



---

## Appeal Decision

Hearing Held on 17 November 2020

Site visit made on 20 November 2020

**by S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 31 December 2020

---

**Appeal Ref: APP/M2270/W/3225289**

**26-38 Commercial Road, Paddock Wood TN12 6EL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Churchill Retirement Living against the decision of Tunbridge Wells Borough Council.
  - The application Ref 18/03262/FULL, dated 8 October 2018, was refused by notice dated 27 February 2019.
  - The development proposed is for the demolition of the existing buildings; redevelopment to form 33 no. apartments for older people, guest suite, communal facilities, access, car parking, landscaping and 287 sqm of A1 retail floorspace.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing buildings; redevelopment to form 33 no. apartments for older people, guest suite, communal facilities, access, car parking, landscaping and 287 sqm of A1 retail floorspace at 26-38 Commercial Road, Paddock Wood TN12 6EL in accordance with the terms of the application, Ref 18/03262/FULL, dated 8 October 2019, subject to the conditions in the attached schedule.

### Procedural Matters

2. Amended and additional plans were submitted in February 2020 which I accepted under Wheatcroft principles given the reduction of the issues in dispute, and they do not fundamentally change the scheme. The Council and interested parties have had sufficient opportunity to comment on the amendments which formed part of a new planning application for the revised scheme. I accepted copies of consultation responses on this as evidence to the appeal, together with the Council's decision notice and officer report.
3. The banner heading above sets out the amended description used for the appeal publicity and as agreed by the main parties at the Hearing. This relates to the aforementioned amended plans, reflecting a reduction in the number of apartments from 34 to 33, and an increase in the retail floorspace. It is on the basis of these amendments that I have made my decision.
4. The Council and Paddock Wood Town Council (PWTC) are currently preparing emerging local and neighbourhood plans; the Tunbridge Wells Borough Local Plan (emerging TWBLP) and the Paddock Wood Neighbourhood Plan (PWNP) respectively. Consultation on the pre-submission version of the emerging

TWBLP has been delayed and is now likely to take place in Spring 2021. Furthermore, there have been objections to the relevant policies. The PWNP remains at an early stage of consultation. The main parties agreed that little weight should be afforded to them for this appeal. I am inclined to agree and I have therefore determined this appeal against the adopted development plan which comprises the saved policies of the Tunbridge Wells Borough Local Plan 2006 (TWBLP), the Tunbridge Wells Borough Local Development Framework: Core Strategy Development Plan Document 2010 (CS), and the Tunbridge Wells Borough Site Allocations Local Plan 2016 (SALP).

5. A signed Section 106 Agreement (S106) was submitted prior to the Hearing, relating to a contribution to off-site affordable housing and various social and infrastructure contributions. A revised signed and completed version of the S106 was submitted following the Hearing, to include a 'blue pencil' clause. I return to this matter later in the decision.

### **Main Issues**

6. The Statement of Common Ground (SoCG) between the main parties confirms that flood risk matters set out in reason for refusal 2 are agreed following a positive consultation response from the Environment Agency, and consequently I am content to consider this matter as resolved and it no longer forms a main issue. The Council also withdrew their case in relation to reasons for refusal 4 and 5 following agreement on viability matters, but further to discussion at the Hearing on the content of the S106 the planning obligations now form an additional main issue.
7. The main issues therefore are:
  - Whether the proposed development would prejudice the Council's ability to manage the comprehensive development of the wider area of allocated land within which the appeal site is located, with particular reference to the provision of town centre uses;
  - Whether adequate car parking provision would be available to meet the needs of the development; and
  - Whether the planning obligations in the S106 are justified, having regard to the tests in Regulation 122(2) of the Community Infrastructure Regulations 2010.

### **Reasons**

#### *Comprehensive Development*

8. The appeal site comprises a range of retail and food and drink units fronting Commercial Road, and a private car park to the rear. It forms part of a larger site which is allocated for mixed use development by SALP Policy AL/PW1. The remainder of the allocated site currently comprises a public car park 'Commercial Road West', a children's nursery, builders' merchant, dwellings and an area of vacant land. The allocation supports the development of a range of main town centre uses and seeks to retain the provision of existing public parking unless it can be provided elsewhere within the town centre boundary. It sets out the other town centre uses which are considered acceptable in principle subject to their inclusion not prejudicing the delivery of the main A1/A3/A4 uses. Such acceptable uses include residential dwellings as part of a

mixed use development. The Policy also specifies that proposals for redevelopment of part of the site must not prejudice the wider comprehensive aims for the redevelopment of the allocation.

9. Policy AL/PW1 requires the preparation of a masterplan. However, the Council accepted at the Hearing that the site had been allocated for mixed uses since the adoption of the 2006 TWBLP and a masterplan has not been produced in the intervening 14 years. Nor in that time has there been any approval for redevelopment of the allocation either in part, or as a whole. There has been ample time to dictate the direction of this site however it has been without success.
10. The allocation is proposed to be carried forward into the emerging TWBLP as Policy AL/PW2, together with a wider area of land in Paddock Wood town centre. Whilst there has been a lack of activity since 2006 it is encouraging that the Council is now taking the initial steps in producing their own masterplan for the town centre, together with the formation of a 'strategic sites working group' for this and other major emerging allocations. I also note the recent consultation by the Town Council in relation to the PWNP. Nonetheless, the estimated timescales for adoption of the documents are lengthy, with the current Local Development Scheme now anticipating the emerging plan being adopted around the summer of 2022.
11. The appellant has submitted a 'Town Centre Study', which includes a 'concept masterplan layout'<sup>1</sup> for the wider town centre around Commercial Road and Station Road. The masterplan fails to meet the requirements of Policy AL/PW1 in terms of its lack of engagement and involvement with the Borough Council, Town Council and the local community. It has been specifically developed to support the proposals before me, giving a range of options as to how the mixed use allocation and wider town centre could be satisfactorily developed with the proposed development in place.
12. Nonetheless, I find that the appellant's submissions adequately demonstrate that ample land would remain within the allocation to accommodate the range of uses expected by Policy AL/PW1 and that there would be no overall prejudice to the development of the remainder of the allocated site nor to the Council's aspirations for the town centre as a whole. Indeed, I heard little convincing evidence to suggest otherwise or demonstrate any specific harm. The allocated site benefits from several highway frontages to both Commercial Road and Station Road, so that if the various land parcels are developed in a piecemeal way, separate entrances to the surrounding streets would be accessible and achievable. The S106 provides for reservation of land for a path ('community use land') which could be transferred to the Council for links to adjoining land, if required. Consequently, I am satisfied that pedestrian links to the wider allocation can be achieved.
13. The existing commercial units on Commercial Road, of around 287 square metres in floor area, would be demolished as part of the scheme. I saw on my site visit that these units currently comprise only one A1 retail unit (a florist). The other units include a restaurant, a hair salon, a café and a takeaway to the rear. Whilst the number of retail units would reduce from five to two in the proposals, there would be no net loss of overall floor space to accommodate town centre uses. Indeed the new units would provide more modern and

---

<sup>1</sup> Figure 31, Paddock Wood Town Centre Study (June 2019)

flexible accommodation and, having heard that there is the option of them being subdivided if necessary, I do not agree with the Council that they would decrease the commercial variety and offer within the town centre. I am further satisfied that the retail provision, whether to be given over as comparison or convenience floorspace, would make a worthwhile contribution to the viability of the town centre and to meeting the objectives of SALP Policy AL/PW1.

14. For these reasons, I find no conflict with SALP Policy AL/PW1 nor TWBLP Policy CR9 in terms of the amount and location of retail uses to the primary shopping frontage, particularly given that there would be no overall loss of retail space. Whilst it is the Council's preference for residential uses to be located on upper floors only, SALP Policy AL/PW1 does not specify such limits. Efficient use of previously developed land has been demonstrated, and the proposals would provide accommodation for older people, which the main parties agree there is an identified need for.
15. Given the numerous individual landowners involved, I concur with the appellant that it remains unlikely that an allocation-wide redevelopment scheme would come forward without the use of compulsory purchase powers. Furthermore, the appellant's evidence indicates that older people are more likely to shop locally and I agree with their submission that the proposals would have the effect of 'kickstarting' the development of the wider allocation and the overall regeneration of the town centre, to the benefit of the local economy.
16. PWTC and the Paddock Wood Neighbourhood Plan Steering Group (PWNPSG) put to me their aspirations for a town square for the community. However in the absence of any advanced proposals I cannot conclude with any certainty that the proposals would prejudice any future delivery of such open space or public realm as part of the PWNP, or within the remainder of the allocation. Likewise, the suggestion of the use of the allocation for employment land is not prevented by the proposed development, although I note that class B employment uses are not specifically set out within the Policy AL/PW1, and any need for additional employment allocations would be a matter for the emerging local plan.
17. PWTC and the PWNPSG cite prematurity and they consider that the development of the site should await the outcomes of the plan-making process. However I am satisfied that the development proposed would not be so substantial, and its cumulative effect would not be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan. Therefore, I find the argument that the proposal is premature and conflicts with paragraph 49 of the National Planning Policy Framework (the Framework) falls considerably short.
18. To conclude on this main issue, whilst there is some conflict with part of SALP Policy AL/PW1 in that a fully developed masterplan has not been prepared with the involvement of the Council and other local stakeholders, the proposed development otherwise complies with the remaining criteria of the Policy. The submitted Town Centre Study provides convincing evidence that there are a number of ways the remainder of the allocation could be developed for other town centre uses. As such there would be no prejudice to the comprehensive aims for the redevelopment of the wider area of allocated land nor the town centre as a whole. The proposed development is also in compliance with SALP

Policy AL/PW6, CS Policy 11 and TWBLP policy CR9 in that the ground floor frontage to Commercial Road would not comprise any non-retail uses, and there would be no loss of retail provision within the Primary Shopping Area. I find that the provisions of paragraph 92 of the Framework would be met in terms of there being no unnecessary loss of valued facilities and services. Consequently I find no harm to the vitality and viability of the shopping area as a whole.

### *Car Parking*

19. The Council's concerns in relation to car parking are twofold. The first being that the redevelopment of the site would result in the loss of an existing town centre pay and display car park, and the second that the proposed amount of car parking provision would fail to meet the needs of the proposed development. The Council confirmed at the Hearing that the reference in the first reason for refusal to loss of public car parking has now been addressed in further evidence submitted by the appellant and I note that this issue was not included in the Council's rejection of the revised planning application. Nonetheless, outstanding concerns remain from interested parties relating to displacement of cars and the capacity of other car parks within the town centre.
20. SALP Policy AL/PW1 requires that proposals will be expected to deliver at least the same provision of public parking, unless re-provision at a suitable alternative location within the town centre boundary is necessary. The main parties agree that reference to public car parking in SALP Policy AL/PW1 is in relation to the adjacent 'Commercial Road West', one of two Council operated car parks in the town centre.
21. The applicant's transport statement refers to a parking survey undertaken in 2017 and supplementary evidence has since been provided to support the revised application. Whilst there was some debate at the Hearing about the time of year in which the more recent survey was undertaken, they were carried out before the Covid-19 pandemic and I am satisfied that the surveys are sufficiently robust and representative. I was told that the site car park charges are lower than the Council car parks and at the railway station, and that it tends to be used for long stay commuter parking given its proximity to the railway station. Limited free parking is available on street for a short stay period of time. Nonetheless, the primary purpose of the town centre car parks would be to serve people using the shops and services.
22. I was presented with additional evidence at the Hearing in relation to a recently submitted planning application for a temporary car park on vacant land adjacent to the appeal site. This is part of the same allocation and accessed from Station Road. I note that the applicant is identical to operator of the existing private car park and that the supporting information indicates that such proposals would replace the existing car park. Whilst that application has not yet been determined and I can therefore give it little weight, it provides an indication of the market demand for car parking in the town centre and could provide suitable replacement provision, at least in the short term.
23. Given that the car park is private, no lawful use has been established, and that there is sufficient parking elsewhere in the town centre, I find no conflict with SALP Policy AL/PW1. Re-provision at a suitable alternative location within the town centre boundary is therefore unnecessary.

24. TWBLP Policy TP5 refers to Kent County Council's Vehicle Parking Standards<sup>2</sup> which were followed by 2008 guidance from Kent Highway Services<sup>3</sup>. However it is outdated in its reference to maximum parking provision; this is in conflict with paragraph 106 of the Framework. The Council referred me to more recent proposed minimum standards set out in the evidence base<sup>4</sup> for the emerging plan, and emerging TWBLP Policy TP3. These require a minimum of one space per 1 or 2 bed apartment plus 0.2 visitor spaces; around 40 parking spaces. The policy is however subject to change as the emerging TWBLP progresses, and I note that there are no set standards for older person's sheltered accommodation.
25. The development would provide for 13 parking spaces, which equates to a ratio of 0.39 per unit, and this is clearly less than the recent recommended standards. My attention was drawn to a note on page 7 of the 2008 guidance which refers to retirement development with occupancy controls being an exception to the guidance, recognising that specialist providers have tended to develop their own evidence base for such accommodation, and this is the case here. There is no dispute between the parties that the site lies within an accessible location close to public transport, shops and services and that future residents will be able to easily access them on foot. Space would continue to be available within the remainder of the AL/PW1 for potential food and drink or leisure uses which are currently lacking in the town, and the appeal site does not compromise the potential for this. Rather, bringing further residents into the town centre may encourage such operators to invest in such uses.
26. Much evidence was put to me by both main parties regarding retirement apartment developments similar to that before me. However the full details of the quoted cases are not before me, it is clear that each site has been dealt with on its own merits and there will be differences both in their size, type, inclusion of on-site staff, location and in the range of facilities within walking distance.
27. Having regard to the particular characteristics of the proposed development for older people, the parking provision would be appropriate for its intended use. It lies in a very central location close to shops, services and public transport. Whilst the 'active elderly' would represent a proportion of future residents, the appellant's evidence from other similar developments suggests that the majority of buyers tend to be over 80 and no longer own a car. I have no reason to disagree with this. I conclude on this main issue that adequate car parking provision would be available to meet the needs of the development. There is no conflict in relation to the maximum standards required by TWBLP Policy TP5 and there is no evidence before me that has demonstrated any harm to highway safety. Consequently the proposed development does not conflict with paragraph 109 of the Framework.

### *Planning Obligations*

28. The appellant has put forward a total 'pot' of funds towards planning obligations which the scheme can reasonably afford (£688,940). The Council's own viability evidence does not dispute this figure and I have no reason to

---

<sup>2</sup> SPG4: Vehicle Parking Standards 2006

<sup>3</sup> TWBC Statement Appendix 4 – Kent Design Guide Review: Interim Guidance Note 3 Residential Parking (November 2008)

<sup>4</sup> Residential Parking Standards Topic Paper for Draft Local Plan Regulation 18 Consultation (August 2019)

disagree. The completed S106 divides up the funds between a number of different contributions including off-site affordable housing and library book stock, which were identified in reasons for refusal 4 and 5. A CIL compliance statement sets out how the Council considers the obligations would meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and reiterated at paragraph 56 of the Framework ('the tests'), and I received further justification following the Hearing.

29. Whilst the range and level of contributions are agreed between the parties as previously set out in the SoCG, it is necessary that I also consider the S106 against the tests that require the obligations to be a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. There are no changes to the contributions themselves within the revised executed S106 submitted after the close of the Hearing, but it includes the addition of a 'blue pencil' clause. This has the effect that if I find that any of the contributions do not comply with the aforementioned tests, then they should otherwise be applied towards off-site affordable housing. There is an agreed and identified need for affordable housing as well as a clear shortfall in provision below the 35% required by CS Policy 6.
30. I have been directed towards CS Policy 1 in support of the range of other S106 contributions, which at point 4 states that developments will be required to contribute towards the provision of the services, facilities and infrastructure for which they create a need. Supporting text paragraph 5.20 refers to a range of infrastructure types where contributions will be sought, and goes on to say that where infrastructure contributions are required for specific schemes, details will be provided in forthcoming Development Plan Documents (DPD) and that a Supplementary Planning Document (SPD) would be prepared on such matters. However there is no SPD before me relating to infrastructure contributions, and SALP Policy AL/PW1 does not set out any specific infrastructure provision or contributions relating to this allocation. The Council were unable to direct me to any more specific policy basis for the range of S106 contributions (other than affordable housing) and as such I have considered each against the aforementioned tests only.
31. I am satisfied that the inclusion of contributions towards library book stock, a Traffic Regulation Order (TRO) and the community use land/path within the S106 have been adequately demonstrated. The library book stock contribution addresses reason for refusal 5 and Kent County Council provide statistics relating to a shortage of book stock locally. There is a library in very close proximity to the development whose future occupants are likely produce increased demand for its services. In terms of the TRO, the position of the proposed vehicular access would result in the loss of two on-street parking bays and a contribution towards changing the parking layout of this part of Commercial Road is necessary. Consequently I find that both of these contributions would meet the tests.
32. The S106 includes a plan showing a small area of land to the rear of the site which denotes land that cannot be obstructed so as to prevent its future use as a path. It allows for the land to be transferred to the Council if required for such use, and a contribution towards its improvement and maintenance. I have previously found that the proposed development would not prejudice future

linkages within the wider allocation and reserving this land would assist in achieving this. I therefore find that this particular obligation would meet the tests. However, I have considerable concerns with the remaining contributions relating to healthcare, social care, community learning, waste facilities, and a community centre. I deal with each in turn below.

33. Healthcare - A contribution of £19,008 is included in the S106 to be paid to the NHS West Kent Clinical Commissioning Group (CCG) to spend 'in the vicinity of the development'. There is no consultation response before me in respect of the planning application or appeal from the CCG. They refer in their response to the revised application to a cumulative need for additional capacity in GP premises along with other new developments, but do not set out a specific project for the contribution. There is no evidence before me to suggest there is a particular capacity issue at the local GP surgery that would be exacerbated by the proposed development. In this respect, the contribution fails to meet the tests of being necessary or directly related to the development. Furthermore, the standard calculation does not appear to take into account the nature of the development and likely propensity of single occupiers. I am therefore not satisfied that the contribution would be fairly and reasonably related in scale and kind to the development.
34. Social Care – A contribution of £2,423.52 is required by Kent County Council (KCC) for the provision of social care. Such a contribution was not set out in their consultation response to the planning application nor to the appeal, but is referred to in their response to the revised application which states that care capacity and social care budgets are already fully allocated. No specific social care project in the locality which would be directly related to the development is specified. On the other hand, the appellant's evidence suggests that the housing of older people in private sheltered housing would allow them to live independently for longer and could therefore reduce demand for social care<sup>5</sup>. Consequently I am not satisfied that the contribution would meet the tests.
35. Community Learning - This is another contribution that was not previously requested in any consultation response to the planning application or appeal. KCC now request £270.84 towards additional equipment and resources for adult education delivery in Paddock Wood. Whilst the amount is modest, the calculations provided date from 2017 and there is nothing before me to suggest a more recent calculation nor how the figures were arrived at. I am therefore unconvinced that this particular contribution would meet the tests.
36. Waste Facilities – KCC request a waste facilities contribution of £3,919.41, to be spent on the provision of additional capacity in the Tunbridge Wells' waste transfer station and household waste recycling centre. Their response, which again is to the revised application and not to the appeal, sets out that the contribution would mitigate the impact arising from the development and accommodate the increased range of materials collected kerbside within the Borough. The TWBC Client Services consultation response indicates that the proposed apartment development will not require separate kerbside collections per unit but a number of larger capacity shared refuse and recycling bins however this does not appear to have been taken into account. Furthermore, no information is provided as to how the contribution figure has been arrived at. Consequently, whilst the occupiers of the development would generate

---

<sup>5</sup> Appellant Statement Appendices 6 and 7

waste and as such the contribution may be directly related to the development, I am unable to determine if it is fairly and reasonably related in scale and kind to the development.

37. Community Centre – CS Policy 11 encourages development of a new community centre in Paddock Wood. As part of their consultation response to the revised application, PWTC requested a contribution of £42,000 towards such a centre which they are proposing to locate at the Memorial Playing Field on Maidstone Road. I was shown the location at the Hearing and told that it is approximately 10 minutes' walk from the appeal site. PWTC told me that the building has been designed but no planning application has been submitted to date.
38. The Council indicate in their CIL compliance statement that a reduced community centre contribution of £25,000 would be in lieu of a recreation open space contribution. However, paragraph 1.12 of the SPD on recreation open space sets out that the requirements do not apply to elderly housing schemes which restrict occupancy and sheltered housing with communal amenity space within the development. The provision of the community centre is still not certain, it is distanced from the appeal site, and in any event the proposed development would have its own shared indoor and outdoor recreational facilities. I therefore fail to see how the contribution would be necessary or directly related to the proposed development. Furthermore, whilst I acknowledge the desire for a community centre in the area and that some interested parties consider the appeal site should be used for this purpose instead, that is not the proposed development in the appeal before me.
39. For all of the above reasons I find that the obligations relating to healthcare, social care, community learning, waste facilities and a community centre would fail to meet the requirements of Regulation 122 of the CIL Regulations and paragraph 56 of the Framework and therefore do not need to be included in the S106. The blue pencil clause allows me to re-distribute the contributions I find fail the tests for the above to affordable housing instead for which there is an agreed identified need and which fully meets the tests. I acknowledge that the affordable housing contribution remains below the 35% policy requirement nonetheless it is a welcome contribution which represents a significant benefit of the proposals. The Council agree that the total offer is reasonable and acceptable on viability grounds, and there is no counter evidence to demonstrate otherwise. Furthermore, I find that the smaller contributions towards library book stock, a traffic regulation order and community land/path obligations meet the aforementioned tests and these contributions can also remain in the S106.

## **Other Matters**

40. Since adoption of the SALP in 2016 permission has been granted for approximately 1000 dwellings in Paddock Wood, and a significant number of new dwellings are proposed in the emerging TWBLP. However I have already found that the appeal proposals comply with SALP Policy AL/PW1. The proposed development would not prejudice opportunities to create further retail space and other suitable uses on the remainder of the allocation and within the wider town centre, should such additional uses be required to serve the growth in population.

41. The site does not affect any heritage assets and there is no evidence to suggest that the buildings proposed to be demolished are of any particular special or historic interest. The building which contains numbers 26 to 30 Commercial Road displays features at first floor level only which are similar to others in the area. The buildings have undergone numerous unsympathetic alterations over time to accommodate commercial uses. The town centre contains a broad mix of building styles, heights and ages. Whilst the height of the building would be somewhat exacerbated by the preponderance of neighbouring flat-roofed buildings, there are some examples of 3 storey development proximate to the appeal site. The hipped roof design and use of materials would sit comfortably with other buildings in the locality. As such I find no harm to the character and appearance of the area from the proposed development.
42. Reference has been made to sewage and drainage issues in the locality. There is no evidence that the development would exacerbate any existing drainage conditions, and a drainage scheme can be controlled by condition. No adverse effects relating to highway safety including traffic generation and access have been demonstrated. There is no evidence before me that any existing issues relating to crime and anti-social behaviour would be exacerbated by the development. Finally, the potential prices of the apartments are not a matter which is within the control of the planning system and nor am I able to comment on any potentially preferable locations for a residential development for the elderly outside of the town centre, as such proposals are not before me.

### **Conditions**

43. I have undertaken some minor editing of the Council's conditions for precision and clarity, and the appellant has agreed to the conditions which are necessary to be approved prior to commencement of development. The approved plans condition includes the most recent versions of the plans to provide certainty. A condition limiting the occupation of the apartments to over 65's and their household is necessary given the nature of the development and limited amount of car parking proposed. Limiting the commercial units to A1 retail use only would assist in meeting the aims of the Council's town centre policies.
44. A construction environmental management plan is necessary to minimise effects on the local environment, living conditions and in the interests of highway safety. Details of external materials are required in the interests of area character, and I have amalgamated this condition with the Council's suggestion that roof and eaves details are provided. Given that the apartment development would be in a central location and above commercial units, details of sound insulation are required to protect living conditions of future residents and I have amalgamated the two relevant conditions for conciseness.
45. Whilst a drainage impact assessment was included with the proposals further details of drainage arrangements are required in the interests of satisfactory and sustainable drainage. However there is no evidence before me to demonstrate that the requirement for a CCTV survey of the sewer is necessary and that other legislation cannot be applied in relation to sewage disposal. The drainage scheme should be followed by a verification report to demonstrate that flood risk would be suitably managed. A condition is also necessary to ensure that the buildings are constructed in accordance with the mitigation

measures set out in the approved flood risk assessment, as recommended by the Environment Agency, to reduce the risk of flooding to future occupiers.

46. There are a number of trees on the boundaries of the site, and a condition would ensure that they are protected during construction. Details of hard and soft landscaping are required in the interests of area character, and a scheme for biodiversity enhancement would assist in encouraging an increase in the biodiversity value of the site. A lighting scheme is required to minimise effects on nearby residential occupiers. Inclusion of renewable energy technologies would assist in carbon reduction, in compliance with the Council's Renewable Energy SPD.
47. It is necessary to remove permitted development rights for any development which would affect the amount and availability of parking spaces, in the interests of highway safety. Details of charging points would assist in encouraging use of electric vehicles, and details of cycle/scooter/buggy storage are necessary to ensure there is suitable and secure provision to store such alternative methods of transport. Refuse storage details are required to meet the needs of both the residential and commercial parts of the development and in the interests of public health.
48. A condition requiring a written scheme of investigation is required as the site lies in an area of archaeological interest, and a contamination risk assessment and associated remediation method statement would be necessary given the previous commercial uses on and around the site.

### **Planning Balance and Conclusion**

49. The supply of 33 residential apartments would contribute to the agreed shortfall in housing land supply, albeit small, and this is a benefit which weighs in favour of the proposed development. Other benefits include the provision of specialist accommodation for the elderly, the delivery of new modern retail units within the primary shopping area, efficient use of previously developed land, contributions towards affordable housing, and economic benefits both during construction and an increase in local expenditure by future residents. Whilst there is a lack of a fully developed masterplan developed with the involvement of the Council and other local stakeholders as required by SALP Policy AL/PW1, I have found no adverse impacts which would significantly and demonstrably outweigh the aforementioned benefits, when assessed against the policies in the Framework as a whole.
50. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*S Hunt*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                 |                                                          |
|-----------------|----------------------------------------------------------|
| Neil Cameron QC | Instructed by Stuart Goodwill of Planning Issues Limited |
| Matthew Shellum | Planning Issues Limited                                  |
| Dominic Scott   | Barton Willmore                                          |
| Rob Hardyman    | Paul Basham Associates                                   |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|               |                                          |
|---------------|------------------------------------------|
| Antonia James | Principal Planning Officer               |
| Hannah Young  | Strategic Sites and Delivery Team Leader |
| Sharon Evans  | Principal Planning Policy Officer        |

### **INTERESTED PERSONS:**

|                           |                                                                                             |
|---------------------------|---------------------------------------------------------------------------------------------|
| Claire Reilly             | Deputy Clerk, Paddock Wood Town Council                                                     |
| Councillor Carol Williams | Vice Chairman, Paddock Wood Town Council and Paddock Wood Neighbourhood Plan Steering Group |
| Councillor Ray Moon       | Vice Chairman, Paddock Wood Town Council Planning and Environment Committee                 |

## **DOCUMENTS SUBMITTED AFTER CLOSE OF THE HEARING**

- 1 Paddock Wood Neighbourhood Plan – Consultation Leaflet and Questionnaire
- 2 Planning application documents for temporary car park (20/01966)
- 3 Tunbridge Wells LDF Core Strategy Development Plan Document (2010)
- 4 Tunbridge Wells LDF Supplementary Planning Document – Recreation Open Space (2006)

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

|                |                                  |
|----------------|----------------------------------|
| 20074PW01      | Site Location Plan               |
| 20074PW P102 A | Site Plan                        |
| 20074PW P103   | Ground Floor Plan                |
| 20074PW P104   | First Floor Plan                 |
| 20074PW P105   | Second Floor Plan                |
| 20074PW P106 A | Roof Plan                        |
| 20074PW P107   | Elevations 1                     |
| 20074PW P108   | Elevations 2                     |
| 20074PW P109   | Elevations 3                     |
| 20074PW P110   | Site Distances Plan              |
| 20074PW P111   | Site Plan - Flood Grill Location |
| 20074PW P112A  | Buggy Store elevations           |
| 20074PW P120   | Electricity Sub Station          |
- 3) Each unit of the development hereby permitted shall be occupied only by:
  - i. a person aged 65 or older;
  - ii. persons living as part of a single household with the above person (i); and
  - iii. persons aged 55 or older who were living as part of a single household with the above person (i) who has since died.
- 4) Prior to the commencement of construction works, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Plan and BS:5228 Code of Practice for Noise Vibration Control on Construction and Open Sites 2009 (as amended) (or any subsequent revision).

The CEMP shall include:

  - i. An indicative programme for carrying out the works, including the sequence of construction;
  - ii. Measures to minimise the production of dust on the site;
  - iii. Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery;

- iv. Measures to reduce transport related air pollution from the development during construction;
  - v. Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site;
  - vi. Management of traffic visiting the site including temporary parking or holding areas;
  - vii. Provision of off road parking for site operatives;
  - viii. Measures to prevent the transfer of mud and extraneous material onto the public highway;
  - ix. Measures to manage the production of waste;
  - x. Measures to minimise the potential for pollution of groundwater and surface water;
  - xi. The location and design of site offices and storage compounds; and
  - xii. The arrangements for public consultation and liaison during the construction works.
- 5) Prior to the commencement of any above ground works, details showing the proposed joins at eaves and roof levels where the building changes in storey height, and details of all externally facing building materials 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.
- 6) Prior to the commencement of any above ground works, a scheme to demonstrate that the following 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:
- i. the internal noise levels within the residential apartments and between apartments and the commercial units; and
  - ii. the external noise levels in the gardens.
- The works specified in the approved scheme shall then be carried out in accordance with the approved details prior to the first occupation of any of the apartments and be retained thereafter.
- 7) Prior to the commencement of the development, details of a sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon the Drainage Impact Assessment (PBA, October 2019) and shall demonstrate:
- i. that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.
  - ii. that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
  - iii. That 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 then be implemented and retained in accordance with the approved details.

- 8) The development shall not be occupied until a Verification Report, pertaining to the surface water drainage system approved by condition 7) above has been submitted to and approved in writing by the Local Planning Authority, which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed. The Report shall contain:
- i. information and evidence of earthworks;
  - ii. details and locations of inlets, outlets and control structures;
  - iii. extent of planting;
  - iv. details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners;
  - v. full as built drawings;
  - vi. topographical survey of 'as constructed' features; and
  - vii. an operation and maintenance manual for the sustainable drainage scheme as constructed.

The development shall be carried out and maintained in accordance with the approved details.

- 9) The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) (ref: 30481/4073 Rev B) and the following mitigation measures:
- i. Finished floor levels of the apartments shall be set no lower than 17.0m above Ordnance Datum (AOD);
  - ii. The electrical substation shall be set no lower than 17.0m AOD.
  - iii. Finished floor levels of the retail units shall be set no lower than 16.5m AOD.
  - iv. The development must incorporate floodable voids under the proposed building footprint, so as to not reduce flood storage, in accordance with the void detail and design stated in sections 6.2 and 6.3 of the FRA. Flood grill locations shall be placed as shown in drawing ref: 20074PW P111.
  - v. The voided area shall provide a net gain in floodplain storage volume as shown in drawing ref: 30481/4073/002 Rev C.
  - vi. Voids shall be maintained in accordance with the Void Maintenance Plan in section 6.3 of the FRA.
  - vii. Flood resistant and resilient measures are to be incorporated for the commercial units in accordance with sections 6.1.6 and 6.1.9 of the FRA.
  - viii. A flood evacuation plan must be in place in accordance with section 6.4 of the FRA.

These mitigation measures shall be fully implemented prior to first occupation of any part of the development and shall be retained and maintained thereafter throughout the lifetime of the development.

- 10) The approved development shall be carried out in such a manner as to avoid damage to existing trees (including their root systems), by observing the following:
- i. No fires shall be lit within the spread of branches or upwind of the trees and other vegetation;
  - ii. No materials or equipment shall be stored within the spread of the branches or Root Protection Areas of the trees or other vegetation;
  - iii. 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;
  - iv. 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;
  - v. No trenches for underground services shall be commenced within the Root Protection Areas of trees, 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.
- 11) Prior to the commencement of any above ground works, details of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The hard landscape proposals shall include hard surfacing/paving materials. The soft landscaping details shall include schedules of plants noting species, plant sizes and proposed numbers/densities.
- The approved landscaping scheme shall be carried out fully prior to the first occupation of any of the apartments hereby approved. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.
- 12) Prior to the first occupation of any of the apartments hereby approved, a scheme for the enhancement of biodiversity on site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and be retained thereafter.
- 13) No external lighting shall be installed until a detailed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The lighting shall be installed, maintained and operated in accordance with the approved scheme.
- 14) Prior to the commencement of any above ground works, details of renewable energy technologies to serve the new development in accordance with the Council's Renewable Energy Supplementary Planning Document shall be submitted to and approved in writing by the Local Planning Authority. The

renewable energy technologies shall be installed on site prior to the first occupation/use of the development and retained thereafter.

- 15) The parking spaces 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 as amended (or any Order revoking and re-enacting that Order), shall be carried out within the parking spaces or in such a position as to preclude the use of such facilities.
- 16) Prior to the commencement of any above ground works, details of the location and specification of two electric vehicle-charging points including a timescale for their provision, shall be submitted to and approved in writing by the Local Planning Authority. The charging points shall be provided and maintained in accordance with the approved details.
- 17) Prior to the first occupation of the any part of the development, details of cycle/scooter/buggy storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided on site prior to the first occupation of any of the apartments and thereafter retained.
- 18) The retail units hereby approved shall be used for A1 (retail) use only as defined in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to these Classes in any statutory instrument revoking and re-enacting that Order with or without modification).
- 19) No demolition or development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - i. the programme and methodology of site investigation and recording;
  - ii. the programme for post investigation assessment;
  - iii. the provision to be made for analysis of the site investigation and recording;
  - iv. the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v. the provision to be made for archive deposition of the analysis and records of the site investigation; and
  - vi. the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall be carried out in accordance with the approved scheme.

- 20) Prior to commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:

- i. A preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site;
- ii. A site investigation to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
- iii. A remediation method statement (RMS) giving full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action;
- iv. A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in the RMS. 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.
- v. Any material brought onto the site shall be certified clean.

The scheme shall thereafter be implemented as approved.

- 21) Prior to the first occupation of any part of the development hereby approved, details of refuse storage, including separation and management of domestic and commercial waste, shall be submitted to and approved in writing by the Local Planning Authority. The refuse storage arrangements shall be implemented prior to occupation of the apartments and retained in accordance with the approved details.