

## REPORT SUMMARY

**REFERENCE NO - 22/01537/FULL**

### APPLICATION PROPOSAL

Demolition of existing building; erection of three semi-detached townhouses to create six new dwellings

**ADDRESS** St Andrews Medical Centre St Andrews Court Pinewood Gardens Southborough  
Tunbridge Wells Kent TN4 0LZ

**RECOMMENDATION** To GRANT planning permission subject to Conditions (please refer to section 11.0 of this 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supply of housing, the housing supply policies (including those related to the Limits to Built Development (LBD) are “out-of-date”.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Paragraph 11 and Footnote 7 of the National Planning Policy Framework (NPPF) requires that where relevant policies are out-of-date that permission for sustainable development should be granted (and all other material considerations are satisfied);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 redundant GP surgery building;
- The traffic movements generated by the development can be accommodated without detriment to safety on the public highway;
- The proposal can secure traffic calming and other safety measures along the privately owned shared roadway/pedestrian footway in front of the site;
- The development would not be significantly harmful to the residential amenities of neighbouring dwellings;
- The development can be accommodated around the existing trees;
- The number of residential units and the mix of unit sizes are considered to be appropriate to this site;
- The proposal is within the LBD of Southborough, 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 in a highly sustainable location close to a major bus route, within walking distance of shops, a nursery, primary and secondary schools, GP surgery and other facilities/amenities;
- 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): N/A**

**Net increase in numbers of jobs: N/A**

**Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs: N/A**

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

**Estimated annual council tax benefit for Borough: 6 x £193.75 = £1162.50**

|   |  |   |          |
|---|--|---|----------|
| <b>Estimated annual council tax benefit total: 6 x £2,029.76 = £12178.56</b>                  |  |   |          |
| <b>Estimated annual business rates benefits for Borough: N/A</b>                              |  |   |          |
| <b>REASON FOR REFERRAL TO COMMITTEE</b>   |  |   |          |
| Referred by Head of Planning Services   |  |   |          |
| <b>WARD</b> Southborough North  | <b>PARISH/TOWN COUNCIL</b><br>Southborough Town Council                                    | <b>APPLICANT</b> Mr Philip Gowing<br><b>AGENT</b> Mr Daniel Harding |          |
| <b>DECISION DUE DATE</b><br>EOT 21/11/22  | <b>PUBLICITY EXPIRY DATE</b><br>24/10/22   | <b>OFFICER SITE VISIT DATE</b><br>Various                           |          |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> |  |   |          |
| 94/00400/FUL  | Single storey extension and additional car parking   | Granted   | 04/11/94 |
| 85/01159/FUL  | Doctors surgery and medical centre including car parking for 16 vehicles                   | Granted   | 03/02/86 |
| 84/00086/OUT  | Outline (siting and means of access not reserved) - Doctor surgery                         | Granted (not implemented)   | 29/03/84 |
| 83/01402/TWBRG3   | Regulation 4 - Three old persons bungalows   | Granted (not implemented)   | 01/02/84 |
| 79/00726/TWBRG4   | Flats for elderly - 32 one person & 9 one-person flats, wardens accommodation and facility | Granted   | 19/09/79 |

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The site contains a vacant single-storey building (comprising 348sqm), a large hard surfaced car park and a grassed area which was formerly used as a GP surgery. The building was granted permission in 1985; permission was granted again to extend it and create additional parking in 1994. It has a tiled pitched roof, brick elevations, UPVC windows and aluminium doors. The GP practice vacated the building and moved to new, more modern premises at the nearby Southborough Hub in 2021.
- 1.02 The site and building is surrounded by a 1.8m high steel palisade security fence to the front elevation, a 1.8m high timber fence to the west and rear elevations with an open chain-link fence to the east. A section of the access road in front is also in the same ownership.
- 1.03 To the north and west is a 1980s development of flats that form part of St Andrews Court, which is sheltered housing scheme operated by Town and Country Housing Group (TCHG). There is a large three storey block of flats to the north and a series of two storey blocks of maisonettes to the west.
- 1.04 To the immediate east of the site is a scout hut and to the NE is an open area with tree cover that belongs to Southborough Town Council (STC); this forms part of the Ridgeway playing fields / allotments which are further away to the east. To the south are detached dwellings in St Andrews Park Road.
- 1.05 Access is via a bound tarmac private road which runs from the car park serving St Andrews Court to the NW and also provides access to the scout hut and the playing

fields. This road also carries a shared footpath/roadway (not a formally designated Public Footpath) which runs between London Road and links not only to the playing fields etc to the east, but to dwellings in The Ridgeway, Oak End Close/Fernhurst Crescent and beyond.

- 1.06 The shared footpath/roadway is in private ownership, with the applicant owning the section in front of the Medical Centre. The section to the east being owned by TCHG and the remainder to the west by STC. The entrance to the private shared footpath/roadway currently has a barrier and bollards preventing unauthorised access from St Andrews Court and further bollards performing a similar function at the other side. It also has a low-level planter wall on one side which has become overgrown in recent years.

## 2.0 PROPOSAL

- 2.01 The application seeks planning permission for the demolition of the vacant healthcare building and palisade fencing, plus the removal of the car park and the construction of six dwellings, taking the form of three pairs of four bedroomed semi-detached townhouses.
- 2.02 The dwellings are designed so at the ground floor they are sited behind the rear building line of the neighbouring flats. At first floor there is a front overhang, and at the rear, the houses step in to match the built lines of the neighbouring maisonettes. A top storey, partly concealed at street level behind a parapet roof is stepped back at the front and side. The dwellings are flat roofed and use brickwork to the ground and first floor, with grey standing seam zinc to the top floor. Grey aluminium windows/doors are proposed.
- 2.03 The dwellings have individual rear garden/amenity spaces with 12 residential parking bays and a turning head to the front of the site. Refuse and secure bicycle storage is included.
- 2.04 The plans show replacement planting within the development, comprising mature evergreen trees.
- 2.05 The shared footpath/roadway is proposed to be widened from 3.8m to between 4.65m and 4.95m to allow turning and leaving in a forward direction. The plans show this would be achieved by narrowing the planted bed on the north side of the path and setting the edge of the driveways back from the current line of the palisade fencing. The footpath/roadway would still narrow to 3m to the immediate west of Plot 1, increasing to 3.6m at the access point on to St Andrews Court.
- 2.06 The submitted plans were amended on 29<sup>th</sup> September in the following way;
- Movement of houses north by 0.5m;
  - Alterations to rear windows including use of obscure glazing and restrictors; Alterations to external materials (changed to brick on ground and first floor, zinc to the second floor);
  - Addition of brick pattern to front elevations.

## 3.0 SUMMARY INFORMATION

|           | Existing    | Proposed        | Change (+/-) |
|-----------|-------------|-----------------|--------------|
| Site Area | 0.13ha      | 0.13ha          | N/A          |
| Land use  | GP surgery/ | 6 No. dwellings | N/A          |

|   |                    |                        |                                     |
|---|--------------------|------------------------|-------------------------------------|
|   | medical centre     |                        |                                     |
| Number of jobs  | Not specified      | None                   | N/A                                 |
| Car parking spaces  | Approx 10          | 12                     | Not comparable as in different uses |
| Cycle spaces  | None               | Two per dwelling       | N/A                                 |
| No. of storeys  | 1                  | 3                      | +2                                  |
| Max height  | 4.9m               | 8.09m                  | +3.19m                              |
| Max eaves height  | 2.8m               | 8.09m                  | +5.29m                              |
| No. of residential units  | 0                  | 6                      | +6                                  |
| No. of bedrooms   | N/A                | 4                      | N/A                                 |
| Width of access road (outside proposed dwellings – excluding planted bed on north side) | Approximately 3.8m | Between 4.95 and 4.65m | +0.85m and 1.15m                    |

#### 4.0 PLANNING CONSTRAINTS

- Air Quality Management Area
- Limits to built development - inside
- Area to the NE (outside the site) is designated as an Area of Landscape Importance

#### 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

Policy AL/STR 2: Environmental and Recreation Designations

##### **Tunbridge Wells Borough Core Strategy 2010**

Core Policy 1: Delivery of Development

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 10: Southborough

##### **Tunbridge Wells Borough Local Plan 2006**

Policy EN1: Development Control Criteria

Policy EN8: Lighting

Policy EN22: Areas of Landscape Importance

Policy H2: Small and intermediate sized dwellings

Policy H5: Residential development within Limits to Built Development

Policy TP4: Access to the Road Network

Policy TP5: Parking Provision with New Development

Policy TP9: Cycle Parking

##### **Supplementary Planning Documents:**

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);  
KCC Supplementary Planning Guidance SPG 4 - Kent Vehicle Parking Standards  
July 2006

**Tunbridge Wells Borough Submission Local Plan 2020-2038**

Policy STR1: The Development Strategy  
Policy STR2: Place Shaping and Design  
Policy STR3: Brownfield Land  
Policy STR4: Ensuring Comprehensive Development  
Policy STR5: Infrastructure and Connectivity  
Policy STR6: Transport and Parking  
Policy STR7: Climate Change  
Policy STR8: Conserving and Enhancing the Natural, Built, and Historic Environment  
Policy STR/SO1: The Strategy for Southborough  
Policy EN1: Sustainable Design  
Policy EN2: Sustainable Design Standards  
Policy EN3: Climate Change Mitigation and Adaptation  
Policy EN8: Outdoor Lighting and Dark Skies  
Policy EN9: Biodiversity Net Gain  
Policy EN12: Trees, Woodland, Hedges, and Development  
Policy EN14: Green, Grey, and Blue Infrastructure  
Policy EN16: Landscape within the Built Environment  
Policy EN21: Air Quality  
Policy EN22 Air Quality Management Areas  
Policy EN24: Water Supply, Quality, and Conservation  
Policy EN25: Flood Risk  
Policy EN26: Sustainable Drainage  
Policy EN27: Noise  
Policy EN28: Land Contamination  
Policy H1: Housing Mix  
Policy H2: Housing Density  
Policy TP1: Transport Assessments, Travel Plans, and Mitigation  
Policy TP3: Parking Standards

**6.0 LOCAL REPRESENTATIONS**

6.01 The application was publicised by way of site notice in June 2022 and again in October 2022 when amended plans were received.

6.02 29 representations (some of which are from organisations representing groups of people such as the Southborough Society) have been received. A representation has also been received from a local Ward Member. These are all objections and are summarised below as raising the following issues;

- Design of development;
- Overdevelopment;
- Loss of privacy (despite obscure glazing/restrictors), outlook and light;
- Overbearing towards neighbouring dwellings;
- Highway and pedestrian safety issues;
- Former GP surgery could be put to other uses;
- Loss of trees/vegetation;

- No need for development;
- Should be built to higher sustainable standards;
- Insufficient parking;
- Does not meet National Space Standards;
- Amendments do not overcome earlier objections.

## **7.0 CONSULTATIONS**

### **Southborough Town Council**

7.01 **(04/07/22 and 08/11/22)** – refuse on the basis of overdevelopment

### **Southern Water**

7.02 **(07/07/22)** – standard advice regarding development near sewers. Accompanying map shows no public sewers within the application site.

### **KCC Highways**

7.03 **(05/07/22)** – below threshold for comment

### **Kent Fire & Rescue**

7.04 **(29/06/22)** - It appears from the proposed site plan drawing number AL-101 that the proposed provision of a car turning area would not be suitable for the turning radius of a fire appliance. As a result there would be a significant reversing distance back to a suitable turning point.

7.05 Applicants should be aware that in the event of planning permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2010, to be established.

7.06 Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

### **Mid Kent Environmental Protection**

7.07 **(14/07/22)** - The site is in an urban area, but traffic noise is unlikely to be significant for this particular site. In addition the site is near to but outside the Tunbridge Wells Air Quality Management Area - do not consider the scale of this development and/or its site position warrants either an air quality assessment or an Air Quality Emissions Reduction condition applied to it. However, do consider that installation of Electric Vehicle charging points would be a useful promotion of a sustainable travel option.

7.08 There is no indication of land contamination based on information from the contaminated land database & historic maps databases.

7.09 The application form states that foul sewage will be dealt with via mains system; and there are no known Private Water Supplies in the vicinity.

7.10 Details regarding any external lighting should be required as a condition of any planning permission granted.

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

- 7.12 RECOMMENDATIONS: No objection, subject to comments above and conditions (lighting, EV charging points) plus informatives (Mid Kent Environmental Code of Development Practice, Noise and Vibration transmission between properties, Asbestos)

#### **TWBC Client Services**

- 7.13 **(07/07/22)** - Bins would be required to be purchased from TWBC prior to properties being sold or occupied . Note the set aside area opposite the houses as a collection point and two cars shown. This access is also to the park and does not show as Public Right Of Way nor Adopted Highway . There will need to be extreme care taken not only by collection crews with a reversing assistant. Householders will need to very careful any day of the week.

#### **TWBC Parking**

- 7.14 **(14/07/22)** - The parking provision set out in the Design and Access Statement is shown below compared to the calculated adopted and emerging standards for the development.

| Source                            | Resident and Visitor Parking Standards | Provided | Difference |
|-----------------------------------|--|----------|------------|
| <b>TWBC New Local Plan</b>        | <b>13 Minimum</b>                      | 12       | <b>-1</b>  |
| <i>Emerging Kent Design Guide</i> | <i>13 Maximum</i>                      |          | -1         |
| <i>2008 Kent Design Guide</i>     | <i>10 Maximum</i>                      |          | 2          |

- 7.15 Parking Services' recommendation as consultee, is that the TWBC New Local Plan standards should be followed, as the most appropriate prediction of parking demand, offering location specific and up to date guidance within the Borough of Tunbridge Wells. The lack of proposed visitor parking means that the provision is under the minimum standard. Parking Services would recommend that the applicant provides at least one additional space to ensure that visitors can park on-site.
- 7.16 Parking Services would also like to note that the plans appear to indicate that bay dimensions are substandard. All bays should be at least 2.5m x 5m in accordance with KCC guidance.

#### **TWBC Tree Officer**

- 7.17 **(verbal, 24/10/22)** – Impact on all trees outlined in AIA likely to be able to be addressed by AMS, use of hand tools and cellular membrane. Wellingtonia root span already restricted by roots of now-felled beech trees on eastern boundary. The AMS shall include a methodology for existing tree stump removal on eastern boundary – the use of diggers is likely to cause root damage so the stumps must be ground out.

### **8.0 APPLICANT'S SUPPORTING COMMENTS (taken from part 5.0 of Design & Access Statement)**

- 8.01 The proposal is well-designed in form and language to complement and enhance the surrounding built forms. It relates to the surrounding urban grain and building plots.
- 8.02 It responds to local and national policy and conforms with the detail of each. The proposal will provide sustainable and healthy homes. This will help towards the Local Authority's housing targets on a plot that has had no use since becoming vacant, and has already been identified as a potential plot for new homes.

- 8.03 In summary, the intention of our proposal is to create a small, contemporary, sustainable housing development that sits comfortably in this area. It is in our experience and belief that this design would provide a development of high architectural quality. The provision of six new family dwellings will support the Borough's housing need, whilst providing positive social and economic benefits, and contributing to the wider area and community.

## 9.0 BACKGROUND PAPERS AND PLANS

- 9.01 Application form  
Design & Access Statement  
Arboriculture Impact Assessment  
Marketing & Viability Report  
Transport Statement  
AL-002 Existing Topographic Plan

## 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 the loss of the community facility, design, residential amenity, highways/parking, the impact on trees, ecology 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 between 5% and 20%, depending on particular circumstances of the LPA.
- 10.03 The Council currently cannot demonstrate a five year housing supply and the current supply figure is 4.49 years (as of April 2022). 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 74). None of the constraints referred to in Footnote 7 are present on the site itself.
- 10.05 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, TP4, TP5, H5; Core Strategy CP1, CP4, CP5, CP6, CP8, CP10) 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 213 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). Therefore, the development would fall to be determined against the current Development Plan.

- 10.06 The issue of sustainability is multi-faceted, incorporating economic, social and environmental considerations. The site is located within the LBD of Southborough where adopted (but now out of date) Policy H5 of the Local Plan indicates that development such as this can be acceptable in principle. The provision of an additional six dwellings would contribute to the Borough's housing need, creating social and economic benefits.
- 10.07 The site comprises Previously Developed Land (as defined within the NPPF Annex) and is in a highly sustainable location within walking distance of shops, schools, bus routes, a GP surgery and other services. For its consideration as a suitable site for additional residential development the scheme would need to be satisfactory in all other respects, as discussed below.

#### **Loss of the former GP surgery building**

- 10.08 The proposal would result in the loss of a building currently in community use. The proposal is not caught by 2006 Local Plan policy CR13 issue as the site is not *'within the defined neighbourhood centres or within, or a 400m distance from, the defined Limits to Built Development of RS2 and SS1(d) Villages'*.
- 10.09 However Core Policy 8 (6) of the 2010 Core Strategy states that *'The loss of community facilities will be resisted as far as practicable'*. NPPF Para 93 states at (c) that planning decisions should *'guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs'*.
- 10.10 Emerging LP Policy ED12 states that *'Proposals that would result in the loss of a local facility or service which serves a local need will not be permitted unless it can be clearly demonstrated that:*
- 1. Suitable and/or comparable alternative provision is available within the locality;*
  - 2. For commercial uses, it is:*
    - a. not viable, or unlikely to become commercially viable, to operate the number of existing services/facilities within the locality;*
    - b. it has been the subject of appropriate marketing for a period of at least 18 months and consideration has been given to other alternative commercial uses;*
  - 3. In the case of public facilities, demand within the locality no longer exists, or there are clear operational reasons for closing or moving the facility, and the wider importance of the facility to the community has been taken into account'*

This policy is generally compliant with Core Policy 8 but updated and more detailed. It therefore carries significant, but not full weight.

- 10.11 With regards to the loss of employment (in other words, the employment opportunities that this community facility can offer), Core Policy 7 of the CS 2010 states the Council will safeguard employment use areas and buildings in existing employment use across the Borough if they:
- are well located to main roads and public transport networks;
  - provide, or are physically and viably capable of providing, through redevelopment, good quality modern accommodation attractive to the market;

- are capable of meeting a range of employment uses to support the local economy.
- 10.12 Para 123 of the NPPF states that local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres.
- 10.13 The GP practice has recently re-located to new, more modern premises at the nearby Southborough Hub, so the service it was designed to provide is available elsewhere in the town centre. This means that suitable and comparable alternative provision is available in the local community, in a location very close to this site. Given that the Surgery relocated just 300m away it is very unlikely another GP surgery would occupy this location (particularly that the trend towards GP service provision seems to be towards larger single practices serving large areas, plus the decline in number of practising GPs). There were clear operational reasons for vacating the existing constrained site and relocating to a purpose built larger facility as part of Southborough Hub. Therefore, it is considered that the proposed loss of facility meets the requirements of emerging policy ED12.
- 10.14 What remains is a purpose built medical centre, which is a privately owned building. Internally it is divided up as a typical doctor's surgery. This includes reception & waiting areas, consultation and treatment rooms, storerooms, ancillary rooms and staff areas. The design and layout restricts any alternative use it can theoretically be put to. The building is reported as being in a relatively good state of repair but would require some upgrading works and general redecoration works to bring it up to a suitable standard for ongoing use (Viability/Marketing Statement, May 2022). This would include internal alterations to the existing cellular layout.
- 10.15 The submitted document refers to a restrictive covenant from 1986 which precludes alternative uses than as/or incidental to a medical centre. However TWBC agreed in February 2022 that this covenant can be removed (see decision details at <https://democracy.tunbridgewells.gov.uk/ieDecisionDetails.aspx?ID=2653> ). This is not a material planning consideration in itself as deeds and covenants are matters between respective parties and are not enforced by planning legislation.
- 10.16 It is agreed that the restrictive access width of the entrance shared footpath/roadway limits the size of vehicles able to access the car park. This restricts alternative uses that require regular van and lorry access, such as commercial storage and light industrial uses. The site is also surrounded on three sides by residential properties and a Scout Hut to the eastern side. Any alternative commercial activities may be restricted by the proximity of nearby residential properties. Post Covid, demand for commercial office space has significantly reduced and is generally restricted to large, modern open plan offices within larger town centres or trading estates.
- 10.17 It is advised that the existing owners contacted various other local medical institutions and authorities but received little or no interest except from some initial interest from a private hospital (The Horder Centre, Crowborough, East Sussex). However, they later confirmed they did not want to take on the building.
- 10.18 The site was then marketed online in March 2019 using the agents' website and various internet portals as well as being regularly distributed to their database

(traditional print media in this sector has virtually ceased). The agent received no interest or offers for the site as a medical centre or for any other alternative commercial uses. The report states that it was not possible for the agent to display site marketing boards on the property as the owners did not want to openly advertise that the building was vacant due to potential vandalism.

- 10.19 It is clear that attempts have been made to find an alternative use for the site, however interest in the building has been very limited and there is clear and persuasive evidence as to why it is no longer practical to retain it for alternative uses. The site is not in a traditional employment area, nor one allocated for employment uses. The agents argue that Southborough's large pre-existing industrial and commercial areas (eg: Chapman Way) attract most of the town's development space and opportunities.
- 10.20 Added to this is the inevitable additional site value that speculative enquiries from housing developers will bring. The LPA cannot compel the owners to use the building in a certain way nor make it available for use by charity/community groups (it can only restrict uses) and it is highly unlikely that a community centre type use would be sufficiently commercially viable for the owners to pursue. Again, there is alternative provision for this type use elsewhere in Southborough, not least at the new Hub. Therefore, it is considered that the loss is not unnecessary and the community's ability to meet its day-to-day needs is maintained through the facility at Southborough Hub. The proposal conforms to Core Policy 8 of the Core Strategy.
- 10.21 In addition there is a risk the property may remain vacant for an extended period, which will promote increased anti-social behaviour in the area and potentially the property may appeal to squatters. Whilst the loss of any community facility is regrettable, the LPA need to be mindful of wider market signals which in this case indicate that the potential for a continued community or employment facility use on this site is limited. The principle of the loss of the building as a community facility is therefore considered acceptable.

#### **Density and housing mix**

- 10.22 Core Policy 6(3) of the Core Strategy relates to density of development and states that it should be appropriate for the character of the locality, should meet the regional target of 40 dwellings per hectare and not generate below 30 dwellings per hectare. The proposal represents a higher density of 46 dwellings per hectare.
- 10.23 Policy H2 of the Local Plan, re-iterated at Core Policy 6(7) of the Core Strategy, refers to a suitable housing mix to meet current and projected housing needs. Both refer to an identified need for smaller residences. Broadly, the proposal does not make provision for smaller units as the houses are four bedroomed.
- 10.24 It is recognised however that the current lack of a five-year housing supply renders Policy H2 out of date. Therefore, it is unlikely that an appeal could be successfully defended on the grounds the development focuses on larger dwellings, particularly given the limited size of the site and the need for additional parking that a greater number of dwellings generates. The surrounding area is characterised by high densities to the north (three storey block of flats) but lower to the west and south (maisonettes and detached dwellings). Using a pure calculation of density is often misleading and it requires an assessment of the impact of the density of development in terms of its scale and form on the character and appearance of an area - this assessment is undertaken below.

#### **Design, visual amenity and impact on the streetscene**

10.25 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.'*

10.26 NPPF Para 134 states that significant weight should be given to development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

10.27 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.*

10.28 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).

10.29 The lawful use of the building is as a GP surgery/medical centre. It is a low-key structure, single storey in height. It is largely unseen from outside the site and the

adjacent shared footpath/roadway. The hard surfaced car park is an open area, free of built form. There are surrounding trees/shrubs although the majority overhang from neighbouring land. The site is part of a transition point between the developed residential buildings and character of St Andrews Court and the more open, undeveloped nature of the playing fields, the tree covered area behind the old football pavilion and the Scout hut facility. The application site is however bordered by residential uses on three sides.

*Access arrangements*

10.30 The current access is via a privately owned shared footpath/roadway (not a public right of way) running between St Andrews Court and the Ridgeway playing fields. It is an important, well-used and popular pedestrian route that links London Road to the Ridgeway playing fields, the allotments and surrounding houses to the east of the site. The width of the shared footpath/roadway narrows to the west of the application site to a single vehicle's width and the route does not allow two vehicles to pass each other.

10.31 Vehicle access along this route is via a lockable gate leading from the St Andrews Court car park. There are removable bollards within TCHG owned land, to one side of the entrance to the maisonette building comprising Nos 27-30 St Andrews Court. There are two further bollards (one lockable/removable and the other permanent) dividing the Town Council land from the application site, although both are shown on the topographical survey to be within land under the applicant's control.

10.32 Most medical centre users would have accessed the development by foot as parking on site is limited - from the case officer's and some local residents' knowledge (expressed via the comments on the application) vehicular access was largely restricted to staff and operational parking. Vehicle access through the shared footpath/roadway has historically been limited as the only other facilities served by the access are the scout hut and football changing rooms. These, along with the maintenance of the wider land involved limited vehicle movements.

10.33 However it is important to distinguish between;

- the way the building was historically used; and
- what the extant 1985 and 1994 planning permissions actually allow.

10.34 Whilst vehicular access was restricted as set out above, the 1985 and 1994 permissions do not restrict the type of vehicles that can access the site. Condition 2 of the 1985 and 1994 permissions is the standard condition that requires a parking area to be made available and thereafter retained. The 1994 permission also requires the following through conditions 6 & 7;

07 In accordance with the approved plans, a new footpath and speed ramps shall be provided to the satisfaction of the Local Planning Authority before the proposed extension is brought into use.  
Reason: In the interests of public safety.

08 The gate shall be kept locked shut outside of Medical Centre operating hours other than to allow pedestrian access.  
Reason: In the interests of residential amenity and pedestrian safety.

10.35 The footpath (comprising of pavements on one side of the access route) is still in place but the speed humps are now gone – it is not clear if they were ever built in the first

place, or were removed following re-surfacing of the road. Condition 8 only applies to the shared footpath/access control outside medical centre operating hours (which are not controlled by any planning condition). Neither does it preclude access to the Scout hut and playing fields (whose owners would likely have had keys to the padlock, given their right of way through the gate). It does not restrict the types of vehicle that can use the access.

- 10.36 The application includes a Transport Statement (TS) which assesses the differing likely impacts of the existing and proposed developments upon highway safety. At this juncture it is necessary to distinguish between highway safety matters as they relate to the public highway (which falls within the scope of KCC Highways to comment on) and design related pedestrian safety on private land (which is a design matter as it relates to the layout and impact upon pedestrian routes through the development). The issues here relate to the latter; KCC Highways have no control or authority over the pavement/road leading to the site as it is private land over which there are no formal County highways rights.
- 10.37 The development will provide a total of 12 additional off road parking spaces with at least 6m wide access road to allow turning and leaving in a forward direction. The access road will continue to give access to the Scout hut and to the playing fields beyond.
- 10.38 The TS estimates that the former Medical Centre when fully operational would, if access to the facility were completely uncontrolled, generate approximately 188 trips a day which would include health workers, patients, and deliveries, with 4 doctors and 2 nurses in attendance each day. The former Medical Centre has recently been closed but in theory it has the potential to return to the previous or other similar intensive use. Whilst this is unlikely given the surgery has relocated elsewhere, it is standard industry practice to establish a baseline number of traffic movements through the lawful use of the land. Such approaches do not factor in the likelihood of the use resuming, unless certain factors prevent this to (e.g.: the building has been demolished or access has subsequently become physically impossible for some reason).
- 10.39 It is generally accepted according to TRICS Data that a 3/4 bed dwelling would generate 5 trips a day, albeit in this highly sustainable location the transport consultant considers this high. Therefore, as a maximum trip generation, the 6 houses would generate a maximum of 30 trips a day. This is an estimation however in reality the number of vehicle movements through the gate attributable to the GP surgery were a lot less owing to the restrictive way in which the car park was operated. In addition many local residents walked to the site or parked in Pinewood Gardens (or another nearby street) so did not physically access the site by car.
- 10.40 The key point here is that whilst there are a number of variables which affected the daily operation of the surgery and the consequent usage of the access, the general pattern and character of usage by the six new dwellings will be significantly fewer. Added to this is the likelihood that amongst users will be residents who are familiar with the sharp turn from the car park through which pedestrians coming in the opposite direction would be unsighted. Consequently the occupiers of the dwellings would be expected (in the normal course of events) to exercise a degree of caution whilst accessing/leaving the site. The same can be said of vehicles reversing from dwellings' parking spaces on to the shared footpath/roadway; such arrangements are little different from those experienced in the public highway where vehicles reverse across the pavement. Signage in this respect can be required by condition, including the cleaning, repair and retention of the 'no cycling' sign that falls within the site.

- 10.41 A condition requiring the St Andrews Court gate to be locked each time it is used would be unrealistic, impractical and unenforceable, as it would require constant surveillance by LPA Officers (which in itself makes a condition unenforceable). Conditions can be used to require a continuation of traffic calming measures, use of appropriate surfacing (including a footway) and lockable bollards to prevent uncontrolled vehicle access from the development to the playing fields. It is unlikely the bollards on the TCHG owned land to the west will be practicable to retain (although agreement for their removal from TCHG is likely to be necessary).
- 10.42 The comments of Kent Fire Brigade and TWBC's Client Services team are noted. However Fire Service access to the existing doctor's surgery is already constrained and refuse lorry access/turning space would likewise be limited if the car park is full. Commercial refuse lorry access is currently made difficult by the existing access arrangements from St Andrews Court, which remain unchanged. The narrow path and sharp turn already make fire/refuse access inconvenient, and it not considered the situation would be materially worsened by the new development nor make such access impossible.
- 10.43 Fire access provisions are a matter to be addressed under the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. It is worth noting that sprinkler systems are often used by developments in situations such as this. Ultimately however this is a matter to be addressed by Building Control or the developer's own Building Control team, which is governed entirely by a separate legislative regime and not one operated by the Local Planning Authority. If the development cannot satisfy that legislation it simply cannot go ahead.
- 10.44 In summary whilst it is accepted that the existing vehicular access to the development is compromised by its use as a pedestrian route and the limited visibility at the point of access to St Andrews Court car park, there are already lawful uses that operate along here; given the likely reduction in vehicle movements it is not considered that conflict between vehicles and pedestrians and the consequent safety of the latter amounts to a refusal reason.

*Design and layout of development*

- 10.45 As stated earlier the existing single storey building is low key. The proposal would essentially fill the site with six three storey dwellings, with associated garden areas and parking.
- 10.46 The surrounding development is largely red brick, modern buildings. The maisonettes to the west are two storey buildings with low pitched roofs, arranged in a linear fashion alongside the footpath. They measure 7.5m to the ridge, 5m eaves (when taken from the nearest end to development). This increases slightly to 7.9m ridge, 5.4m eaves at the other end (as the ground slopes in front). Opposite to the north is a substantial three storey block of flats with a higher pitched roof.
- 10.47 Both building types are nondescript and of limited architectural merit. They have settled in to their surroundings over time, the largest also being screened from the open playing fields to the east by the nearby trees. The larger 1920s detached dwellings to the south along St Andrews Park Road are visible through the car park but not only do they relate to a different era of development, they have little relation to the development to the north.
- 10.48 The walk along the footpath between St Andrews Court and the GP surgery is quite verdant although this is partly due to the overgrown shrubs in the flower bed on the

path's northern side, along with off-site trees. This is likely to be cut back or removed in the course of the development, but such works are to be expected in the normal course of maintenance.

- 10.49 The proposed development would be markedly different in scale, form and appearance and utilise a contemporary design. It would be flat roofed and take the form of three rectangular blocks atop each other, with the first floor projecting out over the ground floor front elevation. There are no other buildings with this appearance nearby.
- 10.50 The materiality of the ground and first floors (brick) is however consistent with the buildings around it. Whilst there is no nearby precedent for the standing seam zinc of the second floor, this would be inset from the first floor. It would clearly be visible from the ground but would be less conspicuous to passers by given the inset nature and the angle of view from the adjacent shared footpath/roadway. The buildings' height is not materially greater than the maisonettes to the east – any greater impact at this level is through the larger massing at second floor level due to the flat roof. Longer views from the east and west would be filtered by the surrounding trees and the new dwellings would be seen in context with the surrounding built development. Views from private land (from the houses in St Andrews Close to the south and to a lesser extent from the flats to the north) carry no weight as the purpose of the Planning Acts is not to preserve private views.
- 10.51 There would clearly be a 'block' of development on the site and it would lose its current open appearance. The land is not however formally designated to preserve that open appearance, in the same way as the tree-lined area to the north east is (as an Area of Landscape Importance). Nor is it within a Conservation Area where historically open spaces carry clear heritage value. The land here is open largely because permission was granted in the past for a GP surgery and its attendant car park area.
- 10.52 The purpose of design related planning policy is not to discourage innovation, nor to require conformity to a homogenous design code or set of design principles. The tests within the Development Plan are that the urban landscape is preserved, that the development respects the context of the site and that related spaces importance to the character of the area are preserved. This is a residential development within an established residential area where the new dwellings are not materially higher than their neighbours. As contemporary buildings they may well appear different to those around them due to the flat roof form, projecting first floors at the front and use of modern materials at the top however those elements are not considered to be so harmful to the character and appearance of the area that refusal is warranted.

#### *Layout*

- 10.53 The proposed development leaves a gap of 1.1m to the eastern boundary which is similar to the gap on the other side. There is a 5m gap between the western elevation and the western boundary fence. Including the shared vehicle access/pedestrian route, there would be a gap of 11.3m to the site's northern boundary from the ground floor. The dwellings would be set 5.4m back from the edge of the path, with the vehicle parking bays and the slight first floor overhang dividing the two. The parking bays would be 2.4 x 4.8m wide, 10cm shorter either side than KCC recommendations.
- 10.54 This layout actually sets the dwelling back from the very front building line of the maisonettes to the east. Moreover planting is proposed to the front gardens which can, along with surfacing materials for the driveways, be secured by condition.



Landscaping for the planted area on the northern boundary can also be secured by condition, as can the design of the bin collection point and the turning area. Whilst parked vehicles will be visible from the frontage, this is not in itself considered visually harmful and is a common occurrence in modern developments.

- 10.55 The application also raises issues of potential loss or encroachment on to the footpath/roadway, which although is private land is a publicly accessible space. It is important that this element is not lost. This is not just in a functional sense, as conditions can be used to ensure it stays open - in any event it is understood it is required to be available as a footpath through a deed / covenant on the land, albeit this is not enforceable by the LPA.
- 10.56 It is important to ensure that the shared footpath/roadway is not 'appropriated' by the occupiers of the houses through parking on the footpath, storage of domestic items etc. Again this can be designed out to some extent through the use of signage and different coloured surfacing. The existing street furniture (public litter bin, no cycling sign) can be required to be retained as these give visual cues to the shared footpath/roadway as a publicly accessible one. In addition signs warning of the route's nature as a shared pedestrian/vehicular one can be required by condition.
- 10.57 Furthermore the issue of parking on the shared footpath/roadway may well police itself as continued parking by occupiers of the new dwellings is likely to block or otherwise make difficult access to the other houses, given the narrow width. Whilst the risk of this occurring cannot be entirely eliminated (as it similarly cannot be with the GP surgery use) it can be minimised. The choice of planting in the bed on the northern elevation is also key as it must not narrow or excessively overhang the footpath.

#### *Trees*

- 10.58 The application includes a tree survey and various related reports. It is noted that a couple of trees towards the western boundary were removed from the site prior to the application being submitted. They were not however protected nor are there conditions requiring them to be retained.
- 10.59 As stated earlier there are trees around the eastern, southern and part of the western boundary of the main part of the site. All apart from T3 (6m high Holly) and T1 (11m high sycamore) are sited on neighbouring land so cannot be felled without the consent of the landowner. T9 – 22 are all arranged around the northern boundary and the access and again are sited on neighbouring land apart from T12 and T18 (15m high Silver Birch and 4m high Juniper tree respectively).
- 10.60 The development is largely away from the trees along the access and the northern boundary. Their RPAs are already partly within the hard surfaced footpath/roadway. – the only work here involved removing and replacing the existing surface whilst retaining sub-base, augmenting it where necessary. If the sub-base has to be replaced then removal shall be carried out using hand held tools only.
- 10.61 There is however an off-site A1/2 graded Wellingtonia tree to the NE (T9) within whose RPA there would be a moderate impact, owing to additional hard surfacing forming the turning head of the development. This turning head would partly utilise existing hard surfacing but new hard surfacing would cause an incursion of approximately 7.5% in to the RPA. The AIA states that new surfacing proposed in the RPA of T9 has the potential to lead to the loss of up to 7.5% RPA, which is argued to be in a less favourable rooting area south of a long established access road - root prevalence is in the arboriculturalist's view likely to be reduced here.

- 10.62 There would also be incursions on the RPA of T1 (C1 graded sycamore within the application site) and would lead to the loss of up to 37.5% RPA, a significant loss which is likely to lead to decline and/or failure of the tree should it be implemented as a standard below ground foundation. Again, the report recommends a cellular confinement coupled with a 'no-dig' surface design to better preserve the rooting areas. This may take the form of a 3D cellular confinement system or similar, where the sub-base/load bearing structure is situated on top of the adjacent ground level.
- 10.63 Any works to create new hard landscaping such as access roads and parking areas, paths, walls would encroach on Trees 1, 9, 10, 11, 12, 13, 14 and 15g. However these are already compromised by the existing walls and hard surfacing and the roadway is not proposed to be widened, except to create the bin collection point. There would also be limited impact on the RPAs of T6, T7 and T8 (off site to the south/west) but this would involve minor incursions; for T6 & T7 it would only relate to the careful removal of existing hard surfacing within the RPA. Some limited pruning of T10, 11, 14 and 20 would also be necessary however such works can be undertaken anyway without further recourse to the LPA.
- 10.64 An Arboricultural Method Statement can be secured by condition, as per the Tree Officer's comments.
- 10.65 The issue of excess shading from existing trees and whether there is sufficient room for new landscaping to grow to potential is also relevant. The shade pattern on the Tree Survey plans shows approximate daylight patterns across the site as summer shade cast between the hours of 9am to 3pm from trees T3 – T8. The impact from T3 T4 and T5 would be minor, but impacts here are likely to be primarily towards the ground floor. The plans show alternative light sources here anyway through rooflights. The first and second floor windows are shown to be obscure glazed anyway. Additional landscaping can be provided on the site frontage and on the parts of the eastern and western boundaries which are visible from the footpath.
- 10.66 An Area of Landscape Importance protected by saved Policy EN22 of the Local Plan lies to the north east although it is not directly affected by this proposal, aside from potential impacts upon T9 which can be satisfactorily mitigated (as detailed earlier).

#### *Summary*

- 10.67 Overall the proposal would 'respect the context of the site' (LP EN1-3), would not result in the significantly harmful loss of a related space which is important to the character of this built-up area (LP EN1-4) and would conserve the urban landscape (CP 4-1). The proposal responds to local character, would reflect the identity of local surroundings, and exhibits a degree of innovation and originality in the way it develops the site. It is not considered to be visually unattractive, would reinforce local distinctiveness and would integrate appropriately in to the existing built environment

#### **Highways and parking**

- 10.68 No alterations are proposed to the access point on to the public highway. KCC Highways raise no objections in terms of the traffic generated by the development nor to matters of safety on the public highway. As set out earlier their remit does not extend to pedestrian/highway safety on private land which is addressed as a matter of design/layout earlier in this report.
- 10.69 This site falls between two categories of area that KCC use for parking standards;

- Edge of Centre, which is characterised by on-street controls, residents' schemes and/or existing saturation;
  - Suburban, characterised by no, or very limited, on-street controls.
- 10.70 The A26 to the west has no on-street parking, there are restrictions at the eastern end of Pinewood Gardens and there is saturation on the opposite side of the road in Springfield Road and Meadow Road. However, there is uncontrolled street parking on the parts of Pinewood Gardens to the east of Southborough Gate.
- 10.71 The scheme provides 12 parking spaces (two per dwelling). Reference is also made to retaining spaces used by the GP surgery in the large private St Andrews Court car park, but no weight is given to these as they are outside the application site, outside the control of the applicant on private land and not within their ownership.
- 10.72 The on-site parking provision meets current KCC standards for four bedroom + properties within Suburban areas (2 spaces per dwelling) and Edge of Centre areas (1.5 spaces per dwelling). Edge of Centre standards direct visitor parking (1.2 spaces for this development, calculated at 0.2 spaces per dwelling) to communal areas for Edge Centre and on-street areas within Suburban.
- 10.73 Emerging TWBC standards (for which this is classed as Zone B) show a shortfall of one space (the visitor space).
- 10.74 As set out above it is recognised that the area west of London Road plus parts of St Andrews Park Road and Pinewood Close are prone to parking saturation, although (from Officer observations) there is normally some availability for parking in these streets at all times of the day. There is the potential that the proposal will result in some additional on-street parking pressure although in practice this is not likely to be considerable given the proximity of the site to local services.
- 10.75 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 surrounding road network, the slow speed that vehicles are likely to travel at in the area around the access point and the fact that there is parking availability in nearby streets.
- 10.76 Therefore, in this instance, it is not considered that the proposal would cause harm to safety on the public highway. 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. Given the fact that some on-street parking will be available within the vicinity of the site, plus the very close proximity of shops, bus routes and other services, it is not considered the application can be realistically refused and a refusal defended at appeal on this subject.
- Residential amenity**
- 10.77 Criterion 2 of saved Policy EN1 requires that proposals do not cause significant harm to the residential amenities of adjoining occupiers and would provide adequate residential amenities for future occupiers of the development, when assessed in terms of daylight, sunlight, and privacy. Residential amenity matters within the NPPF are caught by the general design section.

- 10.78 The dwellings towards which the potential impact from this development is greatest are Nos. 17, 19 and 21 St Andrews Park Road to the south, plus side windows within the south elevation of the St Andrews Court flats to the north (Nos. 11-26). No other dwellings are sufficiently close to be materially affected by the development.
- 10.79 There are objections from local residents on grounds of loss of privacy, light and outlook. 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. Similarly, 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. The former can be grounds for refusal under saved Policy EN1 (depending on the severity of the impact), the latter is not.
- 10.80 There is currently a single storey building on the site which has little impact on its neighbours. The proposed dwellings would be three storeys in height, but set further away from the northern and southern boundaries.

*Impact towards 11-26 St Andrews Court*

- 10.81 The buildings containing plots 3-6 would be sited 15.6m away from the south (side flank) wall of the St Andrews Court flats, at ground floor and second floor level. At first floor level this would narrow slightly to 14.3m due to the projecting overhang. The first and second floor windows on the north (front) elevation would serve bedrooms and be clear glazed. There is a tall brick wall and a narrow strip of land containing a single storey building dividing the flats from the shared footpath/roadway. The main communal garden areas are to the rear (east).
- 10.82 Primarily given the distance between the buildings, but also that the windows on the south flank elevation appear to serve secondary purposes, it is not considered that the proposal would result in a significant harm due to loss of privacy or outlook.

*Impact towards 17, 19 and 21 St Andrews Park Road*

- 10.83 These are large detached dwellings which pre-date the wider St Andrews Court development. The depths of the rear gardens (when measured from the ground floor) of the three dwellings in St Andrews Park Road varies between approximately 16.2m (No.17), 15.0m (No.19) and 18.8m (No.21).
- 10.84 At No.19 this gap increases to 18.3m at first floor level due to a single storey ground floor rear extension. However, there is an extant planning permission here (21/03086/FULL) for various side and rear single storey extensions which bring the existing ground floor building line closer to the rear boundary (13.6m at the nearest point).
- 10.85 There are also trees on this common boundary which apart from T3 in the bottom SE corner, are all within the ownership of the neighbouring dwellings, across half of the rear boundary of No.19 and all of No.21. The remainder of this rear boundary is completely open, save for standard 1.8m boundary fencing.
- 10.86 The proposed development would be approximately 7.5m away from the common boundary at ground floor level, which increases to approximately 9.25m at first floor level and 9.55m at second floor level. As set out earlier the proposed dwellings are 8.09m high. Given the gap between the existing and new dwellings ranges between 24.5 and over 28m this is considered to be sufficient to avoid direct and substantially harmful overlooking into Nos 17, 19 and 21, even if none of the rear windows were

obscure glazed. This distance is little different (and in many cases greater) than can be found between dwellings in typical urban, built up areas.

- 10.87 The main issue is then the impact upon the garden areas of Nos. 17, 19 and 21. The top floor rear-facing windows serve dressing rooms and en-suite bathrooms. The plans show that these windows would be fully obscure glazed and fixed shut up to 1.7m from the internal floor level. These would be expected to be obscure glazed anyway in the interests of the privacy of the occupiers. Therefore, even if the top opening element were to be fully openable, any view from it would be extremely limited.
- 10.88 The difficulty comes with the proposed first floor rear windows. These serve the third and fourth bedrooms of each dwelling. Were these to be shown as clear glazed the proposal would be unacceptable as it would provide a clear view down in to the neighbouring rear gardens.
- 10.89 Bedrooms, being habitable rooms (along with living rooms and studies) also need to provide a 'means of escape' under the Building Regulations, with a requirement for a 0.33m<sup>2</sup> openable area. In cases such as this there is often a tension between this parallel legislative requirement and safeguarding the amenity of adjacent residents.
- 10.90 The architect advises that if a building has a 'protected' lobby/stair route then there is no requirement for these windows to be egress compliant, as the lobby/stair route is designed to contain a fire for up to one hour. This is common practice in modern buildings.
- 10.91 Nevertheless the bedrooms 3 & 4 would need to be able to be ventilated. The architect has suggested top hung openers (whereby the entire glazed unit is a single top hung opening window) as these by virtue of their design are restricted in how far they can open. Drawing 108 Rev A (Proposed Long Site Section) shows that these can be opened by 500mm and prevented from opening any further through the use of restrictors. Details of the restrictors are provided with the application.
- 10.92 Drawing 108 Rev A also shows that even an opening of 500mm only affords a view of the kitchen roof and half way up the garden. Even if the windows were openable by a slightly larger amount, it is still likely views would be contained to just the dwelling's own rear garden and the back fence.
- 10.93 This does mean that bedrooms 3 & 4 lack meaningful outlook, and their light is restricted. However these are secondary bedrooms and there is considered to be sufficient light available to the other living areas of the building.
- 10.94 Consideration has been given to whether conditions requiring the restrictors to be kept in place meet the necessary tests for conditions, as set out in the Planning Practice Guidance. These are;
- Test 1—Necessary
  - Test 2—Relevant to planning
  - Test 3—Relevant to the development to be permitted
  - Test 4—Enforceable
  - Test 5—Precise
  - Test 6—Reasonable in all other respects
- 10.95 The condition proposed below is considered to meet these tests. In particular it would be reasonable as per the preceding paragraphs. Whilst the restrictors can probably

be removed with comparative ease, the requirement to retain them is enforceable as their presence can easily be checked through an internal inspection, plus any clear breach will be visible externally through an excessive opening gap. Any breach is likely to be swiftly reported by the neighbouring occupiers).

- 10.96 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 outlook can be considered to be significantly detrimentally impacted upon. Likewise any light impacts will be similarly limited. Whilst there will clearly be a change of private view from the rear gardens/elevations, this in itself is not a planning matter that carries weight.
- 10.97 The conditions and informatives recommended by Mid Kent Environmental Protection regarding lighting etc can be added.

**Other issues**

- 10.98 The Mid Kent Environmental Protection team do not consider the nearby Air Quality Management Area, nor traffic noise from the A26 to be constraints on the development.
- 10.99 A scheme of biodiversity enhancement can be secured by condition.

**Summary**

- 10.100 The principle of the proposed development as set out above is acceptable. The proposal would make a contribution towards the Borough's housing targets, the design is considered acceptable and the proposal would re-use PDL. The residential amenity, design issues and other matters are recognised and have been fully considered, but for the reasons set out above are not considered to justify a recommendation for refusal.

**11.0 RECOMMENDATION – GRANT subject to the following conditions.**

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

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

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

|           |                            |
|-----------|----------------------------|
| 101 Rev A | Proposed Site Plan         |
| 102 Rev A | Proposed Floor Plans       |
| 103 Rev B | Proposed Elevations        |
| 104       | Proposed House Sections    |
| 108 Rev A | Proposed Long Site Section |

Details of Velfac Lockable Restrictor (VELFAC 200 alu / VELFAC 200i / VELFAC 200 ENERGY)

Reason: To clarify which plans are approved.

- 3) Notwithstanding the submitted drawings and all supporting documentation, prior to the commencement of development (excluding the demolition of the existing building and perimeter fencing) details of proposed levels within the development shall be

submitted to and approved in writing by the Local Planning Authority. This shall include details of the proposed slab level of the dwellings relative to the existing ground levels and a fixed point in the access road to the north of the site. The development shall then be carried out in strict accordance with those details.

Reason: In the interests of visual amenity and to ensure a satisfactory standard of development upon completion.

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

Reason: In the interests of visual amenity

- 5) No external lighting shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written permission to the variation.

Reason: To protect the appearance of the area, the environment, wildlife and local residents from light pollution

- 6) Prior to the commencement of construction above ground level, full details of a scheme for the incorporation of energy efficiency measures and renewable energy (including the location of PV panels and resident/visitor EV charging points) shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall show EV charging points for each dwelling. The development shall be carried out in accordance with the approved details and retained thereafter.

Reason: To ensure a satisfactory standard of development which meets the needs of current and future generations.

- 7) The area shown on the approved drawings as vehicle parking space, access 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.

It 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 (England) 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

- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order revoking or re-enacting that Order with or without modification), no development shall be carried out within Classes A,

B, C, D, E or F of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order) without prior planning permission from the Local Planning Authority.

Reason: In the interests of protecting residential amenity and to prevent overdevelopment within the curtilages of the dwellings

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no gates, walls, fences or other means of enclosure shall be erected between the front wall of any dwelling hereby approved and the shared road/footway from which access is taken (nor within the shared footpath/roadway) without the prior written planning permission of the Local Planning Authority.

Reason: To protect the visual amenities of the locality and in the interests of pedestrian safety/access

- 10) Notwithstanding the submitted drawings and all supporting documentation, prior to the first occupation of the development hereby approved, a scheme of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity

- 11) Prior to the commencement of construction above ground level, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals within it and shall be carried out in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enhance species and habitat on the site in the future

- 12) 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 parts of trees, 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.

- 13) Notwithstanding the submitted drawings and all supporting documentation, no development shall take place until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include a methodology for existing tree stump removal.



Reason: To prevent damage to trees on the site. This is a pre-commencement condition as the measures will need to be in place from the beginning of the development phase

- 14) 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 latest edition of BS 5837, and in accordance with the approved Arboricultural Method Statement and Tree Protection Plan. 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

- 15) A landscaping scheme for the site (which shall include entirely new planting, and retention of existing planting) shall be submitted to and approved in writing by the Local Planning Authority before the commencement of above-ground construction. The scheme shall include the retention of the landscaped area alongside the shared access road/footway and any new surfacing materials within that area.

Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion of the development. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written permission to any variation.

The approved scheme of hard landscaping shall be completed prior to first occupation of any part of the development.

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

- 16) Prior to the first occupation of each dwelling hereby permitted the second floor south facing windows on the rear elevation of that dwelling shall be fitted with obscure glazing, Pilkington level 3 or higher (or equivalent) and the lower section fixed shut in accordance with the approved plans. Both the obscured glazing and the non-opening design shall be an integral part of the manufacturing process and not a modification or addition made at a later time. The windows shall thereafter be permanently retained as such.

Reason: In the interests of the residential amenities of adjacent dwellings

- 17) Prior to the first occupation of each dwelling hereby permitted the first floor south facing bedroom windows on the rear elevation of that dwelling shall be fitted with obscure glazing, Pilkington level 3 or higher (or equivalent) and the windows fitted with restrictors in accordance with the approved drawings and opening restrictor details.

The obscured glazing shall be an integral part of the manufacturing process and not a modification or addition made at a later time. The windows shall thereafter be permanently retained as such.

Reason: In the interests of the residential amenities of adjacent dwellings

- 18) Prior to the first occupation of the development hereby approved, a scheme of enhancement for the shared vehicle and pedestrian route within the application site shall have been submitted to and approved in writing by the Local Planning Authority and shall have been carried out in accordance with the approved details. The scheme shall include;

- Details of new surfacing, which shall be bound and shall include a paved footway on the southern side of the footpath/roadway directly in front of the new dwellings;
- Details of a scheme of signage to warn pedestrians of oncoming vehicular traffic and of the shared vehicular/pedestrian nature of the route;
- Provision of speed humps, which are suitably designed to slow traffic;
- Details of the re-sited lockable bollard shown on approved drawing AL-101 Rev A;
- Retention (with details of new positions if necessary) of the existing permanent steel bollard and litter bin on the eastern boundary of the site shown on the Existing Topographic Plan AL-002;
- Repair, cleaning and re-siting (if necessary) of the existing 'no cycling' sign;
- Details of the planting bed on the north side of the shared footpath/roadway including materials and height/position/alignment of the walling.

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

Reason: in the interests of pedestrian safety and of maintaining the existing footpath as a publicly accessible route

- 19) The shared vehicle and pedestrian route within the application site shall be kept permanently open and available for use as a pedestrian footpath at all times. No development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order (England) 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 or restrict access in any way to this shared vehicular/pedestrian route.

Reason: in the interests of pedestrian safety and of maintaining the existing footpath as a publicly accessible route

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

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

## 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](http://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 important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.
- 5) Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

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 public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance> . Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

Case Officer: Richard Hazelgrove

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

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