

REPORT SUMMARY

REFERENCE NO - 21/00460/OUT

APPLICATION PROPOSAL

Outline planning application (Access, Appearance, Layout and Scale not reserved) - Demolition of nos. 202 & 230 Upper Grosvenor Road, the provision of a new access road into site; erection of two x 4 storey buildings comprising a total of 44 apartments with associated parking, bin and bicycle storage

ADDRESS 202 and 230 Upper Grosvenor Road Royal Tunbridge Wells Kent TN1 2EH

RECOMMENDATION to GRANT planning permission subject to the completion of a Section 106 legal agreement and subject to conditions (please refer to section 11.0 of the report for full recommendation)

SUMMARY OF REASONS FOR RECOMMENDATION

- In the absence of a five year supply of housing, the housing supply policies (including those related to the Limits to Built Development (LBD) are “out-of-date”.
- Paragraph 11 and Footnote 7 of the National Planning Policy Framework (NPPF) requires that where relevant policies are out-of-date that permission for sustainable development should be granted (and all other material considerations are satisfied);
- The proposal would result in the delivery of sustainable development and therefore, in accordance with Paragraph 11 of the NPPF, permission should be granted, subject to all other material considerations being satisfied. The proposal is considered to accord with the Development Plan and Local Policy in respect of these material considerations..
- There is no objection to the loss of the existing buildings.
- Additional landscaping is proposed as part of the development.
- There would not be any significant ecological impact as a result of the proposed development.
- The proposal can be satisfactorily accommodated around the trees on and off site, some of which are protected by a Tree Preservation Order;
- The traffic movements generated by the development can be accommodated without detriment to highway safety;
- The proposal would result in the cessation of use of the vehicular access to No.230 Upper Grosvenor Road which is narrow and lacks pedestrian visibility splays;
- The development would not be significantly harmful to the residential amenities of neighbouring dwellings.
- The number of residential units and the mix of unit sizes are considered to be appropriate to this site;
- The proposal would deliver 30% affordable housing (on a brownfield site) to which very significant weight is given;
- The proposal would deliver a betterment in terms of surface water run-off rates from the site through a SuDS scheme;
- The proposal would secure financial contributions (detailed below);
- The proposal is within the LBD of Tunbridge Wells, a tier 1 settlement as defined within the 2010 Core Strategy which hosts a wide range of shops, schools and other amenities;
- The site is within walking distance of shops, a nursery, a primary school and other facilities/amenities;
- The site is in a highly sustainable location on a bus route and within walking distance of a mainline railway station;
- 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.

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):

| | |
|--|--------------------|
| KCC: TW Cultural Hub (Libraries, Adult Learning and Social Care) | £17,493.84 |
| KCC: Secondary Education (Towards expansion of Bennett Memorial Diocesan School) | £35,185.00 |
| KCC: Waste (Waste transfer station – North Farm) | £7,714.14 |
| KCC: Youth Service (Additional resources for Tunbridge Wells Youth Hub) | £2,751.00 |
| NHS: Towards refurbishment, reconfiguration and/or extension of Clanricarde Medical Centre, Abbey Court Medical Centre, Speldhurst & Greggswood Medical Group, Lonsdale Medical Centre, St Andrews Medical Centre, Kingswood Surgery and/or Rusthall Medical Practice | £31,032.00 |
| TWBC: Open space contribution towards new play equipment for Woodlands playground, Cunningham Road, and/or; <ul style="list-style-type: none"> • new or upgraded children's or youth/adult facilities in Grosvenor & Hilbert Recreation Ground; • new or upgraded children's or youth/adult facilities in Dunorlan Park, or • the proposed Football Centre of Excellence adjacent to Hawkenbury Recreation Ground | £146,760.80 |
| Total: | £240,936.78 |

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 (from net 42 dwellings): £7504.56

Estimated annual council tax benefit total (from net 42 dwellings): £74,980.50

Estimated annual business rates benefits for Borough: N/A

REASON FOR REFERRAL TO COMMITTEE

Significant major application of over 20 dwellings and recommended for approval

| | | |
|--|--|--|
| WARD St Johns | PARISH/TOWN COUNCIL N/A | APPLICANT Mr Justin Owens AGENT N/A |
| DECISION DUE DATE 01/09/21 EOT | PUBLICITY EXPIRY DATE 01/07/21 | OFFICER SITE VISIT DATE Various |

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

Redevelopment history

| App No | Proposal | Decision | Date |
|--------------|---|----------|----------|
| 05/00066/OUT | Outline (means of access and siting not reserved) - Erection of 2 dwellings. | Refused | 09/06/05 |

| | | | |
|----------------|--|-----------|----------|
| | <p><i>This application related to the north eastern part of the site and used only the existing access point for 230 Upper Grosvenor Road</i></p> <p><i>Refusal reasons:</i></p> <ol style="list-style-type: none"> 1) <i>The proposal would give rise to a cramped and discordant form of backland development by reason of its close proximity to the adjacent northern boundary. The development would threaten existing trees (some of which are covered by Area Tree Preservation Order No.8 2005) and Laurel hedge screen, which act as significant characteristic landscape features, the potential loss of which, without sufficient short term comparable replacement, would adversely impact on the visual amenity and character of the area and create overlooking to the rear gardens of nos. 204 - 220 Upper Grosvenor Road, thereby harming the privacy and amenity of the occupants of those properties</i> 2) <i>By reason of inadequate visibility splay provision at the junction of the access with Upper Grosvenor Road the proposed development would give rise to unacceptable hazards to highway users</i> 3) <i>The proposal would give rise to a cramped and discordant form of backland development by reason of its proximity to the Blue Atlas Cedar tree (which is covered by Area Tree Preservation Order No. 8 2005) to the south of the dwelling proposed to be sited within Plot 2, which would overshadow and give rise to potentially poor living conditions to the detriment of the amenity of future occupiers of this dwelling</i> | | |
| 04/02111/OUTMJ | Outline (means of access and siting not reserved) - Erection of 14 new dwellings | Withdrawn | 21/09/04 |
| 78/00271 | <p>Outline - Single dwelling and garage.</p> <p><i>This application related to the north eastern part of the site and used only the existing access point for 230 Upper Grosvenor Road</i></p> <p><i>Refusal reasons:</i></p> <ol style="list-style-type: none"> 1) <i>The proposal would constitute an undesirable form of backland development without proper road frontage and would be detrimental to the privacy and residential amenities of adjacent properties</i> 2) <i>The proposal would be likely to interfere with the safety and free flow of traffic on the classified road</i> 3) <i>The proposed access is unsuitable to serve any further development</i> | Refused | 02/06/78 |

Planning history for individual dwellings
230 Upper Grosvenor Road

| | | | |
|--------------|--------------------------------|---------|----------|
| 79/00523/FUL | Sun room extension | Granted | 20/07/79 |
| 74/00557 | Extension to existing dwelling | Granted | 02/12/74 |

202 Upper Grosvenor Road

| | | | |
|--------------|---|---------|----------|
| 94/00270/FUL | Single storey extension at first floor level over existing ground floor extension | Granted | 14/07/94 |
|--------------|---|---------|----------|

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is largely open garden land located to the east of Upper Grosvenor Road in Royal Tunbridge Wells. The site is just beyond the residential gardens of nos. 188 to 228 which are located to the west. It is bordered by the Tonbridge-Hastings railway line and a line of trees to the east.
- 1.02 The application site comprises no. 202, a two storey detached dwelling, and no. 230, a two storey detached dwelling set within a substantial plot. Access to No.230 is via a single narrow hard surfaced track leading off Upper Grosvenor Road. The ground falls within the site with approximately 4m height difference from south to north at the steepest point, and approximately 4.4m height difference from west to east. There are a number of outbuilding, including two garages within the site.
- 1.03 The site is subject to a Tree Protection Order (TPO) covering approximately 40 trees, most of which are situated on the site boundaries. To the west and south of the site (including the overgrown area immediately adjacent the southern boundary) lies the extensive public amenity spaces of Grosvenor and Hilbert Park.

2.0 PROPOSAL

- 2.01 The application has been submitted in outline form. It is for demolition of nos. 202 & 230 Upper Grosvenor Road, the provision of a new access road into site; erection of two 4-storey buildings comprising a total of 44 apartments with associated parking, bin and bicycle storage. Access, appearance, layout and scale are to be determined at this stage and landscaping as a Reserved Matter.
- 2.02 The provision of 44 dwellings on the site would lead to an overall density of development on the site of approximately 84.5 dwellings per hectare.
- 2.03 The plans which have been submitted are fixed, with landscaping being indicative only. The detailed landscaping would be incorporated in a subsequent reserved matters application.
- 2.04 A schedule of accommodation shows the mix of housing;
- 6 x 3 Bedroom Apartments (14%)
 - 27 x 2 Bedroom Apartments (61%)
 - 11 x 1 Bedroom Apartments (25%)
- 2.05 The proposed building heights are 4 storeys with a lower ground car park level to one building. The top floors would be inset and the buildings of contemporary

appearance. The plans shows that the western elevations would be designed to restrict views towards the Upper Grosvenor Road dwellings.

- 2.06 The existing access in the north of the site would be retained for pedestrian use only. The main vehicular access to the site would be formed from the demolition of No.202 and the creation of an access road. The plans show 46 car parking spaces in total.
- 2.07 The communal residential open space surrounding the buildings would be defined by a green structure comprising standard and multi-stemmed trees, species to include limes, maples and plane trees and surrounded by clipped evergreen hedges, with decorative shrub and herbaceous planting arrangements. A play and seating zone would be provided to serve the residents with small play items such as stepping stones and timber play animals and simple bench seating.
- 2.08 The hard landscaping would consist of varied block paving to both parking areas and pedestrian footpaths (permeable surfaces – a combination of resin bound and reinforced gravel).
- 2.09 A green framework for the whole site would be developed by retaining as many of the existing trees as practicable, and reinforcing this green structure by extensive new planting of native and semi-ornamental tree and shrub varieties. As part of the site wide landscape strategy, management of water and runoff would be aided by sympathetic planting designs, utilising rain gardens, swales and ditches to ensure any surface water attenuation is integrated into the landscape, which would also promote opportunities for biodiversity.
- 2.10 This proposal is materially different to proposals which were refused permission in the past (as detailed within the planning history above).
- The 1978 and 2005 refusals were for a single additional dwelling / two additional dwellings respectively on the north eastern part of the site. They used only the existing access point for 230 Upper Grosvenor Road. The current application proposes to close the existing access to vehicular traffic and create a new one on the site of No.202 Upper Grosvenor Road;
 - Policy and guidance relating to highway safety is very different now compared to 1978 and 2005;
 - The reference in the 1978 refusal to an '*undesirable form of backland development without proper road frontage*' is not reflected in modern planning policy – it is not a requirement for development to demonstrate a 'road frontage' nor is 'backland' development unacceptable in principle;
 - The 2005 refusal refers to impact upon protected trees, however this was a different layout with an unacceptable relationship to retained trees and hedges. The TPO referred to in refusal reason 3 (008/2005) covered different trees and was only made on a provisional basis for six months – it was never confirmed (i.e. made permanent). The Blue Atlas Cedar tree in question was removed from site many years ago and was never subject to a confirmed TPO;
 - The relationship of the current buildings with nearby dwellings and trees is very different compared to its 1978 and 2005 predecessors;
 - The 2004 application was withdrawn over concerns relating primarily to highway safety, and also to impact upon trees, plus the lack of acoustic and ecological surveys.

3.0 SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|----------------------------------|--|--|---|
| Site Area (hectares) | 0.54 | 0.54 | No change |
| Land use(s) | Two C3 dwellinghouses and associated residential curtilage | 44 x C3 dwellings | |
| Car parking spaces | 2 for No.202 and 2-3 for No.203 | 46 | Not comparable |
| No. of storeys | 2 (two existing dwellings) | 4 on both blocks A & B (indicative plans only) | Not comparable |
| Building heights (highest point) | 8.2m (230 Upper Grosvenor Road) | Block A: 13.1m* Block B: 13.1m* | Blocks A and B would stand at the same height or marginally lower than No.204. Upper Grosvenor Road |
| No. of residential units | 2 | 44 | +42 |

**Block A would be set into the ground by up to 2.9m from existing ground level, an Block B up to 1.3m from the existing ground level, depending on where the measurement is taken from.*

4.0 PLANNING CONSTRAINTS

- Potential Archaeological Importance
- Area of Special Advert Control
- Kent Minerals & Waste Sites - 250m Buffer
- Limits to built development INSIDE
- Potentially Contaminated Land + 1M Buffer (land immediately adjacent to railway line only)
- Tree Preservation Order 001/2007 covers various trees on site boundaries
- Grosvenor & Hilbert Recreation Ground to the south and east is proposed to be added to the county list of historic parks and gardens and is therefore a Non-Designated Heritage Asset for the purposes of NPPF Para 203
- Grosvenor & Hilbert Recreation Ground is also a Local Nature Reserve

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 EN8: Lighting

Policy EN10: Archaeological sites
Policy EN13: Tree and Woodland Protection
Policy EN15: Statutory and non statutory ecological sites
Policy EN16: Protection of Groundwater and other watercourses
Policy EN18: Flood Risk
Policy H2: Small and intermediate sized dwellings
Policy H5: Residential development within Limits to Built Development
Policy TP3: Larger scale residential development
Policy TP4: Access to the Road Network
Policy TP5: Parking Provision with New Development
Policy TP9: Cycle Parking
Policy R2: Recreation and Open Space over 10 bedspaces
Policy CS4: Development contributions to school provision for developments over 10 bedspaces

Tunbridge Wells Borough Core Strategy 2010

Core Policy 1: Delivery of Development
Core Policy 3: Transport
Core Policy 4: Environment
Core Policy 5: Sustainable Design and Construction
Core Policy 6: Housing Provision
Core Policy 8: Retail, Leisure and Community provision
Core Policy 9: Tunbridge Wells

Supplementary Planning Documents:

Contaminated Land SPD
Noise and Vibration SPD
Recreation and Open Space SPD
Affordable Housing SPD
Renewable Energy SPD (2007 and update January 2014) and 2019 Energy Policy Position Statement

Other documents:

Kent Design Guide Review: Interim Guidance Note 3 (Residential parking);
Submission Local Plan

6.0 LOCAL REPRESENTATIONS

- 6.01 The application was publicised by way of site notice in March 2021. It was also advertised in the local press.
- 6.02 63 representations (some of which are from organisations representing groups of people such as the RTW Civic Society) have been received. A representation has also been received from the local Ward Member. These are summarised below as raising the following issues;
- Insufficient parking/parking overspill on to surrounding streets;
 - Highway safety issues (additional vehicle movements and safety of access);
 - Accident history of road;
 - Transport report unreliable as conducted during December 2020 lockdown;
 - Overdevelopment – too much development on a restricted site;
 - Height, bulk and scale of buildings;
 - Loss of open green space;
 - Limited open space and play area facilities for new residents;

- Loss of trees/future loss of trees;
- Poor design, out of character with Victorian buildings in Upper Grosvenor Road;
- Previous refusals on the site for residential development;
- Impact on wildlife and ecology;
- Loss of privacy and overbearing buildings, plus noise and disturbance for residents of various existing dwellings along Upper Grosvenor Road;
- Disruption during construction phase;
- Flooding;
- Light and air pollution;
- Risk of anti social behaviour in the car park/gardens;
- Loss of light;
- Impact on local services;
- Allegedly misleading plans;
- Loss of view (not a planning matter);
- One supportive comment received stating that the development is appropriate to the area, will not harm residential amenity; will boost housing supply; Upper Grosvenor Road is already busy and noisy; will be screened from public view; will provide S.106 contributions.

7.0 CONSULTATIONS

Southern Water

- 7.01 **(01/04/21)** - investigations indicate that Southern Water can facilitate foul and surface water sewerage disposal to service the proposed development. Southern Water requires a formal application for any new connection to the public foul sewer to be made by the applicant or developer.
- 7.02 The developer can discharge surface water flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the sewerage system. No additional flows other than currently received can be accommodated within exiting sewerage network.
- 7.03 The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SuDS).
- 7.04 Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.
- 7.05 Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:
- Specify the responsibilities of each party for the implementation of the SuDS scheme.
 - Specify a timetable for implementation.
 - Provide a management and maintenance plan for the lifetime of the development.
- 7.06 This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Scotia Gas Networks

- 7.07 **(15/03/21)** – Details of nearby gas pipework provided

UK Power Networks

- 7.08 **(15/03/21)** – standard advice provided regarding work close to power cabling

Kent Police

- 7.09 **(01/04/21)** - recommend that a planning condition requiring the development to achieve Secured By Design (SBD) Silver accreditation as a minimum security be conditioned, to ensure that crime prevention through environmental design (CPTED) is considered, should this application received planning consent.

KCC Flood and Water Management

- 7.10 **(01/04/21)** - The drainage strategy set out within the report is for attenuation and offsite restricted discharge to the existing combined sewer under Upper Grosvenor Road. It is understood that the underlying geology in this area is Lower Tunbridge Wells Sand (Sandstone/ silt) and is unlikely to provide adequate rates of infiltration. It is accepted that infiltration testing will be undertaken at a later date to confirm whether this is the case.
- 7.11 As highlighted above, the proposal is for a 2l/s discharge into the combined sewer. KCC are aware from the Southern Water records (contained within the report) that an existing surface water sewer is present further down Upper Grosvenor Road, close to the current entrance to the site (number 1902). It would be KCC's preference that surface water is instead kept out of the combined sewer and discharged to a dedicated sewer for surface water. A connection to this sewer is however dependent upon invert levels and if there is available capacity within the network for additional flows. KCC would advise that Southern Water is consulted in regards to these matters.
- 7.12 The LLFA have no objections to the proposal but highlight that further work is required in regards to the points raised above. Therefore, should the LPA grant approval to the proposed development, conditions are recommended.
- KCC Highways**
- 7.13 **(01/06/21)** - This development involves demolition of 202 Upper Grosvenor Road to provide vehicular access to the site and utilises the existing access to the site to provide a pedestrian link towards High Brooms station. The site lies within a 30mph limit and where most properties take direct access from Upper Grosvenor Road. The access will provide a shared driveway of 4.8m in width and will allow two vehicles to pass. The proposals are supported by a RSA Stage1.
- 7.14 KCC have had discussions with the highway consultant regarding a number of details and we have received additional further information. This confirms that appropriate visibility splays can be provided at the access (taking account of CA185) and that the telegraph pole will be re-sited in agreement with the Statutory undertakers and KCC (early consultation with the statutory undertaker is recommended).
- 7.15 The development proposes 46 unallocated parking spaces giving approximately one space per unit and possible use by visitors. Whilst the highway authority considers that objection on these grounds may be difficult to sustain at appeal, given the sustainable location and the current on street parking restrictions, a more robust solution would include visitor spaces and it would appear there may be scope to include additional provision on site. Also it is recommended that the developer explores possible contribution to the car club which operates in Tunbridge Wells.

- 7.16 Additional information regarding the undercroft car park was also requested regarding the position of the pillars and dimensions of spaces and aisles etc. Whilst it has now been confirmed that the columns can be aligned with the parking spaces and swept path analysis has demonstrated access to a number of spaces, it is evident from the latter that a number of spaces would benefit from additional width. This is recommended within KCC's parking standards, where spaces abut a wall, so as to ease access for users.
- 7.17 The swept path analysis for the refuse vehicle is also confined and would benefit from additional manoeuvring space to avoid utilising the entrance to the undercroft car park. It is also recommended that your refuse dept is consulted regarding likely arrangements for the site, to ensure that their requirements can be met on site.
- 7.18 Taking all of this into account TWBC will appreciate that any recommendation is made on balance, however the highway authority advises that it would not expect to sustain an objection to the proposals at appeal. Conditions are recommended to secure the access, parking and turning areas on site and the visibility splays as shown on plan 2002052-03 C.

KCC Economic Development

- 7.19 (23/03/21) – following S.106 contributions requested (based on net 42 household increase);

| | Per applicable flat (x 31) | Total | Project |
|---------------------|----------------------------------|------------|---|
| Secondary Education | £1,135.00 | £35,185.00 | Towards expansion of Bennett Memorial Diocesan School |
| | Currently no Primary requirement | | |

| | Per Dwelling (x42) | Total | Project |
|---|---|------------|--|
| Community Learning/Social Care/ Libraries | £416.52 | £17,493.84 | Towards Tunbridge Wells Cultural Hub – Libraries/Adult Education/Social Care |
| Youth Service | £65.50 | £2,751.00 | Towards additional resources at Tunbridge Wells Youth Hub |
| Social Care | All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2) | | |
| Waste | £183.67 | £7,714.14 | Towards Tunbridge Wells Waste Transfer Station and HWRC expansion |
| Broadband: | <p>Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF.</p> | | |

NHS West Kent Clinical Commissioning Group

- 7.20 **(31/03/21)** - The CCG has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution;

| | Total Chargeable units | Total | Project |
|------------------|------------------------|---------|--|
| General Practice | 44 | £31,032 | Towards refurbishment, reconfiguration and/or extension of Clanricarde Medical Centre, Abbey Court Medical Centre, Speldhurst & |
| | | | Greggswood Medical Group, Lonsdale Medical Centre, St Andrews Medical Centre, Kingswood Surgery and/or Rusthall Medical Practice |

Mid Kent Environmental Protection

- 7.21 **(26/03/21)** - Air Quality: The site is not in or near an air quality management area, nevertheless EP would request the inclusion of a condition for EV charging on the site.
- 7.22 Noise: The site is very close to the railway line, therefore EP would recommend the attachment of a condition to ensure the inclusion of suitable noise mitigation.
- 7.23 Contaminated Land: The site does not appear on EP's database as potentially contaminated.
- 7.24 Lighting: would recommend the attachment of a condition to ensure that neighbouring properties are not affected by light spill from the development
- 7.25 Recommendations: From an Environmental Health point of view EP have no objection to this application subject to the conditions below.

Principal Conservation Officer

- 7.26 **(undated)** – PCO has looked over the proposal and considered the impact of the proposal on the nearest heritage asset, Grosvenor and Hilbert Park, which is in the list of historic parks and gardens proposed to be added to the county list of historic parks and gardens and which is therefore considered to be a non designated heritage asset for the purposes of the NPPF. At the point of the proposed site there is both the railway line and an area of built structures within the Electricity Distribution centre site which is partly screened from the park. The impact on the park of the proposed development is difficult to fully ascertain due to the land levels and the lack of visibility onto the site but given the existence of the distribution centre and the distance to the site it would seem that the impact would be low. On this basis specialist advice from the Built Heritage Team is not, in this case, necessary for the determination of this application.

Landscape & Biodiversity Officer

- 7.27 **(30/04/21)** - The scheme is clearer and improved. Whilst there appears to technically be a net gain this is based on very low values for existing habitat and greatly improved values for proposed habitats. A slightly different view on these values might

easily return more of a net loss position rather than a +44% gain. In addition, the existing habitat however poor is disturbed far less than the proposed habitat which will be more fragmented and closer to activity and general disturbance. There is also a heavy reliance on the green roofs (0.27 units) - described as extensive in the metric. The ecological value of these depends upon their construction/depth of substrate/species composition and management. These are often victims of value engineering in the early days of a project and so if they are to reach their potential they will require a separate pre commencement condition to ensure that they are integral to the scheme. It is a similar issue with the soft landscaping in that services and later requirements eat away at green space and as the site is already very tight this to needs protecting.

- 7.28 Consequently in the event of an approval, would recommend three pre commencement conditions:
- Green roof details
 - A scheme of ecological mitigation and enhancements
 - A scheme of landscaping
- 7.29 There should be a further condition prior to occupation:
- A Landscape and Ecological Management Plan for all communal areas
- 7.30 Subject to these the scheme is likely to be policy compliant with regards landscape and biodiversity.
- 7.31 **(12/03/21)** - The ecological appraisal and bat survey are fine and recommended mitigation measures can be secured by condition. Concerned about the overall tree loss and the long term effects on retained trees but will leave that to the Tree Officer to comment on but a clear a detailed landscape strategy should be provided at this stage so that it is clear what room there is for new and retained planting and what function/role it will play.
- 7.32 The key issue from an ecological perspective is net gain which has not been demonstrated. It is unlikely that this scheme can achieve net gain on site and so an off site payment or other solution may be required. The applicant should be requested to provide a biodiversity net gain calculation using the DEFRA Metric 2.0.
- Tree Officer**
- 7.33 **(08/04/21)** - In terms of public amenity, the most significant trees on the site are the sycamores and other species growing on the eastern boundary, which are visible from the footbridge to the south-east and provide screening between the site and railway line, electricity distribution site and other areas to the east. This belt is to be retained, with the exception of several trees (T23, T29 and T43) assessed as having 'below average' or hazardous structures by the tree surveyor.
- 7.34 Most of the remaining mature tree stock is concentrated on the western boundary and in the northern corner of the site, and likewise most of this will be retained with the exception of a western red cedar (T57) assessed as hazardous and a group of hollies (T74-T78) at the rear of No.202, whose removal is required for access. The hollies are protected under TPO no. 001/2007.
- 7.35 Most of the proposed tree removals are in the interior of the site and largely comprise ornamental specimens and self-sown sycamores. Four of these are covered by the TPO: one eucalyptus (T48), one sycamore (T37) and two silver birches (T30 and T31). The sycamore was assessed as category 'B' in the arboricultural report; the

eucalyptus and birches were downgraded due to structural defects and over-maturity/limited potential, respectively.

- 7.36 Given the position of hollies T74-T78 away from the road and footpath, and their being largely screened in public views by the houses and surrounding vegetation, their loss would not be grounds for refusal, nor indeed would the loss of any of the interior trees individually. However, the proposed felling would cumulatively equate to a significant proportion of canopy cover, and although the quality and value of the tree stock could be improved through considered replacement, the proposed layout does not allow for anything near commensurate replacement planting.
- 7.37 My primary concern is shading by retained trees. The trees east, south and west of the proposed apartment blocks are 15-20m tall and would be in close proximity to the buildings, in particular ash T59. Similarly, there seems to be a general lack of amenity space which would not be beneath or very near existing canopy cover. 'Sky views' and daylight throughout the day, not just direct sunlight for a portion of the morning or afternoon, are often quoted in applications for tree works and I would anticipate future pressure for extensive pruning or removal under the proposed scheme.
- 7.38 Effort has been made to position proposed parking bays away from existing crown spreads, and although there is encroachment into root protection areas this could be addressed by condition.
- 7.39 **(08/04/21 – second e-mail)** - many of the boundary and interior trees are not high-quality specimens, but the larger boundary trees should nonetheless be retained (as most are) or replaced with commensurate or superior specimens, and adequate room must be allowed for this. From Tree Officer's experience with similar sites, apartment blocks near to tall boundary vegetation will elicit complaints from occupants. The issue here isn't tree loss/retention per se, but trying to ensure a sustainable, long-term relationship between mature tree stock and the residential space.
- 7.40 This could be challenging to argue in an appeal situation if a refusal is made solely on these grounds. But TO does think this is an unimaginative and unsympathetic design from a tree perspective.

TWBC Parking Services

- 7.41 **(12/04/21)** - The parking bays on the proposed site plans appear to be 2.4m x 4.8m. Parking Services would like to note that bays should be 2.5m x 5m in accordance with the preferred parking bay sizes set out in SPG 4: Kent Vehicle Parking Standards.

TWBC Housing

- 7.42 **(21/01/22)** - Given the specific circumstances of this application, accept the offer proposed of 30% affordable housing, with a split of 75% affordable rent and 25% shared ownership.
- 7.43 Based on 30% affordable housing, would propose the following mix of affordable housing:
- 2 x 3 bed (5 person) ground floor apartment
 - 2 x 2 bed (3 person) apartments
 - 2 x 2 bed (4 person) apartments
 - 7 x 1 bed (2 person) apartments

- 7.44 In addition, the two 3 bed ground floor apartments proposed should be built to M4(2) standards of the Building Regulations. If there is a lift proposed then all homes could be built to this higher standard.
- 7.45 The affordable housing should have access to private and communal open space wherever possible.
- 7.46 The affordable housing should be secured via a Section 106 Agreement and include the procedure for nominations rights for the council for rented housing.
- 7.47 *Officer Note: The unit mix and accessibility will be negotiated as part of the Section 106 agreement with reference to the proposed Housing Association.*

TWBC Parks & Open Space

- 7.48 Confirmation that there is a requirement for improvement at Woodlands Playground, Cunningham Road for which partial funding has been sought from another scheme. That there is an early stage proposal for a skate park at Grosvenor and Hilbert Park and that any monies not required for those projects would be spent at Dunlorlan Park or in the expansion and improvement of Hawkenbury Recreation Ground.

8.0 APPLICANT'S SUPPORTING COMMENTS (conclusion at part 11 of Design & Access statement)

- 8.01 This Planning Application offers an important opportunity to provide an appropriately designed residential scheme within a sustainable location, contributing towards the local housing need.
- 8.02 The design process resulting in this application has been rigorous and carefully considered to create a high-quality design solution that respects the character of the surrounding area and the specific visual and topographical constraints of the site.
- 8.03 As a result, a scheme has been created that respects the surrounding dwellings, creating an aesthetically pleasing and sustainable residential development within a well landscaped setting.

9.0 BACKGROUND PAPERS AND PLANS

Application form
Design & Access Statement
Planning Statement
Arboricultural Implications Assessment and Method Statement December 2020
Financial Viability Assessment January 2021
Preliminary Ecology Appraisal September 2020
Biodiversity Net Gain Assessment Report
Bat Emergence and Re-entry Surveys 03/05/21
Environmental Noise Survey 08/12/20
Transport Statement 18/12/20
Schedule of accommodation
Flood Risk Assessment
Drainage Strategy Report 01/03/21
Pre-application advice from KCC Heritage dated 11/12/20
Existing photographs schedule
GUA-DR-L-001 P01 Landscape Masterplan
6943 002 P3 Existing Site Layout
6943 100 P4 Proposed Site Plan
6943 101 P4 Block A: Proposed Floor Plans

| | |
|-------------|----------------------------------|
| 6943 102 P2 | Block B Plans |
| 6943 103 P1 | Proposed Site Sections EE FF GG |
| 6943 104 P1 | Proposed Site Sections CC DD |
| 6943 105 P1 | Proposed Site Sections AA BB |
| 6943 106 P4 | Proposed Block Plan |
| 6943 107 P2 | GIA Floor Plans |
| 6943 200 P1 | Proposed Elevations Block A |
| 6943 201 P2 | Proposed Elevations Block B |
| 6943 202 P1 | Block A Bay Studies |
| 6943 203 P1 | Proposed Refuse and Cycle Stores |

10.0 APPRAISAL

10.01 The site is within the LBD where there is a presumption in favour of new development. The main issues are therefore considered to be design, residential amenity, highways/parking, the impact on trees, ecology, impact on heritage assets and other relevant matters.

Principle of development

10.02 Para 74 of the NPPF requires the Council to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. In addition, there must be an additional buffer of 5% or 20%, depending on particular circumstances of the LPA.

10.03 The Council currently cannot demonstrate a five year housing supply. Paragraph 11 (d) of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

"i. the application of policies in this Framework (listed in footnote 6) that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

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

10.04 Footnote 8 to the NPPF states that this includes, for applications involving the provision of housing, situations where the LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).

10.05 The second part of Para 11 (d) would potentially apply here as none of the constraints referred to in Footnote 7 of the NPPF are present.

10.06 When considered as a whole, the Council does not consider the 'basket' of the most important Development Plan policies against which this application would be determined (Local Plan: EN1, EN15, TP3, TP4, TP5, R2, CS4, H5; Core Strategy CP1, CP3, CP4, CP5, CP6, CP9) to be out of date. Except for the sections specifically relating to housing supply targets/numbers, the policies are not considered to be irrelevant. NPPF Para 219 states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- 10.07 The issue of sustainability is multi-faceted, incorporating economic, social and environmental considerations. The site is in a highly sustainable location due to its proximity to services/facilities, plus a regular bus route to the town centre and High Brooms railway station. It is located within the LBD of Tunbridge Wells where adopted (but now out of date) Policy H5 of the Local Plan indicates that additional residential development can be acceptable. The provision of 42 net additional dwellings would contribute to the Borough's housing need, which would have social and economic benefits.

New local plan

- 10.08 The submission Local Plan (SLP) was submitted to the Planning Inspectorate in October 2021 with examination expected in Spring 2022. Within it, Policy AL/RTW 6 (Land at 202 and 230 Upper Grosvenor Road) of the SLP states that the site is allocated for 40-45 residential dwellings, of which 30 percent shall be affordable housing. The policy states;

Development on the site shall accord with the following requirements:

- 1. Provision of new main vehicular access from Upper Grosvenor Road through the demolition of No. 202 and utilisation of existing secondary access as a pedestrian and cycle route;*
 - 2. Provision of sustainable and active transport mitigation measures;*
 - 3. All servicing and delivery activity shall be contained within the site boundary and ensure suitable pedestrian permeability through the site and to the surrounding area;*
 - 4. Proposals to be informed by a detailed arboricultural survey, taking into consideration existing mature trees on-site and on the boundary of the site, with the layout and design of the development protecting those of most amenity value. Particular regard shall be had to the retention and reinforcement of the trees along the eastern and southern boundaries to retain an appropriate level of screening;*
 - 5. Development must be of a high-quality design with fenestration details that have full regard to the amenities of the existing properties along the western boundary of the site;*
 - 6. An archaeological desk-based assessment is required for the site;*
 - 7. Proposals must be accompanied by an acoustic assessment and appropriate mitigation measures associated with the adjoining railway line;*
 - 8. Provision of on-site amenity/natural green space with associated landscaping;*
 - 9. Provision of details for proposed ground level changes throughout the site;*
 - 10. Contributions are to be provided to mitigate the impact of the development, in accordance with Policy STR/RTW 1.*
- 10.09 This links back to strategic policy STR/RTW 1 which sets out various requirements for development in the unparished area at Royal Tunbridge Wells.
- 10.10 NPPF Para 48 states that;
- Local planning authorities may give weight to relevant policies in emerging plans according to:*
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
 - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

10.11 The proposal meets the draft policy criteria. Landscaping is not fully addressed by this application due to its outline nature and would be addressed by the Reserved Matters. The applicant has sought to meet those PSLP criteria. Given the early stage of the new Local Plan, plus the significant objections to RTW 6 it can only be given limited to moderate weight given it has not progressed through the examination process. Greater weight would be given to it as the examination and adoption process progresses.

Prematurity

10.12 This potential issue is addressed in NPPF Paras 49-50;

49. However in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and*
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

50. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

10.13 The NPPF is clear that applications can only be refused on grounds of prematurity in limited circumstances. The proposal is for a significant quantum of development in relation to the immediate locality, but is not in relation to the numbers proposed as part of the entire Submission Local Plan (678 per annum, equivalent to some 12,200 additional homes over the plan period to 2038). The Plan is at an advanced stage, having been submitted for examination (albeit this has yet to commence).

10.14 This site is a draft allocation in the SLP that stands apart from other proposed allocations (in that other SLP allocations are not reliant on it for phasing purposes). The site is also one where new housing development is acceptable in principle given the sustainable location. The proposal does not equate to development that has such a significant cumulative impact at this stage that it would undermine the plan making process. It reflects the Reg 18 and Reg 19 approach to the overall SLP strategy of some, but not all development being proposed in urban areas.

10.15 Whilst this report is not the place to debate the merits or otherwise of the emerging Plan, there are significant objections to it and this policy in particular. Given that both limbs a) and b) of NPPF Para 49 need to be satisfied the arguments relating to prematurity do not in this case lead to a refusal reason that can be justified.

Use of Previously Developed Land (PDL)

10.16 Annex 2 of the NPPF defines 'previously developed land'. This is, *inter alia*, defined as land which has previously been occupied by permanent or fixed surfaced

infrastructure. The definition includes the footprint of dwellings, in built up areas, but excludes garden/curtilage land associated with them. The site is therefore partly PDL as it relates to the footprint of buildings and roadways.

Non designated heritage assets (NDHA)

- 10.17 NPPF Para 203 requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 10.18 There would be no loss of an NDHA. The PCO considers that any impacts on the setting of Grosvenor and Hilbert Recreation Ground are limited and their specialist input is not required. The impact would not be considered harmful and thus not count against the proposal.

Drainage/flooding

- 10.19 NPPF Para 166 states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Para 168 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The site lies outside of the Flood Zone 2/3 and is not considered to be at risk of fluvial flooding. The site is not within a groundwater source protection zone.
- 10.20 The submitted drainage strategy advises that a combination of Sustainable Drainage Systems (SUDS) is used to increase the time of concentration of the water before it discharges to the public combined water sewer in Upper Grosvenor Road. This can be achieved by using a large diameter pipe and a cellular storage tank for attenuation plus a 45mm orifice plate and 2l/s Hydrobrake to restrict discharge to the sewer.
- 10.21 A green roof is proposed for the development and this will take up the first 5mm of rainfall. However, this has not been included within the SUDS calculations as capacity may already be used up when larger storm events occur.
- 10.22 Southern Water and KCC raise no objections to the application, subject to conditions which are included within the recommendation at part 11.

Ecology

- 10.23 The application includes a preliminary ecological assessment. The appraisal states that '*no statutory or non-statutory wildlife sites are near to the Site*'; Grosvenor & Hilbert Recreation Ground is a designated Local Nature Reserve however the Landscape & Biodiversity Officer does not consider there to be a harmful impact upon it.
- 10.24 No significant impacts on such sites are anticipated in relation to the proposed residential development. The site is dominated by typical garden habitats, including amenity lawn, and introduced shrubs, with a small area of broadleaved woodland and individual trees of elevated ecological value (but only elevated in the context of the rest of the site).
- 10.25 A residential dwelling and associated garage have been assessed by the ecologist as being of low suitability for roosting bats. A single active hole that is part of an outlying badger sett is present towards the southern end of the site, and the presence of small number of common bird species during the breeding period in areas of shrubs and trees is likely.

- 10.26 In line with best practice survey guidelines at least a single bat roost emergence survey of no. 230 and the associated garage (Buildings 2 and 3) was deemed required to confirm the presence / absence of roosting bat in these buildings. Follow-up bat emergence survey of these buildings has been undertaken by a different consultant in September 2020 and found no evidence of roosting bat use.
- 10.27 Ground level inspections of any mature trees that are scheduled for removal must be undertaken once the extent of proposed tree loss is known and in advance of Site clearance and tree removal. Clearance which may unduly impact upon birds can be restricted to outside the nesting season.
- 10.28 Further mitigation is recommended which included retention of existing mature trees and boundary vegetation where possible, and that the boundaries of the site are kept free of direct after-dark lighting.
- 10.29 There are also recommendations regarding the single active badger sett. This is in a location where it is likely to be destroyed and at risk of significant damage / disturbance during construction. The ecologist recommends that the location of the sett in relation to new development is assessed on the ground (if necessary, by detailed topographic survey and setting out) to confirm development impacts. If its retention is not feasible, the sett would need to be closed under an appropriate development sett closure licence from Natural England which would need to be applied for once full planning permission has been issued. No replacement sett would be required given its low status, but its closure would be restricted to the period July-November, inclusive.
- 10.30 The LBO recommends a scheme of ecological mitigation and enhancements which can be secured by condition.

Net gain

- 10.31 NPPF Para 174 states that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraphs 020 – 028 Reference ID: 8-020-20190721 of the PPG also address ecological net gain.
- 10.32 EN1 (5) requires that *‘there would be no significant adverse effect on any features of nature conservation importance which could not be prevented by conditions or agreements’*. This and CP4 (criteria 3 and 4) relate to the protection, mitigation and enhancement of biodiversity and are up to date with NPPF Para 174 and 180. However the requirement in criterion (3) to ‘avoid net loss’ has been augmented by NPPF Para 174 (d)’s requirement to provide net gains for biodiversity.
- 10.33 Net gain is not therefore currently mandatory; a 1% gain in biodiversity would theoretically meet current NPPF requirements and guidance. Whilst Core Strategy Policy 4 only requires ‘no net loss’, the scheme achieves a gain and provides above the proposed 10%. The LBO considers the appropriate net gain can be secured by robust condition.

Land contamination and proximity to railway

- 10.34 The Mid Kent EP team state in their comments that the site is not constrained by potentially contaminated land. However, a narrow strip of land alongside the railway

line is designated in this way and further verbal discussions with the EP team confirm that a contaminated land condition would be necessary.

- 10.35 Network Rail raise no objection based on the proximity of the development to the rail network. Following discussions with Mid Kent EP, a condition that seeks to limit the impact of noise upon future residents is necessary and this forms part of the recommendation.

Sustainability

- 10.36 The Design & Access statement sets out that the construction of the buildings will include such features as:
- Boilers and appliances will be energy efficient with low NOx levels and all dwellings will undergo a full SAP assessment to ensure energy efficiency within the building envelopes;
 - Dual flush toilets, water saving baths and flow restrictor taps are to be provided to all bathroom areas to minimise water usage within the dwellings;
 - Enhanced building fabric throughout the development exceeding current Building Regulations;
 - Recycling bins provided in all kitchens and composting bins for garden and food waste;
 - Measures to minimise the amount of waste going to land-fill incorporated within the Site Waste Management Plan;
 - Photovoltaic panels.
- 10.37 These matters can be secured by condition.

Parking and highway safety

- 10.38 Paragraph 105 states that the planning system should actively manage patterns of growth. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- NPPF 110 a) requires that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - 110 b) states that safe and suitable access to the site can be achieved for all users;
 - 110 c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and
 - 110 d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
 - 111 states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
 - Para 112 also requires
 - a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
 - b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
 - c) create places that are safe, secure and attractive – which minimise the

scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

- Paragraph 113 requires that *“developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.”*

- 10.39 LP Policy TP4 concerns access to the road network. It states that proposals will be permitted provided all five of its criteria are satisfied. The subtext at Para 11.27 states that sites should be well-linked by all modes of transport to key destinations and this may require provision of, for example, a new footway, cycleway or road crossing facility.
- 10.40 Para 11.28 of the supporting text states that access to the road network will remain important in the control of development as an instrument in achieving a safe highway network. Para 11.30 refers to a detailed listing of the road hierarchy within settlements is set out in Appendix 6 against which proposals affecting both existing and proposed roads can be assessed. Appendix 6 defines an Inter-Urban Hierarchy which defines Primary and Secondary Routes. Upper Grosvenor Road at this point is a Primary Route. It is considered TP4 is on balance up-to-date and consistent with the NPPF except with regards to criteria 3 and 4 as this are based on a specific Structure Plan requirement which is no longer in place - continued application of these criteria may unreasonably frustrate housing supply.
- 10.41 Policy TP5 specifies minimum parking standards outside town centres, an approach endorsed by NPPF Para 108 which states that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network. On this basis TP5 is considered up to date with the NPPF. It is also considered that it should carry full weight. Policy TP9 states that cycle parking will be required to serve new-build residential development without private curtilage at a standard of one space per dwelling unit.
- 10.42 Core Policy 3 relates specifically to Transport Infrastructure with its aim being to outline key transport issues and the provision of necessary infrastructure. The Policy states that, *“Sustainable modes of transport, including cycling and walking and the use of public transport will be encouraged to reduce dependence on private car use.”*
- 10.43 As set out earlier the site lies within a highly sustainable urban location. It is within a 30mph limit and where most properties take direct access from Upper Grosvenor Road. The development’s access will provide a shared driveway of 4.8m in width and will allow two vehicles to pass. The proposals are supported by a Stage 1 Road Safety Audit. The existing access to No.230 is unsafe and has no pedestrian visibility splays – this development would result in a cessation of its vehicular use.
- 10.44 KCC Highways are satisfied that the appropriate visibility splays can be provided at the access and that the telegraph pole close to the access will be re-sited in agreement with the statutory undertaker’s requirements and KCC. They do not raise objections to the access point being sited directly opposite Silverdale Lane, nor to the traffic survey being conducted during lockdown. The scheme is assessed to generate

136 daily traffic movements during weekdays; this is in the context of over 6000 vehicle movements currently taking place each weekday along this part of Upper Grosvenor Road (even during lockdown) and is therefore not considered to be a significant increase of movements.

- 10.45 The development proposes 46 unallocated parking spaces giving approximately one space per unit and possible use by visitors. This site falls within an area that, in its character, falls within 'Edge of Centre' KCC standards. KCC indicate that it would be more robust (albeit not a refusal matter) to include more visitor spaces and it would appear there may be scope to include additional provision on site. Edge of Centre standards suggest a maximum of 0.2 spaces per dwelling (9 spaces). This leaves a shortfall of seven. It is recognised the standards state that this number may be reduced where overall provision is not allocated. It also states that separate visitor provision is not always needed for flats.
- 10.46 KCC recommend that the developer explores possible contribution to the car club which operates in Tunbridge Wells. However, the company who operate this facility prefer to site the car club spaces in the town centre or very close to the edge. Furthermore, given the parking restrictions along Upper Grosvenor Road it is not clear how close this could be located to the development. KCC highlight a potential issue relating to the position of the pillars and dimensions of spaces / aisles within the undercroft car park. They are satisfied that the matter can be overcome (otherwise they would sustain a stringer objection) and the widths of the parking spaces can be addressed by conditions.
- 10.47 Regarding the shortfall of seven visitor spaces: it is recognised that the area around this part of Upper Grosvenor Road and Silverdale Road is prone to parking saturation, although (from Officer observations) there are normally a few spaces during the day. There is the potential that the proposal will result in some additional on-street parking pressure although in this area KCC Highways do not deem this to result in a highway safety risk. Parking on double yellow lines etc is a matter to be enforced by other legislation. The applicant's stance on the matter is set out at p.35 of the Design & Access Statement;

'To provide an indication of the current car ownership on the area, a review of census data for the category 'Accommodation Type by Car or Van Availability' has been investigated for the resident population of the surrounding output areas (2011 output). Since the development proposes flats, a comparison can be made with other flatted developments within this output area. This is set out in the table below.

Number of Cars/Vans Level of Car/Van Ownership

No Cars/Vans 45.5%

1 Car/Van 44.1%

2+ Cars/Vans 10.5%

TOTAL 100%

Level of Car/Van Availability – Flatted Developments

Based on flatted developments in the surrounding area, the proposed 44 flats could result in 20 units without a car, 19 units with one car, and five units with two cars. It may therefore be reasonably assumed that the development of 44 flats will generate a car ownership of 29 vehicles. This is comfortably within the 46 spaces proposed, whilst also leaving more than sufficient capacity for visitor

demand.

- 10.48 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. It would be difficult to directly attribute a significant parking-related safety issue directly to this development, given the number of other dwellings that already use the road and the fact that there is some, albeit limited parking availability in nearby streets. KCC do not consider the parking provision would lead to highway safety issues outside the site. Therefore, in this instance, it is not considered that the proposal would cause harm to highway safety.
- 10.49 As above, Inspectors have traditionally only given weight to concerns regarding highway safety and any impact on convenience of residents is not considered to be a matter that would warrant refusal 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.
- 10.50 On balance KCC advises that it would not expect to sustain an objection to the proposals at appeal. Officers agree with this stance, particularly given the 2011 Census vehicle ownership data provided by the applicant. Conditions are recommended to secure the access, parking and turning areas on site and the visibility splays as shown on plan 2002052-03 C. The applicant proposes to include 7 electric charging stations which would service 14 parking spaces within the development. Again, this can be secured by condition below.

Affordable Housing and Section 106 Contributions

- 10.51 Legislation requires that planning obligations (including Legal Agreements) should only be sought where they meet all of the following tests:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development and;
 - Fairly and reasonably relate in scale and kind to the development.
- 10.52 The requirement for developments to provide or contribute towards the services for which they create a need is set out in Core Policy 1 of the CS and requirements relating to various types of contributions, for instance education, recreation, transport etc. are referred to in various CS and LP Policies (such as Core Policy 1 (4) of the Tunbridge Wells Core Strategy 2010, and Policies CS4/R2 of the Tunbridge Wells Borough Local Plan 2006).
- 10.53 KCC has assessed the proposal for contributions towards meeting the additional needs for infrastructure and services generated by the proposed development, as summarised above. As a result, financial contributions are requested towards the Libraries, Adult Learning and Social Care elements of the Tunbridge Wells Cultural Hub (aka the Amelia Scott) project; the North Farm Waste Transfer Station; Bennett Memorial Secondary School; and additional resources for the Kent Youth Service. These are considered to meet the relevant tests as listed above and will be included within the recommendation below.
- 10.54 Developer contributions have also been requested by the NHS West Kent Clinical Commissioning Group towards new single premises for various General Practices located in Tunbridge Wells and its outlying areas. The CCG advise that there will be an anticipated 86 new patient registrations from this development. There is currently limited capacity within existing general practice premises to accommodate growth in

this area. The need from this development, along with other new developments, will therefore have been met through the creation of additional capacity in general practice premises. As with all the above sums, the developer has agreed to pay them.

- 10.55 Developer contributions have also been agreed towards children's play space and youth/adult recreation costs. There is currently a scheme in place for new/additional play equipment at the Woodlands Playground, Cunningham Road, Tunbridge Wells. Whilst this is 450 – 550m away from the site (depending on the route taken) which may detract from it being a 'destination' play area for new residents, it is next to St Johns Primary School. The development would be within this school's likely catchment area (they have offered places up to approximately 0.45km away 'as the crow flies' within the last two years) and consequently there is heavy usage of it at school pick up time. Failing this, the monies would be allocated on a cascade basis; first on new facilities related to an early stage proposal for a skate park at Grosvenor and Hilbert Recreation Ground; then Dunorlan Park or the proposed Football Centre of Excellence in Hawkenbury (the latter being subject to an allocation in the Submission Local Plan and planning permission for a lesser scheme to provide new sports pitches).

Affordable housing

- 10.56 The NPPF sets out in paragraph 63 that where there is an identified need for affordable housing, this should be met on site. As the size of the scheme exceeds 10 units, it would trigger a requirement for affordable housing in line with the requirements of Core Policy 6 (4). 35% affordable housing would be required. It is notable that the current Affordable Housing Supplementary Planning Document does not specify whether this should be on a gross or net basis; this development would provide 44 dwellings (gross) and 42 dwellings (net) given that two dwellings are to be demolished as part of the scheme.
- 10.57 Based on the current 35% policy requirement, the required provision would equate to 15.4 units (**16** rounded) on a gross basis, and 14.7 units (**15** rounded) on a net basis.
- 10.58 The proposal seeks to provide 30% affordable housing of the gross number provided (13.2 units, **14** rounded), which falls short of the current policy position by 5% (**1-2** units depending on whether the gross or net figure is used).
- 10.59 The affordable housing policy within the emerging local plan (H3) is clearer regarding 'gross' or 'net' and requires the gross development figure to be used (as set out above, the current SPD does not distinguish between gross or net). This requires 40% on greenfield sites and 30% on brownfield sites (including those comprising over half brownfield land). The site specific allocation policy (AL/RTW 6) also requires 30% affordable for this site.
- 10.60 The definition of 'brownfield land' is included in the Glossary at Appendix 4 of the Local Plan; this mirrors the definition of 'Previously Developed Land' in Annex 2 of the NPPF. The site is considered to comprise at least half brownfield land based on the above, based on the coverage of the footprint of the dwelling and attached hard surfaced areas, the existing parking areas and access routes plus the outbuildings (but excluding the grassed and unmade areas of the garden).
- 10.61 Emerging policy H3 carries minimal weight at present given the number of outstanding objections to it. Despite this policy position, there are a number of instances where Officers have negotiated a minimum of 40% affordable housing on

greenfield developments based on the emerging local plan, and many of these have been accepted by Members/Officers. These include;

- Turnden, Hartley Road, Cranbrook (20/00815/FULL – SOS call-in appeal decision awaited);
- OS Plot 2912 Maidstone Road Matfield Tonbridge Kent (19/01099/OUT)
- Land To East Of Highgate Hill And South Of Copthall Avenue Hawkhurst (20/02788/FULL – refused for other reasons)
- Land South of Ringle Green, Sandhurst (21/00825/OUT)
- Land off Angley Road, Cranbrook (21/00519/FULL – refused for other reasons)
- Wilsley Farm, Cranbrook (20/03816/FULL & 21/02655/FULL – refused for other reasons)
- Penshurst Road, Bidborough (20/02088/OUT – withdrawn)
- Common Rd, Sissinghurst (19/03625/OUT)
- Sharps Hill, Sandhurst (19/01493/OUT – refused for other reasons)
- Mascalls Farm, Badsell Road, Paddock Wood (19/03349/FULL)

10.62 Given that the LPA has secured 40% on greenfield sites based on the emerging LP policy, it would be reasonable to take the same emerging policy approach of 30% for PDL sites. The applicant has provided a letter from Sanctuary Homes (a Registered Provider for social housing) in which they state they will provide 30% affordable housing split on the following basis:

- 75% affordable rent
- 25% shared ownership

The affordable rent will be set at Local Housing Allowance rates. However, the offer is only valid so long as exchange takes place by 31st March 2022, as it is contingent on time-limited external grant funding. Sanctuary have not yet decided the location (and therefore the final mix) of the affordable provision albeit it will likely be in Block B. Sanctuary have confirmed they will be developing the scheme according to sizes from plans and the national space standards

10.63 The applicant had previously provided a viability appraisal which concluded that the scheme would result in a substantial deficit and would not be able to provide any on site affordable housing (and that even then the developer's profit margin would be less than industry standard). This appraisal was on the basis of a total S106 contribution 'pot' of £70,000. This was appraised by the Council's own consultants which concluded that with 35% affordable housing and a total S106 contribution 'pot' of £70,000 would not be viable on the site, which would result in a deficit of -£593,193. Officers did not consider that nil on site affordable housing and a S106 contribution 'pot' that did not cover the additional resources for the extra demand would constitute sustainable development. There were further discussions and negotiations with the applicant and that has resulted in the proposal for 30% affordable housing and a S106 contribution 'pot' of £240,936.78. As noted above this is time limited and would appear to be the best option to delivering housing (including affordable housing), which in the context of a lack of a 5 year land supply should be given significant weight.

10.64 Therefore on the information provided and the Council's approach to the emerging policy on affordable housing there is considered to be sufficient justification to depart from Core Policy 6 with regards to the provision of affordable housing and the underprovision of one affordable unit compared to current, adopted policy. The affordable housing would be secured through the Section 106 agreement.

Design, layout , landscaping and trees

10.65 NPPF Para 130 states that Planning decisions should ensure that developments:

'a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'

10.66 LP Policy EN1 states at criteria (3), (4) (6) and (7);

3 The design of the proposal, encompassing scale, layout and orientation of buildings, site coverage by buildings, external appearance, roofscape, materials and landscaping, would respect the context of the site and take account of the efficient use of energy;

4 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 or landscape;

6 The design, layout and landscaping of all development should take account of the security of people and property and incorporate measures to reduce or eliminate crime; and

7 The design of public spaces and pedestrian routes to all new development proposals should provide safe and easy access for people with disabilities and people with particular access requirements.

10.67 Core Policy 4: Environment; seeks amongst other things to conserve and enhance urban environments. Core Policy 5: Sustainable Design and Construction identifies that the Council will apply and encourage sustainable design and construction principles and best practice. Developments will also be required to create safe, accessible, legible and adaptable environments plus conserve and enhance the public realm. Further design guidance is within the National Design Guide (2021).

10.68 The application has been made in outline form, although as only landscaping is a reserved matter the layout, design and positioning of the proposed buildings and internal access road are fixed at this stage.

10.69 The buildings are substantial in scale. The proposal is three storeys in height plus a set-back top floor with a lower ground floor car parking element to Block A. It is

agreed the proposals reflect a hierarchy of built form within the overall building design. Whilst the buildings along Upper Grosvenor Road are generally 2-3 storeys high, the site is at a slightly lower level than the dwellings to the west. The submitted cross sections indicate the largest building; Blocks A and B would stand at the same height or marginally lower than No.204, Upper Grosvenor Road. Furthermore, setting-in the top floor will aid in reducing the mass and scale of the development.

- 10.70 There is a strong sense of enclosure to the site afforded by the existing trees and the Upper Grosvenor Road dwellings. Based on the indicative drawings the development would be largely unseen from the public realm within Upper Grosvenor Road. Views would be possible from the pedestrian footbridge that crosses the railway line to the south, but these would be very much filtered by the surrounding trees and other vegetation. The site is of course visible from the railway line, but this is very much a fleeting view amongst the backdrop of houses and trees that are visible between Tunbridge Wells and High Brooms stations.
- 10.71 The drawings show a simple rectilinear form, with elevations reflecting principles of proportion, scale, hierarchy and materiality. The plans show a vertical grid design of projecting brick columns, using brick and glass, with the floor slabs being expressed in the same brick soldier coursing. Contemporary details and fenestration have been employed to provide a modern aesthetic, such as marking the main entrance with a simple enveloping metal canopy, lightweight set back upper floor and chamfered windows to mitigate overlooking; deep window reveals plus balconies. The building is split into clearly legible blocks.
- 10.72 The courtyard circulation space would be a 'Homezone' with flush pathway and road elements in a mixture of bonded gravel roadways with concrete block pavements for the footpaths and small module paving proposed to the parking areas.
- 10.73 In summary, the design of the development would accord with saved Policy EN1 of the Tunbridge Wells Borough Local Plan of 2006 (the Local Plan) and Policies CP4 and CP5 of the Tunbridge Wells Borough Core Strategy Development Plan Document of 2010 (the Core Strategy), plus section 12 (Achieving well designed places) of the NPPF.

Trees

- 10.74 The potential impact on trees falls in to two broad categories;
- i) The impact from the proposal upon the trees (protected or otherwise) around the site during the construction phase (plus the need for tree removal to facilitate the development);
 - ii) Once completed, the impact of the development upon the retained trees.
- 10.75 The application is accompanied by a tree survey, arboriculturally impact assessment and arboricultural method statement. The survey encompassed a total of 82 individual trees, 12 groups or clusters of trees, and one hedge, comprising examples of 23 generally common tree and woody shrub species, typical of urban or suburban residential areas. Of the individual trees, 38 of those surveyed are identified within a Tree Preservation Order ('TPO') which applies to the site, although most of these are designated as being part of groups within the TPO; and one group surveyed is also included within the TPO. The most common tree species are Sycamore and Silver Birch, with extensive groups of Holly, Laurel, Portuguese Laurel, Lawson Cypress, Hazel, Laburnum and Western Red Cedar.

10.76 Six trees are identified as category 'U' trees, likely to require removal within ten years for arboricultural or safety reasons. There are no trees of sufficient quality to justify a category 'A' grading under the BS 5837 system; 31 trees are categorized 'B' grade; whilst the remainder (including most of the tree groups) are considered to be of low quality and value, and hence classed as category 'C', due to their small size, impaired structural or physiological condition, limited landscape value or life expectancy, or a combination of these factors.

Tree removal and construction phase

10.77 The proposed development will result in the removal of a total of 36 no. individual trees. Six of these, however, are category 'U' trees which will (irrespective of whether the development proceeds) require removal within ten years for arboricultural reasons, irrespective of the proposed development, due to their defective or decayed condition. Of the 30 other individual trees, 28 are graded as category 'C' specimens of low quality and value, and two are category 'B' trees (trees 37, Sycamore, and 58, Norway Spruce). Four groups of trees and mature shrubs also require removal, and two are identified as requiring either partial removal or cutting back. A full schedule is within the submitted Arboricultural Implications Assessment And Method Statement (December 2020).

10.78 Of the individual trees identified for removal, four are included within the TPO which applies to the site. These are trees 37, 30, 31 and 48, tree 37 being assessed as a category 'B' tree, and the others as category 'C' only. Only one tree (59, Ash), is identified as requiring any facilitative pruning to enable construction of the proposals, comprising minor reduction of branch lengths on the southeast side of its canopy.

10.79 Whilst the proposals as drawn will entail the removal of a number of trees and groups within the southern part of the site (including four individual trees and a group of Holly within the TPO) due principally to the proposed siting of the larger apartment building (block A), these are generally located within the internal body of the site, and as a consequence will have a lesser impact, overall, on external viewpoints or on the overall landscape context of the area.

10.80 The Tree Officer and the Landscape & Biodiversity Officer do not object to the level or nature of tree removal. The Tree Officer does consider that the proposed felling would cumulatively equate to a significant proportion of canopy cover, and although the quality and value of the tree stock could be improved through considered replacement, the proposed layout does not allow for anything near commensurate replacement planting. However, in addition to their limited wider amenity value (being within the central garden area of the site) the majority of the trees to be removed are unprotected (i.e. not subject to a TPO) and could be removed at any time without recourse to the Council. Therefore, the inability to replace them in a commensurate way is not considered to be a significant detractor from the scheme.

10.81 The emerging policy RTW6 of the Submission Local Plan includes a requirement that *'Particular regard shall be had to the retention and reinforcement of the trees along the eastern and southern boundaries to retain an appropriate level of screening'*. There would be some removal in these areas; T40, T41 (two groups of Laurel bushes), 42 (Cypress), 54 (U-graded Sycamore) on the southern boundary and G3, T23 (U-graded Aspen), 29 (U-graded silver Birch) and 32 (Laurel bush) on the eastern). The rest are C-graded meaning they are of low quality and value. The policy wording does not preclude tree removal and it is considered the remaining tree cover, plus the ability to provide additional planting on the boundaries will

compensate for this specific aspect of tree loss (although not the tree loss in its entirety, as set out in the above paragraph).

The impact of the development upon retained trees

- 10.82 All other trees identified within the survey will be retained, including many of higher categories, as they are either unaffected by the proposal; or the applicant argues can be successfully protected during the construction period, as shown on the submitted tree protection plans.
- 10.83 One of the key features of the design include the retention, as far as possible, of trees around the west and east boundaries of the site, upon the rear boundaries of existing properties in Upper Grosvenor Road, and the boundary to the railway respectively. In addition the design of the access roadway is to serve parking to the north of proposed block 'B' to follow the alignment and levels of the existing internal roadway within the site, thereby not involving significant new impacts on the root protection areas ('RPAs') of trees retained along the railway boundary; and, through removal of outgrown and poorer quality clusters or groups of trees and shrubs within the southern part of the site, provision of sufficient areas for new boundary landscaping and tree planting to enhance the scheme proposals and to integrate them within their context.
- 10.84 It is proposed that where features such as parking bays encroach within RPAs, these are fully capable of being constructed using appropriate techniques in order to minimize their potential impacts. A full schedule of tree RPA incursions is set out at pages 7-8 within the submitted Arboricultural Implications Assessment And Method Statement (December 2020). Due to the encroachments, in the majority of cases, affecting parts of the trees' RPAs which are beneath existing hard surfacing which can be retained in order to provide protection to underlying roots, and due to the small percentages of the respective RPAs affected, the Tree Officer does not consider these minor encroachments will compromise the trees' health or longevity.
- 10.85 The contentious issue with both the Tree Officer and the Landscape & Biodiversity Officer is the relationship between the retained trees and the building. The applicant argues that;
- *Viewport 3 in the suite of TPPs illustrates the relationship of the scheme to the retained trees' "shading arcs", drawn in accordance with the recommendations of BS 5837: 2012, showing that these only partially overlie or intersect the footprints of the two buildings. Principally, these emanate from the trees along the eastern site boundary with the railway line, meaning that the shade cast over the buildings' south-eastern elevations by these trees would be during the mornings only, with satisfactory and largely unimpeded access to daylight and sunlight throughout the rest of the day.*
 - *In proposed Block A (the larger building to the south), fenestration is maximised on the principal elevations facing to the south-west and to the north-east, the directions enjoying the more open aspects and not facing towards substantial or continuous tree cover. The side elevations incorporate window 'chevron' features which orientate windows to oblique directions, in order not to face directly towards the nearer trees on each boundary. Group G7, which partially clothes the south-west site boundary, is proposed to be reduced in height to 6m (reducing its height effectively by half), thereby maintaining its screening function at lower levels, but significantly reducing the level of shading which it currently casts.*
 - *In the case of Block B, to the north, in addition the apartments at the north-east, southeast and south-west corners of the building are proposed to be dual aspect, with windows to main rooms facing in two directions, thereby improving internal*

light levels and increasing access to daylight and sunlight at different times of day, as well as incorporating similar design features as Block A, in order to take advantage of the more open aspects to the south-west and north-east.

- *Similarly, the relationship of the retained trees to open amenity areas, as illustrated in Viewport 4 of the suite of TPPs, shows that a satisfactory extent of unshaded amenity space will be available around both buildings, particularly in the case of Block A to the south, following the removal of lower quality trees and tree groups within this part of the site, and responding to concerns initially expressed on this issue. Further, as the Council's preapplication response noted, the majority of apartments would have external private amenity space in the form of a balcony, with the upper level apartments having a terrace.*
- *On this basis, we consider it very unlikely that the degree to which the retained trees might be perceived as limiting or impinging upon the availability or adequacy of outdoor amenity space would give rise to future irresistible occupier pressure for the removal of any of the retained trees.*

10.86 The Tree Officer's concerns are that most of the trees east, south and west of the proposed apartment blocks are 15-20m tall and in close proximity to the buildings' footprints. Specifically tree T59 and those shading the amenity areas are referred to. This would in their view lead to foreseeable future pressure for extensive pruning or removal. The high levels of fenestration, within the buildings are noted, although the Tree Officer's experience on similar sites is that occupants put great value on 'sky views' and daylight throughout the day, not just direct sunlight for a portion of the morning or afternoon. The Tree Officer made it clear at the pre-application stage that they would not recommend refusal on this basis but they still think this is a limitation of the present design.

10.87 In terms of pressure on trees from future occupants, this proposal is for a flatted development and therefore property owners will not have the right or ability to independently carry out tree works as they will be located in the communal areas. It is recognised the buyers of the properties will be fully aware of the views from their windows so anything more than tree management (i.e. maintenance to ensure the trees do not overgrow to a disproportionate size) could be resisted by both the managing agent and TWBC if a tree works application is required. The applicant has pointed out that as the managing agent is responsible for ensuring costs are appropriate and proportionate to the development, they would not take on extensive costly tree works simply based on resident's desire for a 'sky view'. Conditions can also be used to prevent loss of non-TPO trees.

10.88 The primary issue appears to be the proximity of trees to the NW elevation and eastern corners of both blocks A & B. However, the Tree Officer does not consider this to be a refusal reason in itself. Furthermore, additional landscaping around the access road and on the western side of the top parking area can be secured at the RM stage, should trees be required to be cut back in the future.

Residential amenity

10.89 The application proposes two four storey blocks of flats sited to the east of Nos. 178 – 228 (evens) Upper Grosvenor Road. Some of these buildings are less sensitive receptors to overlooking as they are blocks of flats, with communal gardens (or where are exclusively for the use of one flat, gardens that are already overlooked by upper floor dwellings in the same building). Nos 192, 196, 198, 202 and 220 are all buildings containing multiple dwellings.

10.90 There would be no impact to the east of the site as this is occupied by the railway line and electricity substation, with the park beyond.

- 10.91 The primary concern here relates to the potential for overlooking due to a number of habitable room windows and balconies provided on the western, southern and northern elevations of the proposed buildings facing the rear gardens of the above properties. The applicant states the proposed development has been carefully redesigned so that the orientation and views from these windows no longer directly face neighbouring properties. They also contend that the existing mature trees and vegetation would provide screening and so the overall visual impact of the development would be limited. Additional planting and soft landscaping is proposed to enhance the existing screening, full details of which would be confirmed at the reserved matters stage.
- 10.92 The main impacts would arise from the north west and south west elevations of Block A, and the north west and north east elevations of Block B. The field of vision from habitable rooms generally takes a 45 degree angle.

Block A

- 10.93 The plans show Block A's SW elevation would face towards 178 – 190 (evens) Upper Grosvenor Road. This block would be sited between 7.5m and 40m from the common boundaries of these dwellings. The closest point would be the 7.5m gap between the western corner and the boundary of the block of flats at 192 Upper Grosvenor Road. There would be no material impact from the ground floor, which is wholly a parking area. The upper three floors would contain bedrooms, living rooms and balconies (latter at the corners of the building). There is a risk of overlooking from the position of the balconies on the western corner (first and second floors) plus the windows facing towards 178-190. If they were obscured through opaque panels (for example), overuse of obscure glazing would heavily restrict views from them, rendering them of little use as outdoor amenity areas. Therefore it is considered that a combination of obscure glazed panels, vertical 'fins' which (if positioned correctly and at a 45 degree angle to the floor) would provide screening. This package of measures can be secured by condition,
- 10.94 The impact of the SW elevation windows could be mitigated through the use of south facing angled oriel windows (as proposed on the NW elevation) along with setting the windows further in to the wall than usual (to narrow the view to the outside).
- 10.95 There would be bedroom windows in the centre of the NW elevation (three on each level) which are shown to be angled towards 192, 194 and 196. Only 194 is a single dwellinghouse and there is substantial tree planting on the boundary which mitigates the view. Any impact would be primarily upon the gardens of these buildings - 192 / 196 are already compromised given the multi-occupancy nature of the buildings (as set out above). Owing to the narrow window design, the view would only affect a limited area at the end of the garden of No.194 and again would be filtered by the existing trees. Owing to the length of the gardens, position of the buildings and the intervening trees there is limited scope for overlooking into the buildings at 192, 194 and 196.
- 10.96 The balcony on the northern corner would only materially affect the communal garden of No.198 (there is no No.200 Upper Grosvenor Road) and again there are substantial trees on the boundary.
- 10.97 The other two elevations face towards either the railway/sub station/park or back into the site towards the parking area, and are sufficiently far away from the rest of the nearby Upper Grosvenor Road dwellings not to result in a detrimental amount of overlooking or loss of privacy.

Block B

- 10.98 Like Block A this is also four stories in height and there would be no material impact from the ground floor. Block B's SE elevation overlooks the railway line/substation/park and the SW would face primarily towards the car park and Block A (being a sufficient distance from it not to create overlooking between the two blocks).
- 10.99 The most potential for overlooking arises from the NE and NW elevations. The NW elevation is similar to its counterpart on Block A: three centrally located narrow bedroom windows which are angled to the SW. These would face towards the rear gardens of Nos. 204 and 206 where there are also substantial trees on the boundary. Again this would only affect the ends of the gardens where (as opposed to the areas closest to the house) there is generally considered to be a lower expectation of privacy.
- 10.100 Again there is a risk of overlooking from the balconies on the northern and western corners of the building (second floor) plus the top floor terraces. However it is important to note the terraces only face to the SW (towards Block A) and the NE (towards the car park). It is considered that the impact from the terraces towards the Upper Grosvenor Road dwellings can be mitigated through obscure glazed panels at their western ends. Conditions can preclude the use of any flat roofed areas not annotated as 'terrace' or 'balcony' from use as an outdoor amenity space. Again the impact corner balconies can be mitigated through the use of opaque glazing and angled 'fins' mentioned earlier.
- 10.101 There are also windows on the NE elevation, towards the northern corner that face towards Nos. 214 and 216 Upper Grosvenor Road. However the angle of the windows and their narrow design, plus the oblique angle of sight towards Nos. 214 and 216 would not lead to a harmful impact that could justify refusal.
- 10.102 It is considered important at this juncture to distinguish between overlooking (and a consequential loss of privacy) and merely being able to 'see' towards another property. Only overlooking that is impossible to reasonably mitigate would justify refusal of permission.
- 10.103 Policy EN1 also addresses a loss of outlook from nearby occupiers. For an 'outlook' to be substantially harmed the impact must be far greater than a simple change of view. The preservation of a private view or the corresponding impact on adjoining property values through the loss of that view are not material planning considerations. The separation distances between the proposed dwellings and those around it are not considered to create any overshadowing, substantial loss of light or overbearing impact such that the application should be refused. This is a built up residential area where some degree of overlooking between dwellings and restricted outlook is to be expected.
- 10.104 Reference has been made above to the ability of trees to act as screens against overlooking or as a barrier to a potentially overbearing structure. The general stance is that landscaping alone cannot mitigate overlooking due to its impermanent nature. The above conclusions have been arrived at on the basis the trees are absent. Reference is made to them mitigating the impact towards neighbours however this is strictly in the context of the overlooking being addressed through other means or being satisfactory, the trees providing additional mitigation.

10.105 In addition this is an urban area where there is already a degree of mutual overlooking between properties; typically where views in to neighbouring back gardens are possible from adjacent dwellings. This is somewhat exacerbated in this location as 178 – 190 (evens) Upper Grosvenor Road are arranged around a curve which creates a greater degree of mutual overlooking than if they were arranged in a straight line.

10.106 The position and location of the dwellings relative to those around them, the distances between existing and proposed dwellings and the ability to mitigate these impacts is such that no harm to residential amenity through overlooking, loss of outlook or similar matters is considered to be caused which would justify refusal of the application.

S.38 (6) balancing exercise

10.107 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise. This is reaffirmed in NPPF Para 47. S38 (6) affords the development plan primacy in determining the application. The Development Plan policies as a whole are not out of date and still carry significant weight. This is consistent with the Government's clear statement that the planning system should be genuinely 'plan-led.' (NPPF Para 15).

10.108 In terms of negative aspects;

- The proposal would result in tree loss within the site, although the Tree Officer does not object to the scale and nature of the proposed loss;
- There are still some concerns regarding the proximity of the development to the retained trees however Officers are confident these can be mitigated by conditions and the future management of the site;
- The affordable housing provision within the scheme at 30% falls short of adopted standards (35%) by one dwelling, however the provision does meet with proposed affordable housing requirements on brownfield land in the emerging Local Plan and the site specific allocation policy. The latter is a document which Members have agreed at Full Council in February 2021 and whose greenfield affordable housing rates have already been adopted by some developers.
- There is a shortfall of seven visitor parking spaces however this is mitigated by the site's close proximity to public transport links (bus and rail) as well as being within reasonable walking distance of the town centre and local services and the fact that local parking restrictions are already in place.

10.109 In terms of the positive aspects:

- The provision of 44 dwellings at the prescribed mix is a positive, to which significant weight can be attached;
- The provision of 14 affordable dwellings is a further significant positive;
- The proposal would use partly Previously Developed Land;
- The proposal will be a moderate positive in terms of improving the economic and social vitality of the area (during construction and through the introduction of new residents);
- The proposal would remove an unsafe existing access currently serving No.230;
- The site is within the LBD and a highly sustainable location, close to local shops, a nursery and a primary school and within a short walk of mainline rail services and local bus routes to the town centre;

- Some benefits would arise from some of the S106 financial obligations (for example: non residents would benefit from the new amalgamated GP surgery and the Cultural Hub payments);
- The proposal would deliver a net ecological gain through a scheme of mitigation and enhancement and a wider Landscape and Ecological Management Plan;
- Additional landscaping is proposed which would reduce and mitigate (to a degree) the landscape impact of the development and the wider landscaping proposals within the LEMP would be secured in perpetuity.

10.110 It is not considered that the 'tilted balance' exercise within NPPF Para 11 (d) (ii) is engaged, as there are relevant Development Plan policies for the determination of the application. Even if it were, the adverse impacts of granting permission would be significantly and demonstrably outweighed the benefits when assessed against the policies in the NPPF taken as a whole. Having regard to the presumption in favour of sustainable development and the requirements of paragraph 11 of the NPPF, planning permission should therefore be granted and other material considerations do not indicate otherwise.

11.0 RECOMMENDATION –

A) Grant subject to the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended), in a form to be agreed by the Head of Legal Partnership Mid Kent Legal Services by 31st March 2022 (unless a later date be agreed by the head of planning services) to secure the following;

- The provision of a minimum of 14 units of affordable housing;
- A contribution of £35,185.00 towards expansion of Bennett Memorial Diocesan School;
- A contribution of £17,493.84 towards the Libraries, Adult Learning and Social Care element of the Tunbridge Wells Cultural Hub project;
- A contribution of £7,714.14 towards the North Farm Waste Transfer Station;
- A contribution of £2,751.00 towards additional resources for Tunbridge Wells Youth Hub);
- A contribution of £31,032.00 towards refurbishment, reconfiguration and/or extension of Clanricarde Medical Centre, Abbey Court Medical Centre, Speldhurst & Greggswood Medical Group, Lonsdale Medical Centre, St Andrews Medical Centre, Kingswood Surgery and/or Rusthall Medical Practice;
- A contribution of £146,760.80 towards open space being:-
 - new play equipment for Woodlands playground, Cunningham Road, and/or;
 - new or upgraded children's or youth/adult facilities in Grosvenor & Hilbert Recreation Ground;
 - new or upgraded children's or youth/adult facilities in Dunorlan Park, or
 - the proposed Football Centre of Excellence adjacent to Hawkenbury Recreation Ground.

and subject to the following conditions:-

Submission of Reserved Matters

- (1) Approval of the details of landscaping (hereafter called "the Reserved Matters") shall be obtained from the Local Planning Authority in writing before development commences and the development shall be carried out as approved.

Reason: To comply with the provisions of Article 3 of the Town and Country Planning (Development Management Procedure Order) 2015 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Submission of Reserved Matters and implementation

- (2) Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 3 years from the date of this permission. The development hereby permitted shall be begun not later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.

Reason: To comply with the provisions of Article 3 of the Town and Country Planning (Development Management Procedure) Order 2015 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved plans

- (3) The development hereby permitted shall be carried out in accordance with the following approved plans (insofar as the details shown relate to the access, scale, layout and appearance of the development);

| | |
|---|-----------------------------------|
| 6943 100 P4 | Proposed Site Plan |
| 6943 101 P4 | Block A: Proposed Floor Plans |
| 6943 102 P2 | Block B Plans |
| 6943 103 P1 | Proposed Site Sections EE FF GG |
| 6943 104 P1 | Proposed Site Sections CC DD |
| 6943 105 P1 | Proposed Site Sections AA BB |
| 6943 106 P4 | Proposed Block Plan |
| 6943 107 P2 | GIA Floor Plans |
| 6943 200 P1 | Proposed Elevations Block A |
| 6943 201 P2 | Proposed Elevations Block B |
| 6943 203 P1 | Proposed Refuse and Cycle Stores |
| 6943 1000 | Electric Charging point locations |
| Arboricultural Implications Assessment And Method Statement December 2020 | |
| 2002052 03B | Access details |

Reason: To clarify which plans have been approved

Design details

- (4) Notwithstanding the submitted plans and details, prior to the commencement of above ground development, detailed plans and information regarding the following aspects of the proposed development 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;
- a) The layout, position and widths of all footpaths and roads, along with the materials to be used for final surfacing (including details showing how dedicated and continuous footway routes will be demarked);
- b) Details relating to materials, including windows, window glazing and joinery details (including recess depths dimensions);

- c) The alignment, height and materials to be used in the construction of all walls, fences or other means of enclosure;
- d) Written details including source/manufacturer, of bricks, tiles and cladding materials to be used externally;
- e) Details of the green roofs to be used within the development (to be permanently retained);
- f) Details of the existing and proposed ground levels detailing any changes to levels and including finished ground floor slab levels and any retaining structures and areas of cut and fill. Such matters to be demonstrated through long-sections showing how the site relates to surrounding development.
- g) A scheme which demonstrates compliance with the Secured By Design (SBD) Silver accreditation as a minimum and how those measures will be incorporated into the new development.

Reason: To ensure the build quality of the development and visual amenity. In the interests of highway and pedestrian safety and the creation of development where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Landscaping

- (5) All hard and soft landscape works approved pursuant to condition (1) shall be carried out in accordance with the approved details.

The submitted scheme shall include details of hard landscape works, including hard surfacing materials; street furniture and details of soft landscape works, including planting plans, written specifications (including cultivation and other operations associated with the plant and grass establishment) and schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. It shall also include a programme for carrying out the works.

The works shall be carried out in accordance with the approved implementation programme.

Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written permission to any variation.

Reason: In the interests of visual amenity.

Method statement for root protection

- (6) Notwithstanding the submitted plans and details, prior to the commencement of any development hereby approved a method statement detailing the provision of hard surfaces within the root protection areas of trees in accordance with the principles set out in the current edition of BS 5837 and other current best practice guidance shall be submitted to and approved in writing by the local planning authority.

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

condition as the measures will be required to be in place from the commencement of the development phase

Tree protection

- (7) The approved development shall be carried out in such a manner as to avoid damage to the existing trees, including their root systems, and other planting to be retained by observing the following:
- (a) All trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with the approved Arboricultural Method Statement and details approved under condition (6). Such tree protection measures shall remain throughout the period of construction
 - (b) No fires shall be lit within the spread of branches or upwind of the trees and other vegetation;
 - (c) No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation;
 - (d) No roots over 50mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or Root Protection Areas of the trees and other vegetation;
 - (e) Ground levels within the spread of the branches or Root Protection Areas (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.
 - (f) No trenches for underground services shall be commenced within the Root Protection Areas of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality. To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

SUDS scheme

- (8) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the principles contained within the Drainage Strategy Report by RCD (01/03/2021). The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

SUDS Verification Report

- (9) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

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

Sewage disposal details

- (10) Notwithstanding the submitted plans and details, prior to the commencement of development (excluding the demolition of the dwellings at Nos 202 and 230 Upper Grosvenor Road down to ground level) a drainage strategy detailing the proposed means of foul sewage disposal and a implementation timetable, shall be submitted to and approved in writing by, the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: To avoid pollution of the surrounding area and to ensure service roots avoid tree root protection areas as far as practicable.

Archaeology

- (11) Prior to the commencement of development (excluding the demolition of the dwellings at Nos 202 and 230 Upper Grosvenor Road down to ground level) the applicant, or their agents or successors in title, will secure and implement:

i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

ii further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Sustainability measures

- (12) Notwithstanding the submitted details, prior to the above ground construction of the buildings hereby approved, written and illustrative details for renewable energy technologies within the development shall be submitted to, and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: In order to ensure that the energy efficiency through sustainable design and construction is achieved

- Highways - visibility splays, creation of new access and closure of existing access*
(13) Notwithstanding the submitted plans and details, prior to the commencement of any other works or development on site;

- The dwelling at No.202 Upper Grosvenor Road shall be entirely demolished, the new access hereby approved shall be constructed and brought in to use;
- All use of the existing vehicular access point to No.230 Upper Grosvenor Road shall cease and the access permanently closed to vehicular traffic (unless otherwise agreed in writing by the Local Planning Authority), and;
- The visibility splays shown on approved drawing 2002052-03 C (within which there shall be no obstruction in excess of 0.9m in height above the carriageway edge) shall be provided at the access and shall be so maintained at all times thereafter.

Reason: In the interests of highway safety. This is a pre-commencement condition as the visibility splays will need to be provided from the start of the construction phase and the existing access is unsuitable for intensified use

- Closure of existing access and use for pedestrian access*
(14) Notwithstanding the submitted plans and details, prior to the first occupation of the development hereby approved, a scheme for the permanent closure of the existing vehicular access point to No.230 Upper Grosvenor Road and its use as a pedestrian access shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details.

The scheme shall be based on the submitted drawing GUA-DR-L-001 P01 (Landscape Masterplan) and shall include;

- details of hard landscape works, including hard surfacing materials;
- street furniture (including at least one metal or wooden bench),
- measures at the entrance to prevent children running directly in to the road and
- details of soft landscape works, including planting plans, written specifications (including cultivation and other operations associated with the plant and grass establishment) and schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

The development shall thereafter be retained in accordance with the approved details.

Reason: In the interests of highway and pedestrian safety, visual amenity, and to provide a legible pedestrian route for the development.

Parking and turning

- (15) The area shown on the approved drawings as vehicle parking space and turning shall be provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority before first occupation of the development hereby approved, and shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking and turning space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users.

External lighting

- (16) Notwithstanding the submitted plans and details, prior to the first occupation of the development hereby approved details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. These shall include a lighting layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). No external lighting shown on the submitted plans shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority beforehand. The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: In the interests of amenity of adjoining residents and to limit light pollution

Code of Construction Practice

- (17) Notwithstanding the submitted details, prior to the commencement of the development a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003). unless previously agreed in writing by the Local Planning Authority. The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds

- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works

Reason: To protect the amenity of local residents and in the interests of highway safety. This is a pre-commencement condition as it addresses matters which arise from the commencement of demolition works.

Land contamination

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

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

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

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

- 4) A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Any changes to these components require the express permission of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This is a pre-commencement condition as any contaminants present within the ground will need to be removed before further development commences.

Levels

19) Notwithstanding the submitted plans and details, prior to the commencement of development details of existing and proposed levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved levels and shall not be varied without

details being first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the build quality of the development. This is a pre-commencement condition as the site levels will need to be determined prior to the commencement of the development phase.

EV charging points

- 20) Prior to the first occupation of the development hereby approved the electric vehicle-charging points shown on approved drawing 6943 1000, shall be carried out in accordance with the approved details and thereafter retained.

Reason: In the interests of promoting emission-free car use and to achieve sustainable development.

Noise levels

- 21) Notwithstanding the submitted plans and details, prior to the commencement of construction work on the buildings hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back garden and other relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - shall be submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

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

Tree, hedge and hedgerow protection

- 22) All existing trees, hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All trees, hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any trees, or parts of hedges or hedgerows removed without the Local Planning Authority's prior written permission or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed in writing with the Local Planning Authority.

Reason: In the interests of protecting the visual amenities and character of the site and locality.

Landscape and Ecological Management Plan

- 23) Notwithstanding the submitted details, a Landscape and Ecological Management Plan (LEMP) following the principles set out in British Standard 42020:2013 Biodiversity — Code of Practice for planning and development shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of above ground construction of the development.

The LEMP shall apply to all communal areas within the development. The content of the LEMP shall accordance with Council guidance and include the following:

- a) Description and evaluation of the landscape and ecological features to be managed and note any features or areas covered by other management agreements or prescriptions e.g. play areas or drainage schemes.

- b) Ecological trends and constraints on site and wider environmental issues that might influence management and in particular consider the likely effects of climate change.
- c) Landscape and ecological aims and objectives of the management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions for each identified habitat and feature covered.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period) with recommendations for periodic review.
- g) Details of the body or organization responsible for implementation of the plan and the resources both financial and personnel by which the LEMP will be implemented. This shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured post development with the management body(ies) responsible for its delivery.
- i) Ongoing monitoring and remedial measures including regular review by accredited professionals including setting out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning landscape and biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure the development delivers ecological net gain in accordance with the requirements of the National Planning Policy Framework and to assimilate the development into its surroundings.

Balconies, terraces and windows

- 24) Prior to the first occupation of any dwelling on;
- the north west facing elevations of Blocks A and B,
 - the south west facing elevation of Block A,
 - the north east facing elevation of Block B

details of measures to mitigate overlooking towards the existing dwellings to the west of the site in Upper Grosvenor Road shall be submitted to and approved in writing by the Local Planning Authority, and shall be installed in strict accordance with the approved details. The measures shall include mitigation of overlooking from balconies, terraces and windows. The approved measures shall thereafter be retained.

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

- 25) The flat roofed area of the buildings hereby permitted (other than those areas specifically identified as terraces on the approved plans) shall not be used as a veranda, balcony, roof garden, or similar amenity area. Furthermore there shall be no access between any flat and any part of the roof not specifically identified as terraces on the approved plans.

No balustrades, railings or other means of enclosure shall be erected around any parts of the roof not specifically identified as terraces on the approved plans; and access to these flat roofed areas shall be restricted solely for the purpose of future maintenance of the building and for no other purpose.

Reason: In the interests of residential amenity

High Speed Fibre Optic broadband

- 26) Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

Reason: To provide high quality digital infrastructure in new developments as required by NPPF paragraph 112. This is a pre-commencement condition as service routes will need to be addressed from the beginning of the construction phase.

INFORMATIVES

- 1) Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

- 2) As the development involves demolition and / or construction, compliance with the Mid Kent Environmental Code of Development Practice is expected.
- 3) A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read Southern Water's New Connections Services Charging Arrangements documents which is available to read on their website via the following link: <https://beta.southernwater.co.uk/infrastructurecharges>
- 4) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at:

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

The applicant is advised that they will need to enter into an agreement with the highway authority under S278 of the Highways Act 1980 for works to the access. As the development is to remain private the developer should also Serve Notice under

S.31 of the Highways Act 1980 declaring that the streets are to be privately maintainable in perpetuity.

- 5) As the development is to remain private the developer should Serve Notice under S31 of the Highways Act 1980 declaring that the streets are to be privately maintainable in perpetuity.
- 6) This development is the subject of an Obligation under Section 106 of the Town and Country Planning Act 1990.

B If the applicants fail to enter into such agreement by 31st March 2022 The Head of Planning Services shall be authorised to REFUSE PERMISSION for the following reasons (unless a later date be agreed by the Head of Planning Services):

- (1) The proposal would not provide affordable housing and would therefore conflict with Core Policies 6 and 9 of the Tunbridge Wells Borough Core Strategy 2010, the Affordable Housing Supplementary Planning Document, the Planning Practice Guidance and the National Planning Policy Framework 2021.
- (2) The proposal would fail to provide;
 - Developer contributions requested by Kent County Council towards the Libraries, Adult Learning and Social Care elements of the Tunbridge Wells Cultural Hub project; the North Farm Waste Transfer Station; additional resources for the Kent Youth Service; and the expansion of Bennett Memorial Diocesan School;
 - Developer contributions requested by the NHS West Kent Clinical Commissioning Group towards refurbishment, reconfiguration and/or extension of Clanricarde Medical Centre, Abbey Court Medical Centre, Speldhurst & Greggswood Medical Group, Lonsdale Medical Centre, St Andrews Medical Centre, Kingswood Surgery and/or Rusthall Medical Practice;
 - Developer contributions requested by Tunbridge Wells Borough Council towards children's playspace and Youth/Adult recreation facilities.

and would therefore conflict with Core Policies CP1 and CP8 of the Tunbridge Wells Core Strategy 2010, Policies CS4, R2 of the Tunbridge Wells Borough Local Plan 2006, the Recreation and Open Space Supplementary Planning Document and the National Planning Policy Framework 2021.

Case Officer: Marie Bolton

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.