be in conflict with Policy EN1 of the Tunbridge Wells Borough Local Plan 2006; item 7 of Core Policy 5 of the Tunbridge Wells Borough Core Strategy 2010, and Government policy in the National Planning Policy Framework 2012. I have noted the appellants' complaints that the Council has not dealt with the proposal in a timely, positive and proactive manner. However whilst this may be the case, I regard the officer's report as adequately appraising the advantages and drawbacks of the proposal and reaching a balanced and justified conclusion.
11. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR



Appeal Decision

Site visit made on 9 November 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2020

Appeal Ref: D/4001150

Flat A, 139 St Johns Road, Royal Tunbridge Wells TN4 9UG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs G Gallie against the decision of Tunbridge Wells Borough Council.
 - The application Ref 20/00196/FULL, dated 21 January 2020, was refused by notice dated 16 March 2020.
 - The development proposed is for a new dropped kerb crossover and off-street parking to front of property.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Tunbridge Wells Borough Council is in the process of preparing a new Local Plan. While 'Regulation 18' consultation for the Local Plan was concluded in November 2019, the remaining stages for the production of the new Local Plan has yet to be completed. Therefore, in their statement of case the Council has relied upon Policies contained within the Tunbridge Wells Borough Local Development Framework Core Strategy Development Plan Document 2010, (TWCS), the Tunbridge Wells Borough Local Plan 2006, (TWLP), the *National Planning Policy Framework* (the Framework) and the national *Planning Practice Guidance*. I have proceeded accordingly.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. St Johns Road is characterised by dwellings facing the road across a treelined pedestrian footway and cycle route, including the properties that form an extended three-storey terrace that is located between Beltring Road and Southfield Road. The Edwardian style terrace contains the appeal property, Flat A, 139 St Johns Road, which is located behind a low wall and hoop top rail fence with a landscaped setback and pathway, that is similar in design and type to the remaining terrace on either side.

5. On the opposite side of the highway, and to the right-hand side of No 139 when viewed from the road, a number of detached and semi-detached dwellings with parking courts to the front can be seen. In the other direction, as the main road runs towards the centre of Royal Tunbridge Wells, there are a number of small shops and commercial units some of which have parking spaces to the front. On-street parking is available in front of No 139 and within the side roads of Beltring Road and Southfield Road.
6. The proposal is for a dropped kerb crossover and the provision of one parking space in front of No 139. The development would require the relocation of a streetlight, the demolition of the front wall and rails to the appeal property and the construction of a shingle-type parking area on the existing landscaped and slate covered setback. There would be a bin storage area to the right-hand side of the parking space and landscaping to the rear. The existing access pathway to the appeal property access would remain.
7. While the submitted drawings show that the development would be possible, and notwithstanding that there are limited concerns for the effect of the proposal on highway safety or the living conditions of the neighbouring occupiers, the proposal would nevertheless be incongruous with the immediate surrounding area, which is typified by a range of landscaped front gardens bounded by low walls and hedges, which in tandem with the verdant qualities of the surrounding trees, help to soften and break down the hard lines of the built environment.
8. Indeed, the terrace with its garden style frontage provides a sense of rhythm and balance along this traditional style section of St Johns Road. Moreover, notwithstanding any materials used, the established pattern of the terrace would be eroded by the introduction of a relatively stark and open-style car parking space to the front of the dwelling, which in combination with the dropped kerb and width of the crossover would serve to emphasise the vertical elevation and hard lines of the appeal property.
9. Nonetheless, the Appellant contends that the proposal with its dedicated bin storage area and enhanced bedding section to the rear would be to the betterment of the surrounding area. To the contrary, in this specific location the proposal would be overly prominent and at odds with the character and appearance of the immediate area which is typified by a continuous terrace of older style dwellings with front gardens, soft-landscaping and traditional low-key front boundary treatments.
10. I noted at my site visit that there are properties nearby that have parking spaces to the front, including Henrietta Court. However, where these spaces exist, they are associated with detached, semi-detached or commercial properties that are located on a different section or side of the highway to the appeal dwelling. As such, these properties are typified by a different suburban character or building use. Indeed, many of these residential properties have larger forward spaces available to them in comparison to the appeal site, with the opportunity to shield a parking area behind hedges and other landscaping.
11. Therefore, I conclude given my reasoning above, that the proposal is contrary to Core Policy 5 of the TWCS and Policy EN1 of the TWLP, which say amongst other things, that proposals should not result in the loss of significant buildings, related spaces, trees, shrubs, hedges or other features important to the character of the built up area or landscape.

-
12. For similar reasons, the proposal does not meet the aims of Paragraph 127 (c) of the Framework which requires that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting.

Other Matters

13. My attention has been drawn to a similar proposal¹ related to the dwellings of 131-133 St Johns Road. However, notwithstanding the modest scale and extent of the proposal before me, the submitted evidence only serves to reinforce my opinion. Indeed, I concur that development of the appeal site would be likely to lead to similar permissions along the terrace, and hence further erode the character and appearance of the immediate area.
14. I acknowledge that the proposal could reduce some parking stress in the surrounding streets and roads. However, whether the development would provide an opportunity for an electric vehicle charging point or not, the effect of one additional parking space is likely to be limited and therefore, does not outweigh the harm I have found above.

Conclusions

15. For the reasons given above, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR

¹ APP/M2270/D/16/3163744

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REPORT SUMMARY

REFERENCE NO - 21/02019/FULL			
APPLICATION PROPOSAL Amalgamation of retail units and change of use to beauty salon / beauty training school (Sui Generis)			
ADDRESS 65 - 67 St Johns Road Royal Tunbridge Wells Kent TN4 9TT			
RECOMMENDATION to GRANT planning permission subject to conditions (please refer to section 11.0 of the report for full recommendation)			
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> • The proposal would be compatible with neighbouring residential uses; • The traffic movements generated by the development can be accommodated without detriment to highway safety; • The proposal would result in an alternative use of a modern vacant retail unit within a highly sustainable location and a defined Neighbourhood Centre; 			
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: 5 Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs: £73,216.00 The following are not considered to be material to the application: Estimated annual council tax benefit for Borough N/A Estimated annual council tax benefit total N/A Estimated annual business rates benefits for Borough N/A – the proposal relates to an existing retail unit			
REASON FOR REFERRAL TO COMMITTEE Tunbridge Wells Borough Council is the freehold landowner			
WARD Culverden	PARISH/TOWN COUNCIL N/A	APPLICANT Ms Jessica Butler AGENT Mr Adem Mehmet	
DECISION DUE DATE 16/08/21	PUBLICITY EXPIRY DATE 22/07/21	OFFICER SITE VISIT DATE 01/07/21	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No.	Proposal	Decision	Date
13/03030/REG3	Regulation 3 (TWBC) - Outline (all matters reserved): Construction of 3 new retail units and 5 new flats. Re-surfacing and improvement works to existing car park	Permitted	02/09/14
14/506666/REM	Application for approval of reserved matters (layout, scale, appearance, landscaping, and	Permitted	18/02/15

	access) following approval reference number 13/03030/REG3 - Regulation 3 (TWBC) - outline: Construction of 3 new retail units and 5 new flats. Re-surfacing and improvement works to existing car park. Seeking consent for matters referred to in conditions 1, 4, 7, 11, 16 and 17 of outline permission.		
15/510585/FULL	Construction of 3 new retail units and 5 new flats, resurfacing and improvement works to existing car park (amendments to scheme previously approved under planning reference 14/506666/REM).	Permitted	29/02/16
18/01493/FULL	Variation of Condition 6 (Air Quality Mitigation) of planning consent 15/510585/FULL (Construction of 3 new retail units and 5 new flats, resurfacing and improvement works to existing car park (amendments to scheme previously approved under planning reference 14/506666/REM)) - Replacement of approved Air Quality and Mitigation Statement to enable openable windows	Permitted	19/07/2018

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 This site consists of a three storey building with accommodation within the roof located on the western side of St Johns Road. This building was granted planning permission by application 15/510585/FULL and subsequently amended by application 18/01493/FULL. It filled a gap between nos. 63 and 71 St Johns Road that had formerly been part of John Street Car Park, which is currently located immediately to the rear of this site.
- 1.02 This building comprises 5 flats (4 two-bed and 1 three-bed unit), with two flats located on the each of the first floor and second floor levels and a flat at third floor level within the roof space. The ground floor consists of three separate retail units known as 65, 67 and 69 St Johns Road respectively. 69 St Johns Road is currently in use as an estate agent. The other two units 65 and 67 are currently vacant but were previously in use as a bathroom showroom - it would appear that these have been combined to form one larger unit.
- 1.03 The building itself is attached to the blank gable wall of No 63 St John's Road with a pedestrian access to the car park along the northern boundary adjacent to no. 71. John Street Car Park is accessed from John Street to the south of this site and provides parking for 67 vehicles. There is direct access to this building from this adjacent car park.

2.0 PROPOSAL

- 2.01 Planning permission 15/510585/FULL and the subsequent amended permission granted by 18/01493/FULL for the construction of the building on this site consisting

of 3 retail units and 5 flats was approved subject to the following conditions in relation to the use and size of the ground floor retail units.

The retail units hereby approved shall only be used for purposes falling within Class A1 (retail) and A2 (financial and professional service) and for no other purpose whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or as amended) or any Order revoking or re-enacting that Order.

Reason: In the interests of residential amenity and to ensure adequate odour and noise control measures are in place.

The three retail units hereby approved shall not be sub-divided or conjoined into one unit and no development whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or as amended) or any Order revoking and re-enacting that Order, that allows the alteration, extension of or change of use shall be carried out.

Reason: In the interests of highway safety and to protect the residential amenity of the locality.

- 2.02 This application specifically relates to the ground floor retail units at 65 & 67 St Johns Road and seeks consent for the amalgamation of these two retail units and change of use to a beauty salon/beauty training school. This is considered to be a Sui Generis use that does not fall within the use classes as stated in the above planning condition – hence planning permission is required for the use.
- 2.03 The proposed floor plans indicate that there will be four treatment rooms, one sunbed room, four manicure stations, four pedicure built in stations and a training school section that would accommodate six students at any one time. The proposed occupier is currently located in Camden Road (as a beauty salon only) and the additional space would enable the expansion of the business.
- 2.04 It is intended that this use will employ five full time staff and that the business will be open between 10am and 6pm Monday to Friday and 10am and 4pm on Saturdays and not at all on Sundays or Bank Holidays.
- 2.05 There are internal alterations proposed, including new partitions and stud walls, but there are no external changes proposed to the building.

2.0 SUMMARY INFORMATION

	Proposed
Use	Beauty Salon/Beauty Training School
Number of Staff	5 Full Time
Opening Hours	Monday – Friday: 10am – 6pm Saturday: 10am – 4pm

3.0 PLANNING CONSTRAINTS

- Inside Limits to Built Development
- Within the St Johns Neighbourhood Centre
- Air Quality Management Area (AQMA)
- Tunbridge Wells Central Access Zone (Residential)
- Tunbridge Wells Asset Register Land Registry Data - TWBC Ownership

- Potentially Contaminated Land
- Section 106 or 52 Agreement - 13/03030/REG3

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) 2021 National Planning Practice Guidance (NPPG)

Tunbridge Wells Borough Core Strategy 2010

Core Policy 3: Transport Infrastructure
Core Policy 4: Environment
Core Policy 7: Employment Provision
Core Policy 9: Development in Tunbridge Wells

Tunbridge Wells Borough Local Plan 2006

Policy EN1: Development Control criteria
Policy CR13: Retention of Community Facilities on Neighbourhood Centres or Villages
Policy TP4: Access to the Road Network

Site Allocations Local Plan 2016

Policy AL/STR 1: Limits to Built Development
Policy AL/RTW 23: John Street Car Park
Policy AL/RTW 29: Neighbourhood Centres

6.0 LOCAL REPRESENTATIONS

- 6.01 Site Notices were displayed on St Johns Road and within John Street Car Park on 1 July 2021. No comments have been received in response to this consultation.

7.0 CONSULTATIONS

KCC Highways

- 7.01 **(16/07/21)**: The condition attached to the previous planning permission for this development was to avoid amalgamation of the units with a view to avoid a single occupier which may generate a heavy servicing demand including large vehicles which cannot be accommodated in the rear car park and cannot be tolerated on the A26 corridor .
- 7.02 Details of the typical servicing demand in terms of numbers, sizes and frequency of vehicles that will serve the site for this proposed use is required.
- 7.03 If this demand can continue to be accommodated successfully to the rear, then no objection to these proposals is likely to be raised subject to agreeing a mechanism that would ensure that the condition remains in force for future occupiers i.e. to ensure that the condition is not permanently removed. If this is not feasible then the highway authority cannot support the proposal and would recommend refusal.
- 7.04 **(21/07/21 – verbal)**: Further information submitted in relation to the servicing of this specific use and it is likely to have limited impact on the highway network (A26). No objections are raised to this proposal but would have concerns if another user, for example a supermarket or convenience store, that could potentially have much greater delivery and traffic demands that would significantly impact the A26 and highway network. A condition that limits the use to that being proposed so that any change of use in the future will require planning permission would overcome these

concerns as there will be an opportunity to adequately assess any alternative use in terms of highway demands etc.

Environmental Protection

- 7.05 **(27/07/21)**: The site is in an urban area, but traffic noise is unlikely to be significant. Noted that the site is within the Tunbridge Wells Air Quality Management Area but it is not considered that the scale of this development and/or its site position warrants either an air quality assessment or an Air Quality Emissions Reduction condition applied to it.
- 7.06 There is no indication of land contamination based on information from the contaminated land database & historic maps databases.
- 7.07 The application form states that foul sewage will be dealt with via mains system; and there are no known Private Water Supplies in the vicinity.
- 7.08 No objection, subject to comments above and one condition (noise rating) plus informatives (Code of Development Practice, Noise and vibration transmission, asbestos).

8.0 APPLICANT'S SUPPORTING COMMENTS

- 8.01 A Planning Statement has been submitted and this concludes:

The current vacant nature of the unit does no good to anyone, and indeed, has a detrimental effect on the vitality of the neighbourhood centre. The proposal to change the use of the units would enable a local business to expand and flourish, whilst bringing in considerable investment to the area and creating new jobs. It is considered that the development accords with the aims and objectives of policy CR13 of the SALP, with no other planning harm identified in respect of retail impact or parking and highways. There are clear identified positive benefits associated with this use, and it is therefore requested that planning permission is granted.

9.0 BACKGROUND PAPERS AND PLANS

- 9.01 Planning Statement dated 10/06/21
Site Location Plan
PD/001/01 Proposed Floor Plans
PD/001/02 Existing Floor Plans
PD/001/03 Block and Site Plan
Delivery/servicing Information received by e-mail dated 19/07/21

10.0 APPRAISAL

Principle of Development

- 10.01 This property lies within the Limits to Built Development and within the St Johns Neighbourhood Centre. It is also within an established area that is characterised by commercial and retail uses along with residential properties, typically in the upper floors above retail units.
- 10.02 Core Policy 7 of the Core Strategy seeks to retain the level of commercial units within the borough that are located to main roads and public transport networks and are capable of providing good quality modern accommodation to meet a range of employment uses to support the local economy. Policy CR13 of the Local Plan (reinforced by Policy AL/RTW 30 of the 2016 Site Allocations Local Plan) seeks to retain community facilities within neighbourhood centres in order to preserve the

vitality, viability and sustainability of the area and to ensure that local services and facilities that serve the everyday needs of the local residents are preserved. In the context of Policy CR13, a community facility includes retail/shop uses.

- 10.03 The planning permission for the redevelopment of this site restricts the ground floor commercial uses to former Class A1 (Retail) and A2 (financial and professional service) which now both fall within the new Class E as set out by the 2020 amendment to the Use Classes Order. The previous use as a bathroom showroom would have been considered a retail use. Whilst this proposal for a mixed use (including a beauty salon and beauty school) would not be considered to fall within Class A1 (retail) it would retain an active shopfront and the beauty salon is a use that is found on many high streets. It is considered that this use would provide a local service and would ensure that a vacant unit is brought back to use.
- 10.04 In this instance, it is considered that this proposal would meet the aims of Policy CR13. It would increase the variety of uses in this area and preserve the vitality and viability of this Neighbourhood Centre. There is nothing to prevent the unit reverting to a more traditional retail or financial/professional use in the future. In addition it is a highly sustainable location, with frequent bus services to Tonbridge, Tunbridge Wells town centre and Maidstone running along St Johns Road.
- 10.05 In terms of the proposed amalgamation to create a single larger unit, this incorporates internal alterations only and would not have amounted to 'development' requiring planning permission, had the condition that restricted the amalgamation of these units not been attached to the previous planning permissions.
- 10.06 It is considered that this proposal could be considered acceptable in principle subject to all material planning considerations being satisfactorily addressed. Therefore, the key issues in the case of this proposal are the impact that this proposal has on:
- Visual impact
 - Residential amenities
 - Highway safety
 - Environmental issues

Visual impact

- 10.07 There are no external alterations proposed to this building and it is intended that the existing shopfronts and openings will be retained as existing. The proposal would retain an active shopfront and it is considered that this proposal would not cause harm to the character or appearance of the street scene or the appearance of the building itself.

Residential amenity

- 10.08 There are a mix of uses within this area that include retail and commercial uses on the ground floor and predominantly residential above. There are existing flats above the ground floor units. The proposed use as a beauty salon is a use that is commonly found in town centre and high street locations and is a use that is considered to be compatible with a range of uses including residential. Environmental Protection have not raised objections to the proposed use of this unit in relation to noise, amenity or odour. They have recommended a condition relating to the noise impacts of equipment to be installed on site but given the nature of the proposed use it is not considered reasonable or proportionate.

- 10.09 The proposed beauty school use is likely to increase the number of occupants within this unit (it is quoted as being able to support six students at any one time) but given the nature of this use it is not considered that it would cause significant additional noise or disturbance.
- 10.10 It is intended that the premises would be open between 10am and 6pm Monday to Friday and 10am and 4pm on Saturdays and not at all on Sundays and Bank Holidays and this is considered to further limit the minimal impact that this use would have on residential amenities of the surrounding dwellings. It is not considered reasonable to restrict the opening hours of the use given its limited impacts. Mid Kent Environmental Protection have recommended an informative regarding noise transmission between the retail unit and the flats above however this matter was addressed in the conditions of the original planning permission.

Highways

- 10.11 A condition was attached to both planning permissions (15/510585/FULL and 18/01493/FULL) that prevented the amalgamation of the units to create larger units. The reason for this was to prevent units of a size that would be attractive to more intensive uses such as a supermarket or convenience store as these are likely to have much greater demands in terms of delivery and servicing of the premises. In turn this would have a greater impact on the A26 and risks being inadequately serviced from the rear John Street car park.
- 10.12 Additional information in relation to the servicing of this proposed use has been submitted to address KCC Highways' initial concerns and it is considered that overall the nature of this use would not generate excessive or larger vehicle movements in terms of deliveries. KCC Highways are satisfied that this beauty salon and training school use would not have a significant impact on the highway network.
- 10.13 It is considered that a condition is required that restricts the use of this larger unit to the specific use now proposed in order that any future use and its impact on the local highway network can be adequately addressed. The division between the two units can be required to be re-instated by condition.
- 10.14 In terms of parking provision, this property is considered to be in a highly sustainable location. It is located on one of the principal roads into and out of Tunbridge Wells and close to local bus routes. There is also a public car park to the rear of the site that would provide adequate parking facilities for visitors and students to this property. The original permission for the building did not require a dedicated parking area and thus one would not be required here either.

Other matters

- 10.15 In terms of Environmental Protection's comments in relation to drainage, this is an existing building and there would be existing foul and surface water drainage provided for this building.
- 10.16 This is a relatively new building, having been constructed in around 2015. There are internal alterations proposed but it is unlikely that asbestos will be present due to the age of the building and it is not considered that an informative is necessary in relation to asbestos as requested by Environmental Protection

Conclusion

- 10.17 Based on the above it is recommended that this application be approved subject to the conditions mentioned above.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (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 not be carried out except in complete accordance with the details shown on the following submitted plans:

PD/001/01	Proposed Floor Plans
PD/001/03	Block and Site Plan

Reason: To clarify which plans have been approved.

- (3) The premises shall not be used other than as a beauty salon/beauty training school and not for any other purpose without the express written planning permission of the Local Planning Authority, whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking or re-enacting that Order

Reason: In the interests of highway safety and residential amenity

- (4) The use of Nos. 65 and 67 St Johns Road as a single unit shall only inure for the benefit of this planning permission. Upon cessation of the beauty salon/beauty training school use hereby permitted, the use of the two units as a single unit shall cease and the internal partition between the two ground floor retail units at Nos. 65 and 67 St Johns Road shall be fully re-instated.

Reason: In the interests of highway safety

INFORMATIVES

- (1) As the development involves demolition and/or construction broad compliance with the Mid Kent Environmental Code of Development Practice is expected.

Case Officer: Kirsty Minney

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.

APPEAL DECISIONS for noting 09/07/2021–30/07/2021

1. 20/01400/FULL

Detached 3 bedroom dwelling

APPEAL A: DISMISSED (14.07.21)

Land adjacent 206 Forest Road
Tunbridge Wells

(Delegated)

2. 20/00484/FULL

Detached 4 bedroom dwelling

APPEAL B: DISMISSED (14.07.21)

Land adjacent 206 Forest Road
Tunbridge Wells

(Delegated)

3. 20/01210/FULL

Erection of a sustainable detached 2 bedroom dwelling

APPEAL C: DISMISSED (14.07.21)

Land adjacent 206 Forest Road
Tunbridge Wells

(Delegated)

4. 20/00754/FULL

Siting of a mobile home for the duration of three years in association with the conversion of the agricultural building permitted by 18/02011/FULL (Retrospective)

APPEAL: DISMISSED (20.07.21)

Free Heath Buildings
Free Heath
Wadhurst

(Delegated)

Urgent Business

For Planning Committee on Wednesday 11 August 2021

Procedural Item

To consider any other items which the Chairman decides are urgent, for the reasons to be stated, in accordance with Section 100B(4) of the Local Government Act 1972.

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Date of the Next Meeting

For Planning Committee on Wednesday 11 August 2021

Procedural Item

To note that the next scheduled meeting is Wednesday 1 September 2021.

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