

REPORT SUMMARY

REFERENCE NO - 22/01409/FULL

APPLICATION PROPOSAL

Demolition of existing buildings and redevelopment of the site to provide 43 residential units (Use Class C3) with associated parking and landscaping.

ADDRESS Hermes House 155 - 157 St Johns Road Royal Tunbridge Wells Kent TN4 9UZ

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supply of housing, the housing supply policies (including those related to the Limits to Built Development (LBD) are “out-of-date”.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Paragraph 11 and Footnote 7 of the National Planning Policy Framework (NPPF) requires that where relevant policies are out-of-date that permission for sustainable development should be granted (and all other material considerations are satisfied);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 site is not within an area of particular importance which provides a clear reason for refusing the development proposed;
- 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 employment use (offices);
- There would not be any significant ecological impact as a result of the proposed development and a scheme of ecological enhancement can be secured;
- The traffic movements generated by the development can be accommodated without detriment to safety on the public highway as the access point remains unchanged;
- The development would not be significantly harmful to the residential amenities of neighbouring dwellings and would remove a building which currently directly overlooks neighbouring dwellings to the north and south;
- 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 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 towards TWBC, KCC and NHS projects (detailed below);
- Whilst the scheme does not provide affordable housing, the applicant has provided a detailed viability appraisal which has been independently assessed by TWBC’s consultants and thus there is considered to be sufficient justification to depart from adopted policy in this respect;
- 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 in a highly sustainable location close to a major bus route, within walking distance of shops, a nursery, a recreation ground, primary and secondary schools, GP surgeries and other facilities/amenities;
 - There is no objection to the loss of the existing buildings on site, one of which is deemed to be a 'Non Designated Heritage Asset';
 - The design of the scheme is considered acceptable;
 - 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):

NHS West Kent Clinical Commissioning Group (Towards refurbishment, reconfiguration and/or extension of The Wells Medical Practice, St Andrews Medical Centre, Lonsdale Medical Centre, Kingswood Surgery, Speldhurst & Greggswood Medical Group and Rusthall Medical Practice and/or towards new general practice premises development in the area)	£25,776.00
KCC Secondary Education (Towards expansion of Bennett Memorial Diocesan School)	£21,565.00
KCC Community Learning/Social Care/ Libraries (Towards Tunbridge Wells Cultural Hub – Libraries/Adult Education/Social Care)	£18,800.03
KCC Youth Service (Towards resources for the Kent Youth Service at youth centres and via outreach youth support services in the vicinity and environs of the development)	£2,816.50
KCC Waste (Towards Tunbridge Wells Waste Transfer Station and Household Waste Recycling Centre expansion)	£7,897.81
TWBC: Towards improvements to local cycling and walking infrastructure to achieve more active travel and sustainable modes in the vicinity of the Development and in accordance with schemes in the Borough Council's Local Walking and Cycling Infrastructure Plan	£18,500.00
TWBC: Youth and Adult Recreation (towards provision of improvements and upgrades to the football centre of excellence in Hawkenbury)	£75,495.00
TWBC: Children's Recreation (towards the provision of improvements and upgrades to the neighbourhood equipped area of play ("NEAP") at St John's Recreation Ground at Beltring Road Tunbridge Wells)	£44,659.50
<u>TOTAL</u>	<u>£215,509.84</u>

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: 43 x £193.75 = £8331.25

Estimated annual council tax benefit total: 43 x £2,029.76 = £87,279.68

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 Ben Strange, on behalf of Logistics UK AGENT Miss Joyce Lo	
DECISION DUE DATE 31/10/22 EOT	PUBLICITY EXPIRY DATE 14/11/22	OFFICER SITE VISIT DATE Various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
Original building and wider land			
09/02837/FUL	Installation of two air condensing units to roof	Granted	08/12/09
08/02780/FUL	(Part Retrospective) Erection of free-standing glazed canopy to main front entrance and additional plant equipment to be installed within ground floor plant area with associated plant/pipework to side elevation	Granted	02/10/08
07/03403/FUL	Smokers' shelter	Granted	28/11/07
06/02034/FUL	Erect a gazebo in the garden measuring 2.7m x 2.7m	Granted	27/09/06
01/02055/FUL	Replacement windows to front elevation	Granted	05/12/01
01/00456/FUL	Replacement of rear windows	Granted	11/05/01
76/00954	Three lock up garages	Granted	07/01/77
76/00596	New windows	Granted	18/08/76

Extension			
10/02952/FUL	Replacement windows at first and second floor level of link building	Granted	20/10/10
84/01473/FUL	Three storey extension and associated parking	Granted	06/01/86
84/00277/OUT	Outline - Demolition of single storey building and no.155. Erection of replacement offices	Granted (not implemented)	01/05/84
80/01219/OUT	Outline demolition of S/S building & 155 St Johns Road replacement offices	Granted (not implemented)	16/10/81
77/00781	Outline - Demolition of single storey building and 155 St Johns Road, erection of replacement offices	Granted (not implemented)	22/11/77

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site comprises two linked three storey office buildings. The older building on site, which has an unusual circular plan form was originally constructed as a purpose-built church in the early 1930s. It then came in to office use in the 1950s and the present occupier (Logistics UK, formerly trading as the Freight Transport Association) occupied the site from 1975. It is of concrete-framed construction with brick elevations all below extensive various flat felted roofs over several levels. Being cylindrical, all of the accommodation has curved internal and external walls. There are a number of design features including a clock tower (a later addition) and various

domed roofs and unusual internal stained glass panels. The main reception is within the ground floor of the link between the two buildings.

- 1.02 A blockwork concrete-framed and tiled extension (via a link structure) which is closer to St Johns Road was permitted in 1986. It was constructed in the late 1980s to provide two floors of office accommodation over undercroft car parking. This followed the demolition of a dwellinghouse at 155 St Johns Road. There is also a small block of three garages in the south west corner of the site plus a small smoking shelter on the site frontage.
- 1.03 The buildings sit within a largely residential area with dwellings to the north, south and east (opposite side of St Johns Road). No.153 St Johns Road is to the immediate south and Nos 159, 159a, 159b and 159c are to the north (all are dwellings except No.159 which is an osteopathy clinic). To the west are the playing fields and buildings of Tunbridge Wells Girls Grammar School. St Johns Road is to the immediate east.
- 1.04 The site is generally flat and the grounds are partially landscaped to the rear. There is well established hedging and a steel fence on the western boundary, and hedges/trees on the northern boundary, with a painted concrete wall and steel entrance gates on the site frontage. The site is accessed directly from the A26, via a priority junction across a wide pavement. There is also a separate pedestrian access.
- 1.05 The original 1931 building is considered to be a 'non designated' heritage asset. An application to list the building (thereby affording it statutory protection) was rejected at the Initial Assessment stage by Historic England on 18th July 2022.

2.0 PROPOSAL

- 2.01 The proposal is for the demolition of all existing buildings and construction of a part three/part four-storey residential apartment block, containing 43 dwellings. There would be a mix of two studios, 22 one and 19 two-bedroom flats.
- 2.02 The flat roofed block is proposed to occupy the southern section of the site, leaving the northern third open for car parking. The building is 'U' shaped and has been arranged with "house" scale elements fronting St Johns Road, with the top floor massing set back from the building line. The building would use a combination of render, red bricks and dark grey metal coping with small areas of tile hanging. There would also be a patina green copper dome with some of the entrance canopies also using this material, along with retention of the existing Hermes House clock. Atop the building would be a 1.6m high rail to facilitate access for maintenance purposes. Windows would be grey aluminium and the balconies would use glass balustrading.
- 2.03 The proposal would provide 53 car parking spaces comprising
- 43 standard car parking spaces;
 - 8 visitor car parking spaces;
 - 2 light commercial vehicle spaces;
 - 3 of the spaces will be disabled/blue badge holder spaces;
 - 8 of the spaces will be electric vehicle spaces with the remainder constructed as passive bays with the infrastructure in place for future upgrade;
- 2.04 The existing vehicular access would be used and a new pedestrian access from St Johns Road would be provided. Landscape proposals include a communal garden, tree, shrub and mixed bulb planting. There would be some limited tree removal, mainly to the rear of the site, and the boundary hedges would be retained.

- 2.05 No affordable housing is provided with the scheme, following the outcome of a viability review.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area	0.39ha	0.39ha	No change
Land use	Offices (2763 sqm GIA)	43 dwellings	
Number of jobs	120 – 130*	0	-120
Car parking spaces	90	53 (including 8 visitor spaces and two LGV spaces)	-37
Cycle spaces	6	44 (covered) plus 8 uncovered visitor spaces	+46
Motor cycle spaces	0	4	+4
No. of storeys	Three storeys	Part three storey and part four storey	
Max height	10.9m (ridge of extended section)	12.9m (flat roof of northern elevation, excluding 1.3m high green dome on top)	+2m
Max eaves height	7.9m (eaves of extended section)	12.9m	+5m
No. of residential units	0	43	+43
No. of affordable units	0	0	N/A

**Pre-pandemic figures. Currently the site occupancy averages 60 staff, additionally the offices host a number of training courses throughout the year.*

4.0 PLANNING CONSTRAINTS

- Air Quality Management Area
- Area Of Special Advert Control
- Limits to built development – inside (western boundary forms the edge of the LBD)
- Original Hermes House building is considered to be a non-designated heritage asset

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 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 9: Tunbridge Wells

Tunbridge Wells Borough Local Plan 2006

Policy EN1: Development Control Criteria
Policy EN8: Lighting
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
Recreation and Open Space SPD
Affordable Housing SPD
Local Heritage Assets SPD

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/RTW1: The Strategy for Royal Tunbridge Wells
Policy EN1: Sustainable Design
Policy EN2: Sustainable Design Standards
Policy EN3: Climate Change Mitigation and Adaptation
Policy EN4: Historic Environment
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 H3: Affordable Housing

Policy ED2: Retention of Existing Employment Sites and Buildings
Policy ED3: Digital Communications and Fibre to the Premise
Policy TP1: Transport Assessments, Travel Plans, and Mitigation
Policy TP3: Parking Standards
Policy OSSR2: The Provision of Publicly Accessible Open Space and Recreation

6.0 LOCAL REPRESENTATIONS

6.01 The application was publicised by way of site notice in June 2022. It was also advertised in a local newspaper.

6.02 13 representations (some of which are from organisations representing groups of people such as the Tunbridge Wells Bicycle Users Group, Royal Tunbridge Wells Town Forum and the Civic Society) have been received. These (some of which support the scheme in principle) are summarised below as raising the following issues;

- Noise during construction period;
- Overshadowing;
- Pre-existing issues with surrounding cycle lane infrastructure;
- Highway and pedestrian safety issues;
- Insufficient parking;
- No need for development;
- Design of development;
- Loss of original Hermes House;
- Lack of affordable housing;
- Wrong housing mix;
- Pressure on local schools/GP surgeries.

7.0 CONSULTATIONS

Environment Agency

7.01 **(06/06/22)** - assessed this application as having a low environmental risk. Therefore have no comments to make.

Southern Water

7.02 **(21/06/22)** - Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. The submitted drainage strategy indicates a betterment of proposed surface water flows to the existing public sewerage system which is acceptable to Southern Water. No additional flows other than currently received can be accommodated within existing surface water network.

7.03 General advice given regarding potential sewers under the site, SUDS systems and drainage. Condition sought regarding proposed means of foul sewerage and surface water disposal (*Officer note: this is a Building Regulations matter so is not proposed to be conditioned*).

NHS Kent and Medway Group (CCG)

7.04 **(01/06/22)** – This proposal will generate approximately 72 new patient registrations. The proposed development falls within the current practice boundaries of The Wells Medical Practice, St Andrews Medical Centre, Lonsdale Medical Centre, Kingswood Surgery, Speldhurst & Greggswood Medical Group and Rusthall Medical Practice.

7.05 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 need to be met through the creation of additional capacity in general practice premises.

7.06 Whilst it is not possible at this time to set out a specific premises project for this contribution, CCG can confirm that based on the current practice boundaries they would expect the contribution to be utilised as set out above. Any premises plans will include the pooling of S106 contributions where appropriate.

7.07 Sum of £25,776 requested.

KCC Flood and Water Management

7.08 **(10/08/22)** - Kent County Council as Lead Local Flood Authority have reviewed the Flood Risk Assessment and Drainage Statement prepared by FortRidge Consulting Limited dated 3rd May 2022 and the accompanying Technical Note prepared by FortRidge Consulting Limited dated 5th July 2022 and have the following comments:

- It is understood from the report that the drainage arrangements proposed for the new development intend to utilise permeable pavements, rainwater harvesting and attenuation storage beneath the access and parking area. The Surface water will then be discharged at a rate of 10 l/s using a hydrobrake or similar to the existing surface water sewer in St John's Road.
- The LLFA acknowledge the clarification provided as to how the existing runoff has been calculated and the updated FEH calculations provided within the Technical Note as requested and as such raise no objections to these proposals at this stage.

7.09 Should the Local Planning Authority be minded to grant planning permission for this development, the LLFA recommend two conditions.

(21/06/22)

7.10 Queries raised regarding run off calculations and modelling.

KCC Economic Development

7.11 **(08/07/22)** – following requests made, plus a condition for broadband provision and requirement for M4 (2) accessibility;

	Per applicable* Flat (x19)	Total	Project
Secondary Education	£1,135.00	£21,565.00	Towards expansion of Bennett Memorial Diocesan School
	Currently no Primary requirement		

*'Applicable' excludes: 1 bed units of less than 56 sqm GIA, and any sheltered accommodation. Please confirm the 24 x 1 bed units proposed are below this threshold?

	Per Dwelling (x 43)	Total	Project
Community Learning/Social Care/ Libraries	£437.21	£18,800.03	Towards Tunbridge Wells Cultural Hub – Libraries/Adult Education/Social Care
Youth Service	£65.50	£2,816.50	Towards resources for the Kent Youth Service at youth centres and via outreach youth support services in the vicinity and environs of the development
Social Care	All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
Waste	£183.67	£7,897.81	Towards Tunbridge Wells Waste Transfer Station and HWRC expansion

KCC Highways

7.12 (11/11/22) –

Trip Generation

7.13 Revised TRICS data has been supplied. The existing trip generation is based on the extant permission of the site for office use, with space of 2,757 sqm GIA. The potential trip generation is based on the proposed 43 dwellings.

7.14 The corresponding TRICS results supplied in the Appendix shows that appropriate selection parameters and filtering have been used in the TRICS database to derive trip rates for each of the site's existing and proposed uses. Each set of trip rate results were derived from a sufficient data pool. Therefore, the TRICS run provided is acceptable.

7.15 The existing site shows that 41 vehicular movements are generated in the AM Peak (8-9am) and 24 vehicular movements are generated in the PM Peak (5-6pm). The potential site generation forecasts 11 trips in the AM Peak and 13 trips in the PM Peak.

7.16 In conclusion, the proposed use is shown to reduce the number of trips to that of the existing use. It is considered that the level of traffic generation with this proposal at this site with direct access to the A26 does not have a significant impact on the highway network and therefore is not a concern to the Highway Authority.

Boundary Treatment

7.17 It is now confirmed that the condition at the boundary with No 153 is not changed with this application.

Summary

7.18 Previous comments have been addressed and therefore raise no objections on behalf of the Highway Authority, subject to the following conditions:

- Submission of a Construction Management Plan
- Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.
- 15% of the bays as unallocated active charging spaces and 100% of bays as passive charging spaces prior to the use of the site commencing. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection).
- Use of a bound surface for the first 5 metres of the access from the edge of the highway.
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.

7.19 **(19/10/22 - summary)** - note that a Transport Technical Note (TTN) and a Proposed Boundary Wall plan have been provided. Issues raised regarding assessment of existing/proposed vehicle movements. Noted that the existing access is to remain as is, with no widening proposed at the access in this application. The height of the boundary wall is not increased from that of the wall's current height.

7.20 Drawing 02 demonstrates that suitable vehicular visibility splays are already provided at the site's existing access. This drawing confirms the site boundary does not sit within these vehicular visibility splays, owing to the footpath which is greater than

2.4m in width, as evidenced. Therefore, these existing splays are not altered with these proposals. Pedestrian splays also acceptable.

- 7.21 Drawing 03 in the Technical Note shows an updated Swept-Path Analysis using the 11.4m refuse collection vehicle. This provides evidence that refuse vehicles can enter, turn around within site and exit in a forward gear.
- 7.22 The drawing shows that a 7.7m long and 2.43m wide Fire Tender can access the whole site and turn around within it.
- 7.23 The Technical Note includes information about the delivery strategy, which clarifies that delivery vehicles are to enter the site in order to serve the building. This is supported by Drawing 04 which shows the stopped delivery vehicle at entrance to the building, with cars and other light vehicles able to pass a stopped delivery vehicle. This arrangement is acceptable to ensure that delivery vehicles do not park on the A26. Furthermore, it is evidenced that the delivery van is able to turn around within the site via the access road, or utilising vacant large vehicle parking spaces as a second option.
- 7.24 Drawing 04 further addresses KCC's previous comments regarding the width of the access road, as two cars are shown to be able to pass each other.

Parking

- 7.25 The applicant has confirmed that no parking bays abut a wall. Appendix 03 annotates the feature adjacent to a parking space, if present and confirms that these are kerb edges and not an enclosed boundary.
- 7.26 *"The internal layout will remain as private and will not be adopted as highway"* – noted.
- 7.27 **(22/07/22 - summary)** – various issues raised including provision of TRICS figures, visibility splays, tracking details, deliveries, internal layout (including parking space width) and details of the shared surface within the development.

Environmental Protection

- 7.28 **(27/06/22)** – Main points considered - Noise. Amenity. Air Quality. Land contamination. Asbestos. Lighting. Odour. Accumulations. Sewage. Private Water Supplies
- 7.29 The site is in an urban area, and traffic noise is potentially significant. In addition, note that part of the site lays within the Tunbridge Wells Air Quality Management Area and the site position warrants either an air quality. Also consider that installation of Electric Vehicle charging points would be a useful promotion of a sustainable travel option.
- 7.30 There is no indication of land contamination based on information from the contaminated land database & historic maps databases, However, a Phase 1 SLR contaminated land report (ref 409_12845_00002 dated April 2022) concludes that any contamination on site is unlikely to be significant and widespread however in view of the potential pollutant linkages identified in the Conceptual Model, SLR recommends a targeted intrusive investigation to discount the risks. The investigation should be devised to ascertain the depth and nature of any Made Ground soils; further consider ground gas risk from potential off site sources; target the potential fuel storage in the northwest and confirm whether the feature in the east is an interceptor. Works may include a series of exploratory holes across the Site to

enable the recovery of soil samples for laboratory testing and risk assessment purposes. All exploratory holes should be logged in accordance with BS5930 and representative soil samples obtained for field headspace testing and sent to a laboratory for confirmatory analysis. Based on the low level of risk anticipated and the existing access restrictions posed by the current building and undercroft parking area, SLR would recommend that any intrusive works be undertaken post demolition. A contaminated land condition should therefore be attached to any planning permission granted in this respect.

- 7.31 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. Details regarding any external lighting should be required as a condition of any planning permission granted.
- 7.32 Any demolition or construction activities may have an impact on local residents and so the usual conditions/informatives should apply in this respect. The building being demolished should be checked for the presence of asbestos and any found should only be removed by a licensed contractor.

RECOMMENDATIONS:

- 7.33 No objection, subject to comments above and the conditions (lighting, EV charging points, hours of work, internal / external noise levels, air quality assessment, land contamination and construction management plan) plus informatives (Noise and vibration transmission, asbestos).

TWBC Conservation Officer

- 7.34 **(24/10/22)** - Following a meeting on site with the applicant's agents, it was agreed that the building has been altered both internally and externally and lost some of its original architectural features that are so important to the style as described above. Remain of the view, however, that it meets the criteria still of the Local Heritage Assets SPD as set out above. Previously said that insufficient justification had been provided for its demolition, however, bearing in mind paragraph 203 of the NPPF and advice on optimum viable use in the PPG.
- 7.35 This information has now been provided and it has been demonstrated that the building is not suitable for the current use, and nor is it a viable option to convert it to residential. Could see the challenges that this would create when viewing the building on site. Can therefore accept that it is unlikely that there would be a viable use for the building in future, and, in making a balanced judgement given how altered the building is from its original form, it appears that demolition is justified. Appreciate that an effort has been made with the new building to reference some of the details of the existing. Would also like to suggest a recording condition prior to demolition, as accepted by the applicant's agent in the letter from Barton Willmore dated 14 October 2002 (condition within section 11 below).
- 7.36 **(13/06/22)** - Hermes House, proposed to be demolished with this application, is a 1931 former Church of Christ Scientist, converted into architects offices in the 1950s, and extended for further office accommodation in the 1980s. It has been altered and lost some of the original architectural features (such as the concrete tracery), but retains its essential Modern Movement architectural character. Consider the historic part of the building to be a non-designated heritage asset, particularly now that further information has come to light in regards to the architect and history of the building. It is listed in the West Kent and the Weald Pevsner edition of Buildings of England as follows:

'Also by [Cecil] Burns, and highly interesting for its use of an exposed concrete frame as early as 1931. This, and the whole form of the church, was or Britain a uniquely literal transcription of Perret's stripped Beaux-Arts planning and trabeated concrete detailing.'

- 7.37 Paragraphs 18a-039 to 18a-040 of the Planning Practice Guidance discusses non-designated heritage assets, confirming that these are *'identified by plan-making bodies s having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets.'* TWBC has an adopted SPD, Local Heritage Assets, which provides criteria against which to assess potential assets, in accordance with the advice in the PPG.
- 7.38 In this case, the building meets the criteria for Architectural and Artistic Interest given the rarity of the architectural style in that period in Britain, and the importance of the architect, some of whose other designs are listed. It is of historic interest because of the original use and presence of that church in Tunbridge Wells, and again its rarity. It meets the criterion for Townscape character as it can be considered a local landmark.
- 7.39 Having identified Hermes House as a non-designated heritage asset, paragraphs 189 and 203 of the NPPF therefore applies. Paragraph 189 acknowledges that *'heritage assets range from sites and buildings of local historic value to those of the highest significance... these assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations'*.
- 7.40 Paragraph 203 states that *'the effect of an application on the significance of a nondesignated 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.'*
- 7.41 Given that the proposals involve total loss of this heritage asset, insufficient justification has been provided which would enable the Council to make that balanced judgement – for instance, could the existing building be converted? There is discussion of the inefficiency of the current building and it being uneconomical to update, and mention is made of an assessment for re-purposing into residential use, but we have no evidence of that. For avoidance of doubt, agree that the 1980s extension is of little merit and does not relate well to the former church building, and so have no opinion of its demolition.

8.0 APPLICANT'S SUPPORTING COMMENTS (summary of Planning Statement)

- 8.01 Logistics UK are seeking full planning permission for the redevelopment of the Site to provide 43 residential dwellings with associated parking and landscaping.
- 8.02 Logistics UK have engaged in extensive pre-application engagement and the final proposals are informed by the feedback received.
- 8.03 This application is accompanied by a suite of supporting and technical assessments which demonstrate that the proposed development has been designed with regard to the Site's constraints and opportunities to ensure that the proposed development would not result in a detrimental impact on the amenity of surrounding properties including safeguarding of school children and capacity of local infrastructure whilst creating high quality homes for the Borough.

- 8.04 It is unviable for the Site to remain as an employment site due to the current deficiencies of the building and lack of marketability due to its out of town centre location.
- 8.05 As the Borough cannot demonstrate a five-year housing supply, the delivery of 43 homes would make a valuable contribution to meeting the Borough's housing needs.
- 8.06 The site would provide amenity green space and 127m² of green roof resulting in a Biodiversity Net Gain of 39% as well as an overall improvement in the overall streetscene along St Johns Road. Moreover, it is estimated to achieve a significant reduction in operational carbon in excess of 40% making it a highly sustainable and energy efficient development.
- 8.07 Overall, the proposal for residential development would be appropriate and in accordance with the provisions of the adopted and emerging Local Plan and that planning permission should be granted.

9.0 BACKGROUND PAPERS AND PLANS

Application form

Planning Statement May 2022

Design and Access Statement May 2022

Accommodation schedule

Covering Letter 09/05/22 and 17/05/22

Ecological Assessment April 2022

Energy & Sustainability Statement April 2022

Flood Risk Assessment and Drainage Statement May 2022

Drainage Technical Note 1 July 2022 and Sewerage calculations

Preliminary Land Quality Risk Assessment April 2022

Statement of Community Involvement May 2022

Viability of Continued Office Use and Market Demand March 2022

Affordable Housing Financial Viability Statement April 2022

Arboricultural Survey and Planning Integration Report May 2022

Transport Statement April 2022

Transport Technical Note v1.0

Transport Technical Note 2 v1.0

Response to Conservation Officer's Comments 14/10/22 plus attached drawings and viability appraisal of potential conversion

EW 2104-PA-003 P2 Existing Ground Floor Plan

EW 2104-PA-004 P1 Existing First Floor Plan

EW 2104-PA-005 P1 Existing Second Floor Plan

EW 2104-PA-006 P1 Existing Elevations

EW 2104-PA-007 P1 Existing Garage Elevations

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 office premises, density and housing mix, loss of a 'non designated heritage asset', design and the impact on trees, residential amenity, highways/parking, flooding/drainage matters, ecology, affordable housing/S.106 contributions, air quality/land contamination 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 Development Plan policies against which this application would be determined (Local Plan: EN1, TP4, TP5, H5; Core Strategy CP1, CP4, CP5, CP6, CP7, 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 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 Tunbridge Wells 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 43 dwellings would significantly 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 (primary and secondary), nurseries, bus routes, GP surgeries and Tunbridge Wells Sports Centre to the north (providing a swimming pool, gym and squash courts). 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 office/employment accommodation

- 10.08 Hermes House is not within an area specifically designated for the retention of employment uses. With regards to the loss of employment (in other words, the employment opportunities that the existing site can offer), adopted Core Policy 7 of

the 2010 Core Strategy 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.

10.09 CP9 (4) seeks to maintain and increase employment floorspace *‘where this is necessary to provide a higher qualitative offer in terms of high value jobs’*.

10.10 Para 80 of the NPPF states that: *“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”* This is tempered by Para 123 which states that local planning authorities should also take a positive approach to 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.

10.11 In recent years permitted development rights allowing the change of use from office to residential have been introduced by the Government. Some office sites are subject to an Article 4 Direction precluding loss of office space under PD rights – this building was not included in that exercise which (with the exception of Century Place in Lamberts Road and International House in Hawkenbury) focussed only on town centre offices.

10.12 Nexus and Durlings reports published on the Council website as part of the new Local Plan evidence base do not refer to Hermes House, which was scoped out of the exercise. Back in August 2021 Hermes House was discussed with the author of the Durlings report, and their advice was;

- In terms of lettings – there is low demand for this type of space in this sort of location – users are generally looking for smaller flexible lets within the town centre. The demand is to re-configure office space in the town centre to make it more attractive to the market - that this is the priority for supporting the town centre and the local office market.
- The demand is for town centre space or space on a business park type development, but there is very limited interest in peripheral locations such as where Hermes House is – this just isn’t what clients are looking for – unless there was a certain user who wanted that specific sort of space, but this is unlikely.
- Pandemic aside, this demonstrates the direction of travel for the last 10 years and Durlings cannot see it changing.
- Ultimately this is not a good office location with a pretty strong case for residential in this location.

10.13 The application includes a comprehensive report by Bracketts (dated 29th March 2022) which provides general comment on the marketability of Hermes House together with commentary on the local office market in terms of demand, supply and activity. Part 12 of this report sets out that;

- This part of the complex is a non-purpose built mixed office and storage building now over 90 years old. Being cylindrical results in an inefficient layout particularly towards the centre where natural daylight is much reduced;
- There are extensive areas of flat roofing at various levels which are likely to be deficient in terms of insulation and costly to maintain and renew;
- The 1980's built three storey block is not particularly attractive being of bare unrendered concrete blockwork, which has become stained through age. This wing now looks dated not least because it is some 35 years old. Whilst the two sections of the complex are linked at all three levels, there is only one lift in the link section and this is some walking distance from various parts of the whole complex.
- Minimal air conditioning (only to around 10% or thereabouts of the entire accommodation in both parts of the building). The central heating pipework and indeed many of the radiators date back to the 1970s and 1980s and are now likely to require replacement.
- The 1980's wing has a low floor to ceiling height of 2.26m (7' 5") whereas the standard height to the underside of the suspended ceiling for modern offices is usually 2.6m (8' 6"). Furthermore, there is no underfloor trunking nor raised floors.
- Some of the original building has sealed double glazed windows but these are not uniform in terms of type and specification. The glazing throughout the 1980's wing is the original single glazed aluminium fittings, and these are clearly inefficient in terms of heat and noise insulation.
- Unusually, Hermes House incorporates a very high storage and despatch area of around 17% of the total floor space. Much of this area lacks natural daylight and would be of no interest to most conventional office occupiers.
- The accommodation throughout the complex is very fragmented with numerous partitioned offices, meeting rooms stores and despatch areas. Most conventional office occupiers would require more open plan office space. The accommodation is divided across two, albeit linked buildings, and being spread over three floors/ This provides space within six separate areas. This is an extremely inefficient use of the overall floor space.
- Furthermore, the WCs are spread across twelve separate areas which further emphasises that the whole complex is heavily fragmented and sub-divided. Bracketts do not consider the building to be DDA compliant.
- In summary, Hermes House is a very sizeable complex, dated in appearance and providing multi-fragmented offices with storage areas. The whole building requires comprehensive refurbishment and modernisation throughout including new windows, lift works, and replacement of central heating, upgrading of WCs, the installation of air conditioning.

- In their professional opinion, given its overall size and taking into account the significant costs of undertaking these works, there would simply be no market demand for the building for continued business use.
- 10.14 Reference is also made to the site being remote from the town centre, shops, amenities and mainline station *'and the majority if not all potential users, if indeed there were any in any event, would discount the building on location grounds'*. Whilst this is a sustainable location for both office and residential uses in planning terms, Bracketts (and the Council's own consultants, Durlings) advise that demand is far greater in town centres - particularly those with a rail station and a wide range of facilities.
- 10.15 Bracketts also comment that market demand for office accommodation within the central area of Tunbridge Wells has been extremely limited over the course of the last few years. The situation has deteriorated further with the outbreak of the Covid-19 pandemic in March 2020 with lockdowns, and many staff consequently working from home (many of Logistics UK's staff included). Whilst many businesses have recalled staff to the office, there are still many office occupiers in the town who have employees working on more flexible arrangements, being part home based and part office. Businesses are reviewing their office requirements and in Bracketts' opinion this is likely to result in more companies continuing with desk-sharing and home working in order to achieve savings in property costs and enhance employee job satisfaction.
- 10.16 Bracketts have not seen any influx of demand from London-based businesses seeking to open regional offices (as was reported and expected during the course of 2021). They state there is minimal to zero activity in the Tunbridge Wells office market, other than for small suites circa 100 sq m. There are also a number of town centre buildings which are (in part or in whole) available for let at the moment along with other examples in Tonbridge and Kings Hill.
- 10.17 Taking all of the above in to account Bracketts consider there would be no market demand for the building if available for leasing as a whole unless the rent was heavily discounted. It is also highly likely that a substantial rent free period would have to be made available in order to attract a tenant prepared to undertake the necessary repairs and refurbishment.
- 10.18 They consider that market demand for the freehold interest would be limited, but at an appropriate level it could attract an end user, potentially for office or mixed Class E business use, and for owner occupation. Any such freehold sale would however be affected by the inevitable 'hope value' for a subsequent residential use/development.
- 10.19 Many of the conclusions within the report reflect Officers' experience of vacant office sites. The case officer has also walked around both parts of the building and has seen the current accommodation. The original Hermes House feels very fragmented to walk around; the interior is dated and there are a number of differing levels within the building, even within individual floors.
- 10.20 Submission LP Policy ED2 requires, amongst other measures, the building to be proactively marketed at an appropriate price, for the existing use or other potentially suitable employment-generating uses for a period of 18 months. It also requires consideration of various other non-residential uses in a sequential order;
- i. other business uses;*
 - ii. all other non-residential, employment-generating uses;*

- iii. residential employment-generating uses (C1, C2);*
- iv. a mixture of residential and employment-generating uses, including 'live/work' units;*

- 10.21 The marketing exercise has not been undertaken. However this policy is within a document (the Submission Local Plan) which has not been found wholly sound by the Examination Inspector. The SLP is not likely to be adopted in the near future given that the Inspector's initial findings require further work to be undertaken on various large allocations within it (*Inspector's letter to TWBC, November 2022*). It therefore carries less weight than current, adopted policy. Furthermore, given the issues with the building and limited office demand it is not clear that a different outcome would arise even if Hermes House were marketed for an 18 month period.
- 10.22 The findings within the applicants' Bracketts-authored report, plus the comments of the Council's own consultants carry a high level of weight. It was not considered necessary to place an Article 4 Direction on the building to retain it as an office, even pre-pandemic in 2018. All the evidence indicates Hermes House does not provide (or is unlikely to be able to provide, without great expense being incurred) good quality modern employment accommodation. Demand for it is thus likely to be minimal. Conversion to employment generating residential uses (including C1 hotels and C2 assisted living accommodation) are unlikely given the shortcomings of the building and the issues with converting it to C3 residential uses. The site is also in a largely residential area and on a part of the road network which is know for severe congestion; both these factors restrict other employment uses, particularly those likely to generate greater vehicle movement numbers than the current office use.
- 10.23 On this basis, the loss of the employment accommodation is not a matter which amounts to a realistic reason for refusal.

Potential change of use under PD rights

- 10.24 Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 allows the change of use of buildings in Class E (including office use). This requires a prior notification to be submitted to the LPA in order that transport, flooding, contamination, noise from nearby commercial premises, provision of adequate light matters can be addressed. It is demonstrated within consultee responses to this application that these are not significant constraints in residential development here and can be addressed where necessary by condition.
- 10.25 There are no prior planning permissions (and thus no attached conditions) restricting the use of the original building to offices. Nor does the 1986 permission for the extension (84/01473/FUL) restrict the use solely to offices (if they did, the above PD rights could not be exercised). As referred to above, no Article 4 Direction is in force preventing this change.
- 10.26 The PD rights require a formal 'prior notification' to be submitted beforehand. They are also contingent on a number of other requirements, namely that the building is vacant for three months prior to submission of the notification (it is not – it is currently occupied); and the floor area is restricted to 1500sqm. On the latter point, whilst Hermes House exceeds 1500sqm as a whole, PD rights allow changes of part of a building to alternative uses. This could apply either the original 1931 former church or the 1980s addition, or part thereof.
- 10.27 As no prior notification has been submitted it cannot be stated with certainty that the conversion of part of Hermes House would be permitted development. However if the building were vacant it is very likely it would be. Approximately 12 dwellings could be

accommodated in the newer part of the building or 18 in the older part (based on the agent's letter and attached Strutt & Parker viability exercise, October 2022).

- 10.28 Furthermore conversion to residential use is unlikely to be financially viable anyway (see later in this report under 'Non Designated Heritage Asset' heading) and would carry a number of challenges and practical difficulties. Taking all of the above in to account any potential 'fallback position' via PD rights is considered to carry moderate weight at best.

Non designated heritage asset

- 10.29 *'Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value'* (NPPF Para 189).
- 10.30 The building is not listed and is therefore not a 'designated heritage asset' in the same way a listed building, Conservation Area, Registered Historic Park & Garden or a protected wreck (for example) would be. Legislation and national policy affords significantly greater weight and value to 'designated' heritage assets such as the above.
- 10.31 As stated at 1.05, an application to list the building was rejected by Historic England (not the Council) on 18th July 2022. This was due to;
- a significant degree of alteration, and loss of original fabric, which has substantially compromised the claims to architectural interest that the building would have had in its original form. There have been numerous alterations to Hermes House, including the infilling of the ground-floor colonnade and the replacement of most of the windows with uPVC. The building has also been extended and the interior reworked.
 - the building's conversion from church to office early in its life, and the accompanying alteration, diminishes its interest as an example of its type and date.
- 10.32 Hermes House was built as a Christian Science church in 1931 to designs by the architect, Cecil Burns. The design was distinctive for its exposed concrete frame, concrete tracery and circular plan. It was observed to owe much to the work of French architect, August Perret; the Conservation & Urban Design Officer considers that it retains its essential Modern Movement architectural character, but accepts that It has been altered and lost some of the original architectural features (such as the concrete tracery).
- 10.33 Hermes House is not a locally listed by the Council. The Council's Principal Conservation Officer has stated that the property should be considered as a non-designated heritage asset (NDHA), as defined in the NPPF (the applicants disagree). NDHAs are defined within Annex 2 as;
- 'A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).'*
- 10.34 The reasons behind this are;

- The rarity of the architectural style in that period in Britain, and the importance of the architect, some of whose other designs are listed.
- Because of the original use and presence of that church in Tunbridge Wells, and again its rarity.
- It is a local landmark.

10.35 Core Policy 4 states that the Borough's heritage assets will be conserved and enhanced. Para 189 of the NPPF states heritage assets (of all types) should be sustained, enhanced and put to viable uses consistent with their conservation (*Officer emphasis*).

10.36 NPPF Para 203 states '*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.*'

10.37 The CO set out in their initial comments that further work is necessary to justify the total loss of the original building (the 1980s extension is of no merit at all) including as assessment of the viability of converting it to residential use. This links to the 'balanced judgement' the LPA is required to make when weighing the application that affect a NDHA's significance.

10.38 The applicant responded to these comments on 14th October 2022 and provided details of how a potential conversion scheme to 30 apartments across both buildings could appear taking into account access, relationship to existing external windows etc. An indicative mix of dwelling sizes has been derived by comparing the floor area of each to the Nationally Described Space Standards (March 2015). The agents raise practical issues with this scheme due to the following;

- The conversion of the building to residential apartments would result in an erosion of privacy to adjoining residential properties at 151, 153, 159A and 169 St Johns Road as the position of existing windows would result in the overlooking of the windows to the existing dwellings and gardens.
- The deep plan of the units in the circular building would likely present issues with natural light and ventilation. There are some single aspect south facing units that are likely to suffer overheating with no opportunity for cross ventilation. These would likely need mechanical ventilation and cooling and it was established in the initial assessment of the building for continued office use that this would be challenging to install.
- Issues with lack of sunlight to north and west facing apartments (due to proximity of nearby trees/vegetation and the layout of the building);
- Some of the north and ground floor apartments in the circular building (G5, G6 and G7) would be facing straight on to the site boundary with very limited outlook and would likely receive limited daylight and sunlight. The ground floor flats on the eastern side of the circular building would face directly on to the car park, providing poor outlook and potential issues in respect of noise, odour etc.
- Due to the circular nature of the original building, the units within it would range from large two-bedroom apartments to four-bedroom apartments. Given their size, these would be considered family units, but none would benefit from directly accessible private amenity space. This would be the case even if they were duplex apartments and they would lack market appeal;
- The necessary communal space would result in a loss of car parking – it is likely that any communal space would be cramped and limited.

- Further significant modification to the original building would be necessary, which in turn would further reduce its heritage significance.

- 10.39 A high-level appraisal of the conversion scheme is also included in this response (Strutt and Parker, 14/10/22). The appraisal advises that office-to-residential conversions tend to achieve lower rates per sq ft compared to the equivalent purpose-built developments. The building has significant and limiting building services alongside building fabric challenges to achieve compliance with the latest Building Regulations.
- 10.40 The report advises that the costs of the conversion scheme would be higher than usual due to the shape of the building and the difficulties arising from differences between the two elements of Hermes House in terms of construction and design. Moreover, the range of 'abnormal' costs relating to, *inter alia*, the presence (and likely requirement to remove) asbestos and horsehair plaster as part of a conversion to residential in addition to enhanced insulation and repair/ replacement of the existing leaking flat roof. The appraisal concluded that the conversion scheme provides a residual profit level of around 9% (against an expected level of 20% for a complex/ high risk conversion such as this) which is not considered financially viable. In addition, the conversion scheme would result in awkwardly shaped apartments which would be difficult to sell.
- 10.41 In summary, the building does not lend itself particularly well to conversion to residential use either in practical terms, or for viability/marketing reasons. It has already been set out earlier that the building is unlikely to be attractive to the market for future office use. The scheme would involve a total loss of a locally significant building, albeit one which is constrained and compromised by its age, design, layout and condition. The CO accepts that it is unlikely that there would be a viable use for the building in future, and, in making a balanced judgement given how altered the building is from its original form, it appears that demolition is justified. It is also noted that an effort has been made with the new building to reference some of the details of the existing.
- 10.42 This issue will form part of the overall planning balance in the conclusion of this report.

Density and housing mix

- 10.43 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 very high density of 110 dwellings per hectare, which is typical when dealing with flatted developments. It is recognised however that the current lack of a five-year housing supply renders Policy H2 and Core Policy 6 out of date.
- 10.44 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. The proposal comprises smaller units (studios, one and two bedroomed flats).
- 10.45 Emerging policy in the Submission Local Plan at H2 only requires that development should make efficient use of land, having full regard to the context of the site, including its character, landscape setting, topography, surrounding built form, and access to infrastructure and services.

- 10.46 The surrounding area is not characterised by high densities however using a pure calculation of density is often misleading (particularly in this case, given the height, massing and scale of the existing office building, which is not typical of the area either). Development requires a rounded 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 later in this report.

Design and impact on trees

- 10.47 Design and layout are integral to the success of the scheme. NPPF Para 130 states 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.*
- 10.48 Para 134 states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. Conversely, significant weight should be given to:
- a) 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; and/or*
 - b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*
- 10.49 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.*

- 10.50 Core Policy 4: Environment; seeks amongst other things to conserve and enhance the locally distinctive sense of place and character. 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.
- 10.51 The original 1931 building is set back to the west of the site. It is very close to the north and west boundaries and (as addressed in the Residential Amenity section) overlooks one of the neighbouring dwellings in a significantly harmful way. The original building is not listed and as discussed elsewhere in this report, Historic England declined to list it earlier this year. Nevertheless, the 1931 building contributes (as far as it can do given the later extension) positively to the street scene.
- 10.52 There are a number of shortcomings with Hermes House, also as discussed elsewhere in the report relating to awkward access with limited vertical circulation and a range of unevenly shaped spaces. Along with the 1980s extension, it suffers from the energy inefficiencies of its original specification, construction materials and electrical and mechanical systems and both have become uneconomic to continue to upgrade. It is also clear that the exterior of the 1980s extension (which dominates the site owing to its greater width and proximity to the road) is out of character in its setting with no cross reference to the “church” nor neighbouring properties nor the wider townscape. The facing materials of re-constituted stone cladding blocks and dark anodised metal framed screen windows are alien to this street scene.
- 10.53 The main visual themes on St John’s Rd and surrounding streets are detached and semi-detached houses finished in a mix of brickwork, render, tile hanging, timber and generally white window frames. Pitched tiled roofs are the norm. Heights are generally 2 storeys in the immediate vicinity. The current buildings on the site are incongruous in the location in terms use and in appearance but have set something of a precedent of considerable bulk and mass on the site.
- 10.54 The east facing elevation is the most important aspect of the building in terms of position, height, massing and materials. This façade has been arranged with “house” scale elements of red brick and render, which are intended to follow the rhythm and scale of the detached dwellings to the south. They are separated by recesses giving depth and shadow, with the top floor massing set back from the building line and finished in a darker material to further emphasise the street scale of the articulation and break up of the massing. The separating recesses are shown in neutral colour and texture.
- 10.55 The centre of the east elevation has the primary entrance core with the staircase to the front. This creates a strong vertical element which identifies the entrance, which is further defined by a projecting canopy and the salvaged Hermes House clock tower on the roof edge as a reference to the previous building. The south end of this façade is set down by one storey to assimilate it with the adjacent No.153 comfortably. The northeast corner adds feature details picking up references to the old “church” building with rounded corners, larger windows, arched lintols and a domed roof detail.
- 10.56 The north (side) elevation is designed to be subservient in character to the east (front). At ground level the features are open recesses to under-croft parking (with EV charge points) and the central internal refuse store. Three floors above this have

bedroom windows to flats (except to the east end which has secondary windows to lounges). Similar to the front (east) elevation the façade adds detail and shadows to break up a potentially plain elevation. The elevation is further broken up by varying the arrangement of the face materials and by a variety of roof edge parapet heights.

- 10.57 The west (rear) elevation (facing the grounds of Tunbridge Wells Girls Grammar School) and its south end (the east elevations) is reduced by one storey, the intention being to relax the sense of overbearing that a full 4 storey gable may offer to neighbouring properties. The architects' intention is that with clear views of it from the west (rear) it should be treated as a primary façade to be designed and detailed in the same fashion as the east \ front side (even though views of it are limited mainly to the TWGGS buildings/playing fields). Boundary hedging and trees will filter the views from this side.
- 10.58 The south elevation has two gables. The eastern gable is 3 full storeys plus a set back top floor. The main gable faces directly to No153 St John's Rd and will have no windows. The set back top floor's gable will also not have any windows facing south and residents will not have access onto the flat roof created by the set back. The western gable is also set back at the top floor to reduce visual impact to neighbours. There will be bedroom windows on this gable (flats 16 and 28) but with separation to Nos.151 and 153 and the bottom sections obscured. False window recesses are used on both gables to maintain a domestic scale to the facades.
- 10.59 The finished ground level will not be changed from the existing.
- 10.60 In terms of layout, the new building maintains the frontage building line and appropriate separation distances between neighbouring dwellings. As discussed in the Highways and Parking section below, the proposal provides policy compliant parking numbers (aside from one visitor space when compared to the emerging Local Plan, which carries limited weight at present); the parking bays are all designed to KCC standard width/length.
- 10.61 KCC Highways refer to Fire Brigade requirements and advise there is room to turn a fire tender. Fire access provisions are however a matter to be addressed by separate legislation within the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority.
- 10.62 The scheme seeks to retain the western hedgerow (on the TWGGS boundary) and no additional planting is proposed in this location due to the constraints of the kerb locations / extent of hard paving. Similarly, the existing hedgerow / vegetation along part of the northern boundary is to be retained but also reinforced with additional native planting to bolster habitat connectivity and wildlife corridors. Trees along the eastern boundary are to be retained where possible and supplemented with additional species, to continue the verdant street frontage, which is characteristic of the wider setting. For additional ecological enhancements / biodiversity gain, it is proposed that green roofs be non-accessible green roof with native seed and plug plants be used. Mixes of ornamental planting are also proposed within proximity to the building and the courtyard is intended to be framed by evergreen yew hedges.
- 10.63 The proposed development would be different in scale, form and appearance and utilise a contemporary flat roofed design. There are no other buildings with this appearance within close vicinity. However, the site is already occupied by a large office building which differs greatly from its surroundings in terms of scale, mass and bulk.

- 10.64 The design of the development is considered to be a significant improvement compared to the existing building on site. The materiality of the brick built sections are consistent with the buildings around them. Whilst there is no nearby precedent for the light grey cladding materials on the upper floors, they would be recessed and thus contrast with the lower sections. The building's height is not materially greater than the dwellings to the south – any greater impact at this level is through the larger massing at second and third floor level due to the flat roof. Longer views from the north and south would be filtered by the surrounding trees and existing dwellings and the new building would be seen in context with the surrounding built development. Views from private land (including schools) carry no weight as the purpose of the Planning Acts is not to preserve private views.
- 10.65 Given the open parking area to the north it would retain its current open appearance on that side.
- 10.66 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 brick 'bays' of the new building are 1.4m lower than No.153. The highest part of the roof would only be 1.8m higher than the ridge of this dwelling. As a contemporary building it may well stand out from those around it due to the flat roof form, and the use of modern materials at upper levels. However those elements are not considered to be so significantly harmful to the character and appearance of the area (using the language of Local Plan policy EN1) that refusal is warranted.

Trees

- 10.67 Only one off-site tree (T18) merits a grade B in the arboriculturalist's view. The rest are grade C. None of the subject trees have any special merit, but are in reasonable condition (aside from a dead tree on the frontage). Many of the peripheral trees and hedges have been regularly pruned back within the subject site, as is to be expected with an active commercial building such as this. The arboriculturalist notes that whilst the trees along the road frontage are unremarkable their condition could be improved by removing the grass in their vicinity and mulching the ground.
- 10.68 There will be tree removals – 9no. in total – these being T3, T9 (which is dead anyway) and T10 on the site frontage; and a row of garden trees at the rear (T11 – T17). These are C-grade Cherry, Rowan and Hawthorn. None of the trees on site or adjacent are protected by a TPO (the arboricultural statement advises that an off-site tree to the north is protected but this is an error). Given the scope for additional landscaping no objection is raised to the loss of the trees, the majority of which are at the rear of the site.
- 10.69 The RPAs of T1, T2, T18, G19 and T4 will be under the proposed car parking areas, but they are already under the existing parking surface. Where existing surfacing is to be taken up over RPAs the material will be pneumatically broken and the arisings removed with a mini-excavator using a toothless grading bucket worked with the base parallel with the ground. The excavator will be worked in straight lines with no track slewing. This along with tree protection can be secured by condition.

Residential amenity

- 10.70 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.

- 10.71 The dwellings which are most potentially impacted are Nos 147 – 153 (odds) St Johns Road to the south, and Nos. 159a and 159c to the north. Other dwellings are too far away to be adversely impacted by the development; No. 159b is to the north, with the garden of No.159 (commercial premises) and significant tree/hedge cover in between.
- 10.72 Objections have been raised regarding views from the rear elevation towards the TWGGS playing fields to the west, however neither Local Plan policy EN1 nor the NPPF preclude overlooking of non-residential sites. The playing fields are currently overlooked from various vantage points within the existing building.
- 10.73 At present, the office buildings badly overlook neighbouring dwellings. The first floor at Hermes House on the north side completely overlooks the rear garden of No.159c St Johns Road, with views also possible in to the rear first floor bedrooms and the living room. The gardens of Nos.153 and 151 St Johns Road are also wholly overlooked by the offices within the first and second floors of the three storey link structure that joins the older and newer parts of the building.
- 10.74 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.

Nos 147 – 153 St Johns Road

- 10.75 The proposed building is 'u' or horseshoe shaped with the flank walls of the two narrow sections facing south (i.e. towards No.153). The deeper section fronting St Johns Road is next to No.153. It has its front and rear building lines set further back than those of No.153 (rear – 4.2m; front – 3.7m). There are no upper floor windows in the south facing flank wall of this section. It is approximately 1.5m closer to the boundary than the existing building, but there remains an approximate 4m gap between these respective side elevations. The height on the boundary is 1.5m higher than the existing office, owing to the use of a flat roof on the boundary instead of the shallow pitch of the existing building.
- 10.76 There are rear facing living room windows to flats 12, 24 and 36 however these would have little impact on the rear gardens of Nos 151 and 153 given the likely 45 degree angle of view from the windows. The same can be said of the west facing balconies which face in to the internal courtyard.
- 10.77 The narrower northern section of the 'u'/horseshoe shape at the rear of the site has most of its main windows facing westwards, across the TWGGS playing fields. The exception to this is the south (flank) wall which has one bedroom window at first and second floor level (flats 16 & 28) facing towards the gardens of 147 – 153 St Johns Road, but the bottom halves of these are shown to be obscure glazed (to prevent downward views in to the neighbouring rear gardens). The upper section would be clear to allow light in.

- 10.78 These bedroom windows can be required to be top hung only (as opposed to casement windows which allow a greater degree of overlooking). There are gaps of 12.6m and 13.3m from this window to the rear boundary of No.153 and the side boundary at the end of No.151's rear garden. Any impact from these towards the rear gardens of 151 and 153 is likely to be minimal and considerable improvement over the existing situation. The windows need to be openable to provide ventilation, but the use of restrictors is not considered necessary given the distance from the boundary.
- 10.79 The south facing internal courtyard windows and balconies of Flats 14 and 15 (first floor); 26 and 27 (second floor) plus 37 and 38 (third floor) are between 22m and 23m from the common boundary with No.153. Given that a worse impact towards the rear gardens of Nos. 151 and 153 is being removed, plus the location within an urban area where views towards rear gardens are commonplace, the proposal is not considered to cause significant harm through overlooking or loss of privacy.
- 10.80 The south facing sections of the balconies belonging to flats 13 and 24 can be required to be obscured by condition, and amenity use of the non-balcony parts of the roof can be precluded by the same means.
- 10.81 Clearly the proposal will cause a change of view from the rear gardens of the dwellings to the south. However the distance from the boundary of the development, taking in to account the position of the existing building, is not considered to cause such a significantly harmful impact that refusal on these grounds is warranted.

Nos 159a and 159c St Johns Road

- 10.82 No.159c is the house referred to earlier which is excessively overlooked by the existing offices within the original part of Hermes House. The area adjacent to the northern boundary is proposed to be occupied by the car parking area. As such there would be a 19.1 – 19.5m gap to the southern boundary of No.159c's garden, with intervening hedges and trees. This is a considerable improvement on the current impact.
- 10.83 No.159a is a bungalow to the NW of the site. It does not share a common boundary with the site, but views across a small section of the playing fields are possible towards it. Given the new building will be set further back in to the site and the intervening off site trees/hedges, plus the fact that 159a's garden is on the northern side of the house, there would not be a significantly harmful impact through overlooking, proximity to the boundary nor from a loss of outlook.

Internal living conditions of the future occupiers of the development

- 10.84 The development is designed to National Space Standards and all habitable rooms have access to clear glazed (aside from the partly obscured bedrooms of flats 16 and 28 as per above) and openable windows.

Summary

- 10.85 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 of the surrounding houses, this in itself is not a planning matter that carries weight.

Ecology

- 10.86 The application includes an Ecological Assessment. None of the habitats within the site would be considered to be of ecological value, being highly modified and artificial in nature. No specially protected species, or species of a raised conservation concern, were identified. Beyond the occasional potential foraging bat, the site was assessed as having negligible value to support such species.
- 10.87 The proposal would result in the loss of the existing amenity grassland, scattered trees as well as the buildings themselves. All been assessed as being negligible ecological value, the resulting ecological impact would thus also be deemed to be negligible. The boundary hedges would be retained throughout the scheme
- 10.88 Biodiversity improvements have been incorporated into the landscaping for the scheme to ensure an overall biodiversity net gain is achieved as a result of the proposal. Two areas of green roof, covering a combined area of 117m², will be created on roofs towards the south of the site. These will be planted with a species rich, extensive green roof seed mix.
- 10.89 In addition, areas of amenity grassland will be planted around the edges of the site to replace the areas lost to the development, whilst almost 100m² of native scrub will be planted in appropriate locations. Further details of the habitat creation are provided on the landscape plans submitted with this application. When the habitat creation is evaluated using the Defra Metric 3.0, a net gain of over 39% is realised.
- 10.90 Full details of biodiversity enhancement (also to secure net gain) can be sought by condition).

Highways and parking

- 10.91 No alterations are proposed to the access point on to the public highway. KCC were consulted several times during the course of the application. After raising various issues, mainly due to a need for the applicant to provide additional information/clarification about various points, they raise no objections in terms of the traffic generated by the development nor to matters of safety on the public highway. The new residential use generates significantly fewer vehicle movements on to the A26 St Johns Road (115 per day) than the current office use would do if used to its full potential (232 per day). This includes a significant reduction in peak-time traffic movements, when the A26 often suffers heavy traffic congestion at this point. The existing visibility splays would be accommodated within the existing pavement.
- 10.92 This site broadly falls within the 'Suburban' category that KCC use for parking standards. This is characterised by no, or very limited, on-street controls. Whilst St Johns Road does not accommodate on-street parking there are no permit schemes in this locality and the residential roads nearby are largely uncontrolled by double/single yellow lines.
- 10.93 There is parking saturation on Southfield Road to the south, and on the opposite side of the road in East Cliff Road (the parts nearest the St Johns Road Junction) and Mereworth Road where there is a higher density of housing. The issue becomes less acute in the roads beyond this such as Riddlesdale Avenue, the rest of East Cliff Road, New England Road and Wilman Road where off street parking is widely available.
- 10.94 The scheme provides 43 spaces (one per dwelling) for the flats plus 8 visitor spaces and two LGV parking spaces. The on-site parking provision meets current KCC standards for one and two bedroomed flatted properties within Suburban areas (one space per dwelling). Notably, Suburban standards direct all visitor parking (8.6

spaces for this development, calculated at 0.2 spaces per dwelling) to on street areas.

- 10.95 The parking provision also meets emerging TWBC standards – the site falls within Zone B where one space per dwelling is required. The emerging standards also require that all visitor parking is provided on site, rather than directed to the roadside. This scheme does provide on-site parking (although there is a minor shortfall of one space given that the 8.6 figure would be expected to be rounded to 9). However the emerging plan does not carry full weight at present, unlike current KCC standards. When the characteristics of the area are considered (no parking on the A26 and saturation on the nearest residential roads on the opposite side) it is considered correct that on-site visitor spaces are provided, not least because the provision meets the requirements of the emerging Plan.
- 10.96 As set out above it is recognised that some nearby roads suffer from parking saturation although (from Officer observations) there is normally some availability for parking in these streets at all times of the day. There is very limited potential that the proposal will result in some additional on-street parking pressure given the shortfall is only one space and the proximity of the site to local services.
- 10.97 It may be a source of frustration that local residents cannot always park outside or close to their properties. There is however 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 development meets current KCC standards and there is a minimal shortfall of one space (due to rounding) against emerging standards which do not carry full weight; the number of other dwellings that already use the surrounding road network, the parking restrictions on the A26 and the fact that there is parking availability in nearby streets.
- 10.98 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, schools, bus routes and other services, it is not considered the application can be realistically refused and a refusal defended at appeal on this subject.
- 10.99 The A26 between Tunbridge Wells and Southborough includes a cycle lane on both sides of the road. Some responses to the application have suggested that granting permission should be contingent on the removal of the interruption in the northbound cycle lane 120m to the south of the site, where there is an on-street parking bay of some 6-7 cars length.
- 10.100 This is a known problem however it is a pre-existing issue which the development would not make worse. If it were an obligation of a S.106 agreement the applicant would be dependant on KCC Highways agreeing to remove the parking bay from the public highway. This is outside the applicants' control, and there is no evidence KCC would agree to it. KCC Highways have not deemed the acceptability of the development as dependant on the removal of this bay, therefore it is not considered that such an obligation would meet the three CIL tests set out in the paragraph below (particularly as it relates to a pre-existing issue which would remain in place even if the development did not go ahead).

S.106 contributions and affordable housing

10.101 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.

S.106 contributions

10.102 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 9 of the Tunbridge Wells Core Strategy 2010, Policies CS4, R2 of the Tunbridge Wells Borough Local Plan 2006, the Site Allocations Local Plan 2016 Policy AL/CRS 6), plus the Recreation and Open Space Supplementary Planning Document and in relevant sections of this Report.

10.103 KCC has assessed the proposal for contributions towards meeting the additional needs for infrastructure and services generated by the proposed development, as summarised at the beginning of this report. These are considered to meet the relevant tests as listed above and will be included within the recommendation below.

10.104 Developer contributions have also been requested by the NHS West Kent Clinical Commissioning Group towards mitigating the impact of new patients locally. The CCG advise that there is very limited patient growth capacity at the existing nearby GP surgeries.

10.105 Based on TWBC's adopted Local Plan Policies R1 and R2 plus the adopted Recreation Open Space SPD (2006), the applicants are required to deliver children's play space, calculated at the rate of 0.3 ha per 1,000 population (3sqm per bed space). In addition to designated open space, calculated at a rate of 1.6 ha per 1,000 population (16sqm per bed space). Where this is not possible the policy requires any shortfall to be provided as an off-site contribution to deliver improvements elsewhere. Hence the sums which are sought towards both these areas. The contributions sought reflect these calculations.

10.106 Finally, the Submission Local Plan supporting documents includes the Local Cycling and Walking Infrastructure Plan which seeks to improve local cycling and walking infrastructure to achieve more active travel and sustainable modes along the A26, amongst other locations in the Borough. Financial contributions are sought towards this.

Affordable housing

10.107 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). Based on current Development Plan requirements, 35% affordable housing would be required. The Council's Affordable Housing SPD requires that 75% be rented and 25% ownership (para 2.19) although this is guidance, not adopted policy.

10.108 As a brownfield site, the emerging Local Plan (Policy H3) seeks 30% affordable housing on brownfield land and 40% on greenfield sites. The difference is reflective

of the higher build costs associated with developing brownfield sites, including clearance of existing buildings. 60 percent should be provided as social rent and 40 percent as intermediate tenures or other affordable routes to home ownership, subject to consideration of any subsequent local policy and/or evidence.

- 10.109 The emerging Local Plan also recognises that there may be exceptional circumstances where the provision of on-site affordable housing is not viable. This includes where *'it can be demonstrated that the provision of the policy-compliant level of affordable housing would make the development unviable'*.
- 10.110 The proposal does not provide affordable housing. It is accompanied by a viability assessment (Strutt and Parker, April 2022), which budgets for a sum of £200,000 for S.106 financial contributions (actual requests are slightly higher, approximately £215,000).
- 10.111 A viable development can be regarded as the ability of a development project to meet its costs (including the cost of financial contributions), while ensuring an appropriate site value (i.e., Existing Use Value) for the landowner and a market risk adjusted return to the developer in delivering that project. The Government's Planning Practice Guidance on Viability sets out the main principles for carrying out a viability assessment (Paragraph 010 of Viability section within the PPG). It states that viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return. This helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.
- 10.112 The Council undertook its own review of the applicants' submitted FVA, via its own specialist consultants. This was to seek opinion as to whether the viability figures and position put forward by the applicant are reasonable. This is to inform the Council's discussions with the applicant and its decision making.
- 10.113 The viability process involves consideration of three values: the Existing Use Value (EUV), the Benchmark Land Value (BLV) and the Residual Land Value (RLV).
- 10.114 In all appraisals of this type, the EUV (value of the site in its existing use) is used. This must be sufficient to secure sale by the landowner but is not assumed at such a low level that restricts the financial capacity of the scheme to deliver suitable profits (for risk reward), cover all development costs (including any abnormals) and provide for S.106 financial contributions. It is not the price paid and should disregard hope value. This can be a difficult balance to reach, both in terms of developers' dealings with landowners, and Councils' assessments of what a scheme has the capacity to bear.
- 10.115 The BLV comprises the EUV, plus a premium for the landowner. The PPG and RICS guidance states BLV should;
- be based upon EUV to allow for a premium to landowners;
 - reflect the implications of abnormal costs; site-specific infrastructure costs; and professional site fees; and
 - be informed by market evidence including current uses, costs and values wherever possible.

- It should not be expected to equate to actual market value. The BLV is not a price to be paid in the marketplace; it is a mechanism by which the viability of the site to provide developers' contributions can be assessed.
- BLV should be set at a level that provides the minimum return at which a reasonable landowner would be willing to sell.

10.116 The applicant has provided appraisals for two scheme iterations – one including 35% affordable housing and the other being All Private (i.e. no affordable units). The appraisal states that the 35% affordable housing scheme produces a Residual Land Value (which is the amount remaining once the total cost of a project is deducted from its anticipated value and an appropriate return to the developer has been deducted) of £129,332, which *“is well below the £2m Benchmark Land Value.”*

10.117 The applicant contends that the All Private scheme produces a residual land value of £1.5m which *“is still below the Benchmark Land Value and is considered to be within a reasonable range for the developer to take a commercial view on the site in this instance whilst allowing Logistics UK (the applicant) to press ahead with their office move.”*

10.118 In reviewing the FVA the Council's consultants summarised that;

- The overall approach to assessing the viability of the proposed development is appropriate in their opinion;
- There are aspects that they have queried or where a difference of opinion exists, which is inevitable in any review. They have queried the benchmark land value (BLV), which in their view could be potentially lower. They have also adopted a lower developer return of 6% on GDV (Gross Development Value) for the affordable housing – a more standard assumption in this regard.
- When adjusting the developer return on affordable housing within the 35% affordable housing appraisal, the scheme produces a residual land value of **£383,574**. As noted above, the All Private scheme produces a residual land value of **£1,492,247**.
- Viability is at best marginal; whilst they consider that the submitted BLV could potentially be even lower, a significant and possibly unrealistic adjustment would be needed, prior to any consideration of difference in opinion of cost between the applicant's and the Council's cost consultants, before a break-even position could be reached.
- In conclusion, the scheme does not appear to be able to support a higher contribution than the £204,190 already budgeted for within the development appraisal for S106 contributions. In these circumstances, they recommend that TWBC consider the inclusion of a review mechanism within the S106 agreement.

10.119 The submitted details are considered to be sound and significant weight is proposed to be given to the TWBC consultant's broad acceptance of the applicant's viability position. Therefore on the information provided there is considered to be sufficient justification to depart from Core Policy 6 with regards to the provision of affordable housing. This issue will therefore not form a recommended reason for refusal.

Review mechanisms

10.120 The Council's viability consultants recommend that TWBC consider the inclusion of a 'review mechanism' within the S106 agreement. A review mechanism is a process which essentially re-runs the viability assessment process at a later point post-permission and prior to completion of all units. Early reviews are usually engaged if a certain amount of progress has not been made on site within several

years, while late reviews are generally triggered on disposal of 75% of the units onsite.

- 10.121 Review Mechanisms compare the viability assessment at application stage with actual achieved values and costs. If costs have gone down, and values up, then a further payment to the LPA will be required. If the original assessment was too pessimistic then a late payment to the local authority will be required, or additional dwellings will be required to be delivered as affordable housing. This can often be used as a reasonable compromise, agreeing zero upfront contribution but secured via late review mechanism to check actual values at a later date. The applicants object to a VRM in principle because they say it will hinder the ability to sell the site.
- 10.122 The PPG states at para 009 of the 'Viability' section that *'Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles'*. Neither the current nor emerging TWBC Local Plan specifically refers to review mechanisms.
- 10.123 The LPA is however aware of two appeal decisions where the Inspector has dismissed the LPA's requirement for a review mechanism - because their Local Plan affordable housing policies do not require it. These are appeal decisions not case law, and there may well be other appeals that support the inclusion of a review mechanism, the pursuance of which is a matter of planning judgement. However both decisions seem to indicate the way in which Inspectors are reading the PPG advice and this reading of it was the same in both appeals, unaffected by any site specific circumstances.¹
- 10.124 Nevertheless any yield from this is only likely to be an off site payment and in view of the current shortfall in the yield is unlikely to make any meaningful contribution towards affordable housing. Furthermore, in Officers' experience the review mechanism often comes back showing nil viability, which is more likely in the context of a likely economic recession and increasing building material costs. The Dixon Searle appraisal of the applicant's viability review did not find it pessimistic and nothing was challenged. Therefore it is Officers' recommendation, on balance, that this review mechanism is not pursued.
- 10.125 The emerging Local Plan at supporting paragraph 6.338 to draft Policy H3 advises that in cases such as this, a shorter implementation period than the standard three years should be considered. Such a requirement is not part of the current Local Plan. This has been suggested to the applicant however they consider they would be unable to formally commence within two years due to the following;
- the viability of the scheme is at best marginal. However, Logistics UK is prepared to carry the 'risk' in this regard as its business needs to move forward and relocate (ideally to a town centre site in Tunbridge Wells);
 - The applicant needs sufficient time to secure suitable alternative premises, upgrade them as required and relocate its operations. Whilst this process has started, it is highly likely that it will take at least two years to complete.

¹ APP/E5900/W/18/3194952 (49-59 Millharbour, 2-4 Muirfield Crescent and 23-39 Pepper Street, London E14 9TD) and APP/K3605/W/20/3261529 (8-14 Oatlands Drive, Weybridge, KT13 9JL)

- Imposing a reduced commencement period could see the permission lapse and/ or LUK be forced to look outside of TW for alternative office accommodation.
- Moreover, whilst the reference to a reduced/ two year implementation period in the draft local plan is acknowledged, the draft plan as a whole is still at the examination stage with the Inspector having requested significant additional information and some preliminary modifications already. Therefore, there is an ongoing lack of certainty as to the final form of the emerging Local Plan (including with respect to paragraph 6.338) and the date on which the plan will ultimately be adopted. As per national guidance, the applicant considers that only limited weight can be attributed to the draft plan at this stage.
- The viability position is unlikely to improve within this time in any event.

10.126 The future intentions of the applicant regarding staying in Tunbridge Wells is noted but ultimately carries limited weight in the planning balance. This factor is entirely outside the LPA's control. It is also noted that very little is legally required to implement a permission (such as digging a small section of water trench or demolishing a small curtilage building). Such works could be undertaken within two years but do little to achieve the objective of completing the development quickly before the development becomes more viable. The courts have held that a LPA cannot compel a landowner/applicant to complete a permission except in highly exceptional circumstances.

10.127 Given the reference to this is also within the Submission Local Plan whose affordable housing policies carry minimal weight at present, it is not considered the shortened implementation period can be realistically pursued.

Summary

10.128 In summary all obligations sought via the S.106 agreement are considered to meet the relevant CIL tests. The applicant has offered to divert the S.106 contribution sums towards an off-site affordable housing contribution instead. However this would still result in only a very limited contribution towards affordable housing (a 43-unit scheme in Hawkhurst back in 2019 paid £780,000) and no mitigation of the impacts of the development at all towards NHS services or secondary schools (for example).

Flooding and drainage

10.129 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 flooding. The site is not within a groundwater source protection zone. The site is at a low risk of fluvial flooding, and a low risk of surface and reservoir water flooding. The SFRA indicates that there have been no historical surface water flood events at, or in proximity of the Site.

10.130 To mitigate against the effects of increased runoff SuDS attenuation drainage will be provided limiting flows in compliance with Kent County Council's betterment policy and in compliance with the Non Statutory Technical Standards for SuDS drainage. Foul drainage from the site is via the existing foul connection. The foul flows from the development are less than the foul flows from the current use with a 20% reduction in flow to the foul sewer.

10.131 The EA consider the proposal to be 'low risk' and have provided no further comment. KCC as Lead Local Flood Authority raise no objections subject to conditions.

Air quality/land contamination

10.132 Hermes House is within an Air Quality Management Area. The Mid Kent Environmental Protection team consider both this and land contamination can be addressed by condition.

Sustainability

10.133 In terms of energy efficiency, the application proposes the adoption of a fabric-first design approach plus provision of air source heat pumps and Photovoltaic panels would result greater than a 15% reduction in CO2 emissions via renewable technologies. In addition, EV charging provision (passive and active) can be secured by condition. Currently, with the proposed measures including target fabric parameters, efficient heat pumps and PV incorporated, the development should achieve approximately a 48% reduction against 2013 Part L of the Building Regulations.

Summary

S.38 (6) balancing exercise

10.134 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). However, the clear advice of the NPPF in para 11d indicates that the Local Planning Authority should be granting planning permission where the "most important" policies for determining the application are out of date (in this case the housing policies due to the lack of a 5 year supply) unless:-

i. the application of policies in this Framework 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.

10.135 In terms of the policies in the NPPF it has been considered above that there are no policies that protect areas or assets of particular importance that would provide a clear reason for refusing the development. Which leaves consideration against 11d(ii).

10.136 In terms of negative aspects;

- The proposal does not provide any affordable housing; however this has been tested through a viability appraisal process and appraised by the Council's own consultants - exceptions to affordable housing requirements are made in local and national policy where it would be unviable to provide;
- The proposal would result in the loss of an existing employment site (offices) however this is in the context of limited current market interest in office space, the shortcomings of the existing buildings, the largely residential nature of the surroundings (which restricts the range of potential employment uses), plus the location outside a designated employment area;

- The proposal would result in the loss of a non-designated heritage asset, however evidence has been put forward (which has been accepted by the Conservation Officer) that there are limited realistic alternative uses for the building;
- The proposal would result in a shortfall of one visitor parking space when assessed against emerging parking standards within the Submission Local Plan. However this only arises due to rounding (parking demand is 51.6 spaces vs provision of 51). Furthermore these policies are not adopted, neither do they carry full weight (as the adopted Plan does). Neither KCC Highways nor TWBC Parking Services have objected on this basis.

10.137 In terms of the positive aspects:

- The provision of 43 dwellings at the prescribed mix is a positive, to which significant weight can be attached;
- 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 site is within a highly sustainable location within the LBD, which attracts significant weight;
- The site is Previously Developed Land (brownfield land), which also attracts significant weight;
- Some benefits would arise from some of the S106 financial obligations (for example: non Hermes House residents would benefit from monies towards local play areas, school enhancements etc – this attracts limited to moderate weight);
- The proposal is capable of delivering a net ecological gain through the use of green roofs;
- The proposal would remove an office building which currently causes significant harm by way of overlooking towards neighbouring dwellings, which attracts moderate to significant weight.

10.138 The NPPF requires a balanced judgement will be required having regard to the scale of any loss and the significance of the non-designated heritage asset. The proposal would result in the total loss of the building, which has been identified as being of local value. Such value is reduced by subsequent alterations, the loss of some of the original architectural features, and the absence of use for its original purpose as a place of worship since the 1950s. There are significant overall benefits to the proposal as outlined above and therefore its loss would meet with NPPF Para 203.

10.139 In terms of the above the adverse impacts of granting permission would be significantly and demonstrably outweighed by 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. There are overall significant social and economic benefits to the proposal and with this in mind, it is considered on balance that the proposal comprises sustainable development in NPPF terms.

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 25th February 2023 (unless a later date be agreed by the Head of Planning Services) to secure the following;**

- A contribution of £75,495.00 towards provision of improvements and upgrades to the football centre of excellence in Hawkenbury;
- A contribution of £44,659.50 towards the provision of improvements and upgrades to the neighbourhood equipped area of play (“NEAP”) at St John’s Recreation Ground at Beltring Road Tunbridge Wells
- A contribution of £21,500 towards improvements to local cycling and walking infrastructure to achieve more active travel and sustainable modes in the vicinity of the Development and in accordance with schemes in the Borough Council’s Local Walking and Cycling Infrastructure Plan
- A contribution of £25,776.00 towards NHS services within The Wells Practice, St Andrews Medical Centre, Lonsdale Medical Centre, Kingswood Surgery, Speldhurst & Greggwood Medical Group, and Rusthall Medical Practice and/or toward new general practice premises development in the area
- A contribution of £18,800.03 towards provision of additional Libraries, Adult Learning and Social Care services at Tunbridge Wells Cultural Hub (The Amelia Scott)
- A contribution of £21,565.00 towards the expansion of Bennett Memorial Diocesan School
- A contribution of £7,897.81 towards the extension and upgrading of the existing waste transfer station at Tunbridge Wells
- A contribution of £2,816.50 towards provision of additional resources for the Kent Youth Service at youth centres and via outreach youth support services in the vicinity and environs of the Development

and subject to the following conditions:

Implementation

- (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.

Approved plans

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

EW 2104-PA-001 P3	Location Plan
EW 2104-PA-008 P2	Block Plan and Site Plan Proposed
EW 2104-PA-009 P3	Proposed Site Plan
EW 2104-PA-010 P2	Ground Floor Plan
EW 2104-PA-011 P2	Proposed First Floor Plan
EW 2104-PA-012 P2	Proposed Second Floor Plan
EW 2104-PA-013 P2	Proposed Third Floor Plan
EW 2104-PA-014 P1	Proposed Roof Plan
EW 2104-PA-020 P1	Proposed Elevations 1
EW 2104-PA-021 P1	Proposed Elevations 2
EW 2104-PA-022 P1	Proposed Elevations 3
EW 2104-PA-023 P1	Proposed Elevations 4
EW 2104-PA-024 P1	Proposed Facade Materials
EW 2104-PA-025 P1	Proposed boundary wall

Arboricultural Survey and Planning Integration Report 4th May 2022

Reason: To clarify which plans have been approved

Design details

- (3) Notwithstanding the submitted plans and details, prior to the commencement of construction work on the buildings hereby approved above slab level, 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 materials to be used for final surfacing through the development (including details showing how dedicated and continuous footway routes will be demarked, and use of a bound surface for the first 5 metres of the access from the edge of the highway);
 - b) Details relating to materials and windows (including recess depths dimensions);
 - c) The alignment, height and materials to be used in the construction of fences or other means of enclosure to the southern boundary;
 - d) Written details including source/manufacturer, of all external materials;
 - 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.

Building recording

- (4) No development shall take place until a written specification and timetable for a programme of building recording (to be undertaken by a competent person(s) or organisation approved by the Local Planning Authority) has been submitted to and approved in writing by the Local Planning Authority; and implementation of that programme has been fulfilled in accordance with the approved programme, with all findings submitted to and approved in writing by the Local Planning Authority. All development hereby approved shall be carried out in accordance with the approved details.

Reason: To ensure items of historic merit are properly recorded. This is a pre-commencement condition as the details will need to be agreed in advance of any demolition on site.

Landscaping

- (5) Notwithstanding the submitted plans and details, a landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority before the development is first occupied.

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

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

Method statement for root protection and Tree Protection Plan

- (6) Notwithstanding the submitted plans and details, prior to the commencement of any development hereby approved the following shall be submitted to and approved in writing by the local planning authority;
- a Tree Protection Plan (showing protective measures to the boundary hedging as well as the frontage trees) and
 - 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

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 Survey and Planning Integration Report (May 2022) 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.

Tree, hedge and hedgerow protection

- (8) 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.

Surface water drainage

- (9) Development shall not commence (excluding demolition of the existing buildings) 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 reviewed the Flood Risk Assessment and Drainage Statement prepared by FortRidge Consulting Limited dated 3rd May 2022 and the accompanying Technical Note prepared by FortRidge Consulting Limited dated 5th July 2022 and shall 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 at a rate no greater than 4l/s 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.

- (10) No building 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 pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

Sustainability measures

- (11) Notwithstanding the submitted details, prior to the commencement of construction work on the buildings hereby approved above slab level, written and illustrative details for renewable energy technologies within the development shall be submitted to, and approved in writing by the Local Planning Authority.

This scheme shall provide 15% of the approved parking bays with active electric charging spaces distributed across allocated and unallocated bays; and the remaining bays as passive charging spaces prior to the use of the site commencing. All Electric Vehicle chargers provided within the development shall be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection).

The development shall be carried out in accordance with the approved details, and the approved sustainability measures shall thereafter be retained.

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

Vehicle parking space/turning

- (12) 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

- (13) 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

(14) 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)
- Hours of working;
- 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

(15) Prior to the commencement of the development (with the exception of demolition) 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 site investigation, based on the submitted Preliminary Land Quality Risk Assessment (SLR, April 2022) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

2) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (1). 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.

3) A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in 2. 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.

Noise levels

- (16) Notwithstanding the submitted plans and details, prior to the commencement of construction work upon the development hereby approved above slab level, 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

Balconies/windows and privacy issues

- (17) Prior to the first occupation of flats 13 and 24, details of measures to mitigate overlooking towards the existing dwellings to the south of the site from the balconies shall be submitted to and approved in writing by the Local Planning Authority, and such measures shall be installed in strict accordance with the approved details. The approved measures shall thereafter be retained.

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

- (18) The flat roofed area of the buildings hereby permitted (other than those areas specifically identified as balconies 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 balconies 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 of adjoining dwellings

- (19) Before the first occupation of Flats 16 and 28 hereby permitted their bedroom windows shall be fitted with obscure glazing to the bottom half of the window unit. This glazing shall be of Pilkington level 3 or higher (or equivalent) and be top hung only. 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

High Speed Fibre Optic broadband

- (20) Before development commences (excluding demolition of existing buildings) 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. This is a pre-commencement condition as service routes will need to be addressed from the beginning of the construction phase.

Retention of clock in working order

- (21) The existing clock and clock face shall be retained in full working condition within the new building hereby approved, unless otherwise agreed in writing by the Local Planning Authority. It shall only be set to either Greenwich Mean Time or British Summer Time, depending on which time zone is in force.

Reason: To ensure this functional design feature is retained on the building

Air quality

- (22) The development shall not be commenced until a report, undertaken by a competent person in accordance with current guidelines and best practice, has been submitted to and approved in writing by the Local Planning Authority. The report shall contain and address the following:
1. An assessment of air quality on the application site and of any scheme necessary for the mitigation of poor air quality affecting the residential amenity of occupiers of this development.
 2. An assessment of the effect that the development will have on the air quality of the surrounding area and any scheme necessary for the mitigation of poor air quality arising from the development.

Any scheme of mitigation set out in the subsequently approved report shall be implemented prior to the first occupation of the building and maintained thereafter.

Reason: To mitigate the impact of the development on air quality in the area and upon future occupiers of the development. This is a pre-commencement condition as the air quality impacts of the development will be more relevant during the construction/demolition phase.

Cycle and refuse storage

- (23) The approved bicycle and refuse storage facilities shall be completed prior to first occupation of the development hereby approved and shall thereafter be retained.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety. In the interests of visual amenity and to facilitate waste collection.

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) 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

- 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 25th February 2023 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 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 Local Walking and Cycling Infrastructure improvements, 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: 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.

Planning Committee Report
7 December 2022