

<b>REFERENCE NO - 21/503713/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of a four storey apartment building comprising 14 no. units with associated landscaping and ancillary works including the creation of no. 7 parking spaces, cycle shelter and bins stores, creation of new pedestrian access and use of existing vehicular access from London Road.		
<b>ADDRESS</b> Land on site of former 51 London Road Maidstone Kent ME16 8JE		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal would be acceptable with regard to the Local Plan, the NPPF and all other relevant material considerations. All material considerations indicate that planning permission should be approved. Furthermore, the previous reasons for refusal cited by the Inspector have been overcome by the current application.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Call in request by Cllr Purle. Cllr Purle expressed concern regarding the potential impact on the amenity of the neighbours in Whitchurch Close (to the rear/southwest of the development proposal) and the occupiers of No.49 to the southeast. In addition, he expressed concern relating to the reduction in parking spaces from previous proposals on the site.		
<b>WARD</b> Bridge	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Lebanon Property Trust (1936) <b>AGENT</b> Hume Planning Consultancy Ltd
<b>TARGET DECISION DATE</b> 21/02/22		<b>PUBLICITY EXPIRY DATE</b> 19/08/21

**Relevant Planning History**

20/506068/PAMEET Re-development of the site to create a residential apartment building comprising of 14 flats.

18/506333/FULL Erection of a three storey apartment building, comprising 18no. units and 18no. parking spaces at basement level.

REFUSED 14.03.2019 for the following reasons:

1. The design, bulk, scale and massing, poor legibility and lack of landscaped frontage of the development proposal would result in a development which would fail to integrate successfully in this prominent location.
2. The siting, height, depth, scale and design of the development proposal would represent a visually intrusive, overbearing and unneighbourly form of development resulting in an unreasonable loss of outlook and privacy to adjoining residential properties and their external amenity areas.
3. The poor outlook provided to the proposed ground floor flats of the development proposal in close proximity to boundary walls and trees, and the poor relationship between upper ground floor bedroom windows and external amenity areas, would fail to provide suitable living conditions for future occupiers.
4. The close proximity of the proposed development to mature trees, would threaten the long term survival of these trees with undue future pressure from occupiers of the flats to remove or lop the trees, to the detriment of the visual amenity of the locality.
5. The application fails to demonstrate that the development can provide adequate site access facilities that would not be detrimental to highway safety both for future residents and for pedestrians and vehicles using London Road.
6. In the absence of an appropriate legal mechanism to secure 30% affordable housing the impact of the development would be contrary to national and local policies.

Dismissed on appeal (referenced APP/U2235/W/19/3232563) on 24th January 2020.  
Inspector's comments set out in the Background Section of the report.

18/501160/FULL Erection of a three storey apartment building, comprising 18 units and 22 parking spaces at basement level. REFUSED

16/505127/FULL 26 Flats and 20 car spaces  
REFUSED 10.02.2017

16/501265/FULL Erection of 32 dwellings comprising 24 x 2 bed roomed flats plus 8 x 1 bed roomed flats together with 27 car parking spaces  
REFUSED 10.05.2016

08/1990 Outline planning permission for the demolition of existing office and erection of a 42 bed five storey nursing home with access to be considered at this stage and all other matters referred for future consideration (Resubmission of MA/08/0988)  
APPROVED 25.11.2010

08/0988 Outline planning permission for the erection of 55 bed, five storey nursing home with means of access only to be considered at this stage and all other matters reserved for future consideration.  
WITHDRAWN 23.07.2008

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The application site is located to the southwest of London Road within the urban area of Maidstone as identified on the Maidstone Borough Local Plan Proposals Map 2017. The ground levels are gradually elevated above the highway by approximately 2.0 metres towards the rear (southwest) of the site. The site is accessed via London Road at the north-eastern side of the front of the site. The site is substantially overgrown and there are some self-seeded trees with more mature specimens located around the boundaries.
- 1.02 To the northeast of the application site is Bower Mount Medical Practice, a two storey building with parking to the front and side. To the southeast of the site is No 49 London Road, a two storey Victorian property with rooms in the roof and a large annexe to the rear. The rear boundary of the application site bounds 3 Bower Mount Road and 22 and 23 Whitchurch Close which are two storey residential properties. The wider context of London Road has a mix of building types including some multi-storey development.

### **2. PROPOSAL**

- 2.01 The proposal is for the re-development of the site to create a residential apartment building comprising of 14 flats. It would consist of four floors with the uppermost floor set in by 5.0 metres on the south-eastern boundary to the rear of the building, with the remaining floor area set in approximately 1.0 metre around the perimeter of the remaining roof. The first three storeys would have four 2 bed flats, and the fourth floor having one 2 bed and one 3 bed flat. Units 1 – 12 and 14 would have combined kitchen/dining/living areas, an en-suite bedroom, second bedroom and separate bathroom. Unit 13 would have an en-suite bedroom, two further bedrooms and a separate bathroom, with combined kitchen/dining/living areas. All units would have individual external spaces, with patio areas for units 1 – 4, balconies for units 5 – 12, and terraces for units 13 – 14. The building would be mainly brick, but would use a bronze cladding in order to soften the development proposal. The windows and doors would also have a bronze filling.

- 2.02 The entrance to the flats would be situated on the principal elevation of the building. Seven car parking spaces would be located to the front of the site, with a separate pedestrian access central to it. Landscaping would be located around the perimeter of the site, with bin and cycle storage located to the south-eastern boundary.

### **3.0 BACKGROUND**

- 3.01 Summarised conclusions of Inspector's assessment with regard the dismissed appeal reference APP/U2235/W/19/3232563 on 24th January 2020. A copy of the decision letter is attached at Appendix 1.
- 3.02 The development proposal would have an acceptable impact on the character and appearance of the area.
- 3.03 From its scale and position, and the scale and position of other nearby buildings, it is unlikely that the proposed development would cause unacceptable harm to the occupiers of nearby dwellings. Whilst the proposed development would not adversely affect the living conditions of nearby occupiers with regard to natural light, it would significantly affect the occupiers of No 49 in terms of loss of privacy and outlook.
- 3.04 Provided the root protection area is adhered to with regard to the protected Lime tree in the Bower Mount Medical Centre, there is no reason to believe that the construction of the proposed development would cause unacceptable harm to it. There is no compelling evidence to show that the protected tree would be unacceptably harmed by the proposed development, including from future occupiers of the appeal development wishing to undertake works to it. The category B trees make a generally positive contribution to the character and appearance of the area. However, a suitably mature, replacement native hedgerow, whilst smaller than the category B trees, would still, on balance, be sufficient to mitigate their loss, in terms of the character and appearance of the area.
- 3.05 The proposed development would adversely affect the living conditions of future occupiers of the single aspect ground floor flats, with particular regard to outlook.
- 3.06 It has not been demonstrated that the undercroft layout shown on the additional drawing is one that could be achieved as part of the proposed development and, on this basis, the proposed development would not be acceptable in terms of highway and pedestrian safety.
- 3.07 The proposed development would have an acceptable impact in terms of affordable housing provision.

### **4. POLICY AND OTHER CONSIDERATIONS**

- 4.01 Maidstone Borough Local Plan 2017 - SS1, SP1, SP20, DM1, DM2, DM5, DM12, DM21, DM23  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Supplementary Planning Documents:  
Maidstone Building for Life  
Technical housing standards – nationally described space standard  
London Road Character Area Assessment 2008 SPD  
Maidstone Landscape Character Assessment 2012
- 4.02 Maidstone Borough Local Plan Review (Regulation 19) dated October 2021 - LPRSP2, LPRSP15, LPRSP10(A), LPRSP10(B), LPRSP12, LPRSP15  
*The Regulation 19 draft is a material consideration and some weight must be attached to the document because of the stage it is at but its weight is limited, as it has yet to be the subject of an examination in public.*

## **5.0 LOCAL REPRESENTATIONS**

### **Local Residents:**

- 5.01 22 representations received from local residents raising the following (summarised) issues
- Over-looking and loss of privacy, overshadowing and overbearance, cramped over-development out of character with the locality, poor design and excessive height of four storeys, inadequate parking and dangerous access, unacceptable change of land levels and adverse impact on drainage, lack of information on air quality and drainage, noise and disturbance and pollution due to intensification of use.
- 5.02 These matters raised by neighbours and other objectors are discussed in the detailed assessment below.

## **6.0 CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

### KCC Flood and Water Management

- 6.01 Kent County Council accept that pre-commencement conditions may be applied to the development proposal at this site. However, ground investigation must be undertaken to assess the feasibility of infiltration on the site. If the recommendation is for approval conditions relating to the provision of a SuDs scheme and the provision of a drainage verification report in a suitable location within the site are requested.

### KCC Highways

- 6.02 Section 278 agreement is required with KCC, to upgrade the crossing facility and associated technology, in order to mitigate any safety concerns. One disabled space is acceptable. EV charging points for all parking spaces. The development is in a sustainable location and is not considered likely to cause a severe impact on the highway network. The cycling and walking facilities proposed are acceptable.

### Environmental Services

- 6.03 No objections subject to conditions relating to internal/external sound levels, hours of construction, lighting details, air quality assessment details and calculations for mitigation, electric vehicle charging points and details on code of construction practice.

### MBC Arboricultural Officer

- 6.04 Tree survey appears inconsistent. If the recommendation is positive, conditions are requested relating to an updated Arboricultural Method Statement accurately plotting the trees on the northwest boundary, and a Tree Protection Plan. A landscaping scheme would also be required including native hedging along the boundaries of the site.

### Kent Police

- 6.05 No objection subject to details regarding security of the construction site and the security of the completed development.

Parks and Open spaces

- 6.06 Contributions will be requested for outdoor recreational spaces in the form of a Section 106.

KCC Ecology

- 6.07 No objection subject to a condition relating to biodiversity enhancements with the incorporation of a green roof. Informative relating to breeding birds to be added.

KCC Infrastructure

- 6.08 Request condition relating to the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections. Request Maidstone BC notes the impacts in determining the application and allocates CIL funds to cover this.

Housing

- 6.09 Request that 4 units (preferably on the ground floor) are used for affordable housing contributions, to be dealt with by a Section 106 legal agreement.

## **7.0 APPRAISAL**

### **Main Issues**

- 7.01 The key issues for consideration relate to:
- Sustainability
  - Design of the development proposal and its impact on the character of the surrounding area
  - Impact on outlook and amenity of properties overlooking and abutting the site
  - Trees and landscaping issues
  - Biodiversity
  - Highways and parking considerations.
  - Affordable housing

### **Sustainability**

- 7.02 Local Plan policy and central Government guidance within the revised National Planning Policy Framework (NPPF) encourages new housing in sustainable urban locations as an alternative to residential development in more remote countryside situations. Policy SS1 (Spatial Strategy) of the Local Plan includes a sustainable development hierarchy that directs new housing to the most sustainable locations in the borough, with the Maidstone Urban Area being the preferred location at the top of this hierarchy, followed by the designated Rural Service Centres and then the larger villages.
- 7.03 The application site is within the urban area of Maidstone and, as such, is considered to be in a sustainable location in accordance with Local Plan policies and would therefore be suitable in principle for new residential development subject to assessment against other adopted policies.

### **Design of the development proposal and its impact on the character of the surrounding area**

- 7.04 Local Plan policies SS1 and SP1 states that new development in the urban area should be on appropriate sites, and contribute positively to the locality's distinctive character. Local Plan policy DM1 sets out the principles of good design, which include the requirement for new development to respond positively to, and where possible enhance local character.
- 7.05 The properties on the western side of London Road in close proximity to the application site largely comprise traditional dwellings. They are elevated from the highway and a ragstone wall approximately 1.4 metres high runs along the boundary between the residences and the road. Some of the properties do not front onto London Road, but face onto Whitchurch Close. The properties to the east are set down from the highway and comprise newer dwellings. Some front Cobstone Close with the rear gardens backing onto London Road.
- 7.06 The previously refused application (reference 18/506333/FULL) which was dismissed at appeal comprised a double gable frontage with an eaves height of 8.7 metres and a ridge height of 11.4 metres, approximately 2.0 metres taller than the neighbouring property at No 49. Undercroft parking was incorporated within the building with a height of 2.2 metres. In terms of footprint, the development proposal had a width of 17 metres and a depth of 35.3 metres.



Figs. 1 and 2. Front and side elevations of the previous application (referenced 18/506333/FULL) which was refused and subsequently dismissed at appeal.

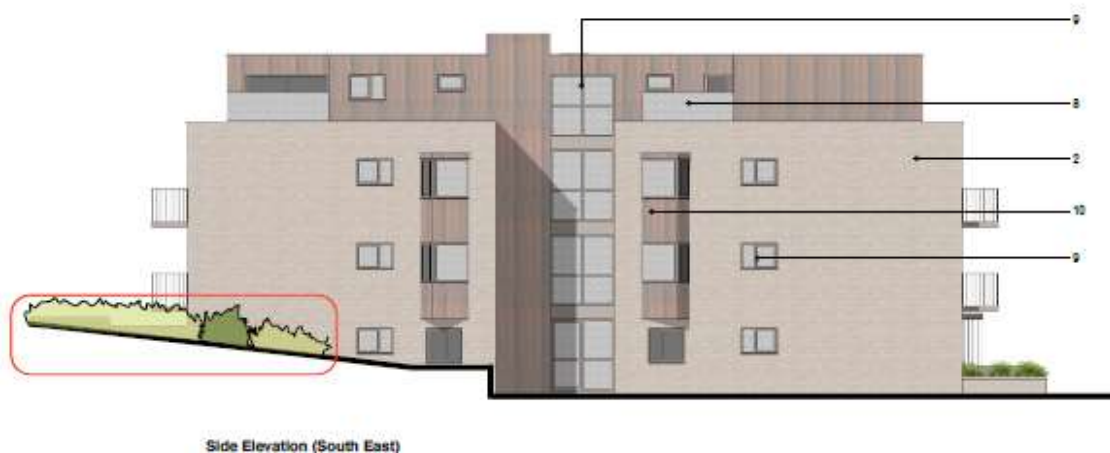
- 7.07 In paras 12 and 14 (see Appendix 1) of the appeal decision dated 24<sup>th</sup> January 2020 the Inspector commented that, 'The design and scale of the front elevation of the proposed building, and its set-back position, would not be out of keeping with the

mixed character and appearance of this part of London Road,...Whilst it (the development proposal) would have a significantly larger height and massing than No 49,...the reduced ground floor level and the amenity areas surrounding the proposed building, together with appropriately mature landscaping along the boundaries, means that it would not cause unacceptable harm to the mixed character and appearance of the area.'

- 7.08 The current application comprises a contemporary building arranged over four storeys with the uppermost storey set in from the front and side elevations, with a flat roof and a ridge height of 10.8 metres, approximately 1.4 metres taller than the neighbouring property at No 49. No undercroft parking has been proposed. In terms of footprint, the development proposal had a width of 15.6 metres and a depth of 25.7 metres.



Figs 3 and 4. Front and side elevations of the current application



- 7.09 The previous development comprised three floors with undercroft parking. The bulk and massing of the building was larger than the current proposal. While it is acknowledged that there would be four floors, the construction would involve less excavation, and the ridge would be lower than the previous proposal.
- 7.10 In terms of the design, a more contemporary style has been introduced. Although this would contrast with the neighbouring property at No 49, it would not be out of character with the locality as there are several flat roofed buildings along the road, and the street view below highlights the closest one, that of Wicken House, 60 London Road (nearly opposite the development site) and marked in orange. There is

also a large two storey flat roof development directly adjacent to the site at the Bower Mount Medical Practice (marked in green).



Fig 5. Google maps showing the site, (marked in red) Bower Mount Medical Practice extension (marked in green) and the nearby Wicken House flats (marked in orange).

- 7.11 The front entrance of the previous proposal provided a revised access however it was not focally prominent but was set back beneath the balcony of the unit on the floor above. By Design: Urban design in the planning system: towards better practice, sets out the importance of legibility, and the use of lighting, focal points, visible routes and landscaping to inform the person how to use the space. The current proposals show the front entrance to be central on the principal elevation, with a modest porch, raised landscaping beds on either side, and a new entrance set in the ragstone wall with steps up to the entrance. The driveway would need to be marked to provide a safe crossing within the parking area. This would be a marked improvement on the previous design.
- 7.12 In terms of the bulk and massing of the development proposal it is lower than the previous planning application with no parking undercroft, and the fourth floor is set back from the principal elevation by 1.4 metres, and set in from the flank walls by 1.0 metre. The loss of the undercroft would also reduce the bulk and massing of the overall form. This would result in a more subservient element than the first three floors. The use of bronze cladding would provide an interesting contrast, and the lighter cladding used on the fourth floor would also serve to lessen the bulk and massing of the building.
- 7.13 The materials in this locality are predominantly brick, of varying colours, and render. The buildings vary in age and size. In terms of materials, Bronze standing seam cladding with Vandersanden Argentis brickwork would be used. Reconstituted stone capping & surrounds (Portland) would be used on the Ragstone wall, and the windows and doors would be in bronze. These materials are considered generally acceptable when viewed within the context of the locality, although samples of the materials would be required by condition.
- 7.14 The gap between the proposed development and the neighbouring property at No 49 is approximately 8.5 metres, with the overall width reduced by 1.5 metres. The depth of the development proposal has been reduced by 10 metres, (from 35 metres in the refused appeal scheme) and the proposed development would now be



set back from the front footprint of No 49 by 3 metres. The ridge height has also been reduced by 0.5 metres. I therefore consider that the development would be acceptable in terms of design and impact on the character of the area when assessed on these issues and the previous concerns raised by the Inspector have now been addressed in the current proposal.

**Impact on outlook and amenity of properties overlooking and abutting the site**

7.15 Policy DM1 sets out the importance of respecting the amenities of occupiers of neighbouring properties. DM1 also sets out the importance of adequate residential amenities for future occupiers in terms of noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion. A development should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.

7.16 The building would comprise four storeys with the first three floors providing four apartments, and the fourth providing two. The uppermost storey is set in from the flank walls by 1.0 metre. In addition, on the south-eastern side (adjacent to No 49) the building has a setback approximately 5.0 metres deep with a width of 4.0 metres. This gap would be located centrally along the depth of the building, and would provide visual relief from the solid form of the building (as shown in Fig 4). In addition, the uppermost floor is set in 5.0 metres from the south-eastern wall, extending some 18 metres from the rear wall of the building. This setback would assist in reducing any overbearing impact on the neighbouring property. The use of the cladding would also assist in the visual relief of the development proposal.



Fig 6. Top floor of proposed development

7.17 As can be seen in Fig 6, the bulk, massing and density of the development has been substantially reduced from the previously refused scheme. The setback can be clearly demonstrated, and this would clearly improve the outlook of the neighbouring property at No 49. Furthermore, the reduction in the amount of fenestration on the southeast boundary (the side of the flat roofed terraces) would result in significantly less over-looking. The majority of the windows are secondary to the living areas, and the bedroom windows are of an oriel design which would have oblique views as set out in Fig 8. Fig 9 shows the previously refused scheme for

comparison purposes. The terraces and fenestration have been clearly marked on the drawings as being obscure glazed, and a condition to ensure that this would remain the case has been added. In addition, a condition relating to details of the screening on the south-eastern side of the balconies which can also be seen on either end of the south-eastern elevation as set out on Fig 8 has also been requested by condition.



Fig 7 Top floor of previously refused application

7.18 No 49 London Road has several windows on the north-west (flank wall) of the building. These comprise kitchen and conservatory windows at ground floor level, and bathroom and study windows at first floor level. In addition to this, there is an annexe to the rear of No 49 London Road which has three windows on the flank wall which (the occupant has confirmed) all serve a living space. There is a 1.8 metre high wall on the boundary of this property. The reduction in the height, siting and depth of the proposed four storey building, with a combination of vastly reduced kitchen/bathroom and landing fenestrations on each floor (all of which would be obscure glazed) and two oriel bedroom windows on the first floor and second floors of the 25 metre flank elevation, would be a marked improvement on the previous scheme.

Section through development proposal showing relationship to the boundary with No 49.

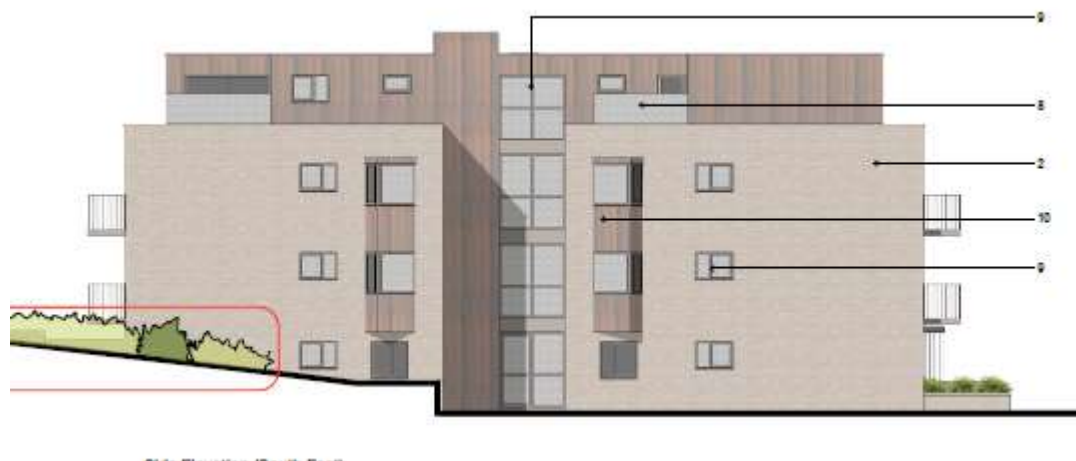


Fig 8 South-eastern elevation of the current scheme



Fig 9 South-eastern elevation of the previously refused scheme

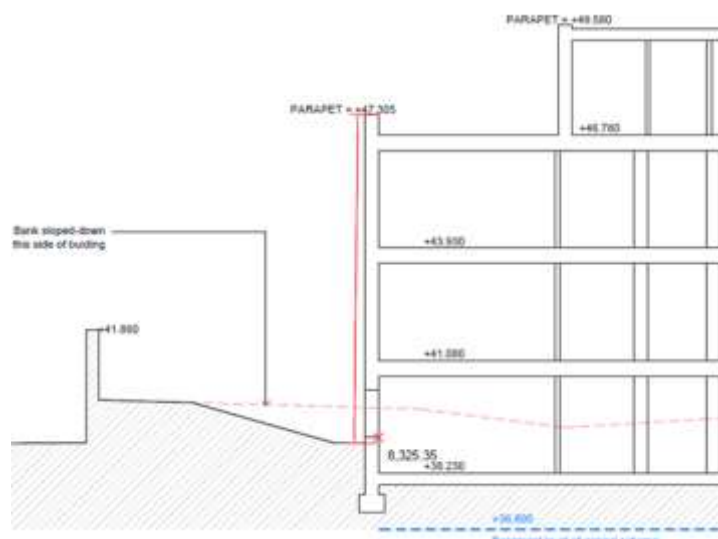
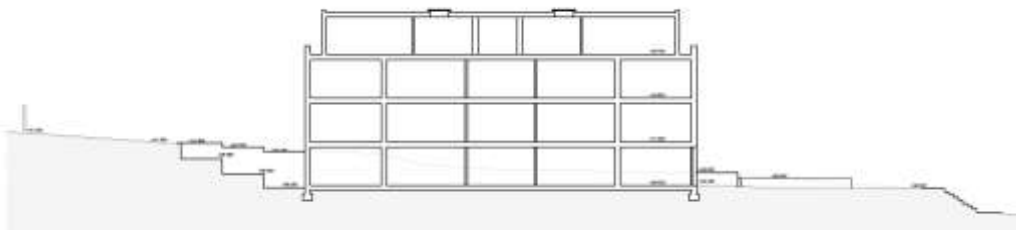


Fig 10 Section through the proposed development showing the relationship of the building to the south-eastern boundary.

7.19 The reduced height of the proposed building and its siting over 8.5 metres away from the south-eastern boundary would also be an improvement on the previous scheme. The fourth floor has been set in from the flank wall an additional 7.3 metres resulting in the bulk of the building closest to the neighbour having a height of 8.0 metres. (See Fig 10 above) These measures, in addition to the reduction in the depth of the building by 10 metres (which would comprise a 3 metre setback from the principal elevation of the front footprint of No 49 and the rear elevation of the development proposal being brought into line with the rear elevation of No 49) would result in it overcoming the loss of outlook set out in the previous appeal decision.

- 7.20 Properties on Whitchurch Close back onto the south-western boundary of the application site. The neighbours in Whitchurch Close have relatively modest rear amenity areas. At the closest point, the rear elevation of the proposed building would be 27.6 metres from the rear elevation of these properties, a reduction of 6.6 metres from the previous application. However, the previous application was designed so that the majority of the fenestration was secondary to the habitable rooms and, as such, could be obscure glazed by condition, but the current proposal has not followed this design option.
- 7.21 The current application proposes living and bedroom fenestration with balcony areas to the rear. Notwithstanding this, the development proposal would be sited a sufficient distance from the neighbouring properties in Whitchurch Close (18.8 metres from the boundary) and would also be set lower than the neighbours located to the rear of the development proposal. Furthermore, the introduction of landscaping on the site would soften any potential impact. As such, any potential amenity issues in terms of over-bearance and privacy would be minimised.



Section through the proposed development showing relationship to the rear boundary

- 7.22 The neighbours to the rear of the site fronting Bower Mount Road would be a sufficient distance for any issues in terms of overshadowing and overbearance to be minimised, despite the orientation of the building being to the southeast of these neighbours. In terms of overlooking issues, any views to the properties in Bower Mount Road would be oblique due to the orientation of the building, and it would be a sufficient distance to further negate this issue.
- 7.23 The Medical Centre does not contain residential accommodation and, therefore privacy issues would not be considered problematic. . The separation distance of approximately 9.5 metres from the proposed building, along with its siting to the southeast, would alleviate any issues in terms of over-bearance and overshadowing.
- 7.24 The concerns previously raised by the Inspector specifically in relation to the overbearance and loss of privacy that would have adversely impacted the occupiers of No 49 have now been overcome by the amended design and layout. All other neighbours would be a sufficient distance away for any issues in terms of amenity to be minimised.

#### **Amenities of future occupiers**

- 7.25 In the previously refused application, four of the ground floor units were single aspect and set down in the site, resulting in limited outlook. The Inspector considered that the living conditions of future occupiers of these single aspect units would be compromised in terms of outlook and refused the application on this

ground. The flats within the proposed development are now all double aspect thus improving their outlook.

- 7.26 The land levels have been altered by some 1.6 metres to the rear of the building and the patio doors would provide space onto a terrace and a reasonable outlook for future occupiers. The proposals comply with the National Space Standards as set out in the Local Plan Review and with all things considered, the application is acceptable in this regard.

### **Trees and landscaping**

- 7.27 Policy DM3 states that development proposals should protect positive landscape character, including trees with significant amenity value. I note in the previous appeal decision the Inspector commented that the protected lime tree at the front of the site would be unlikely to be harmed either during construction (provided the root protection areas are adhered to) or by any works that may be requested to be carried out by future occupiers of the development proposal. Furthermore, while he noted that the category B trees on the northwest boundary of the application site provided a positive contribution to the character of the locality, he went on to say that their replacement with a suitable hedge of native species would be acceptable.
- 7.28 Whilst the Council's tree officer does not share the same opinion as the Inspector in this regard, the Inspector's decision carries significant weight in the assessment of the current scheme. In addition, there appears to be some discrepancy with the tree survey drawings. However, since the trees bounding the site are to be removed, I do not consider that this would impede the decision-making process. I note that the Tree Officer has requested an up to date arboricultural method statement and tree protection plan, and this can be dealt with by condition.
- 7.29 Regarding landscaping matters, the hedging shown circumnavigating the development proposal would be likely to result in a negative impact on the outlook of future occupiers due to its proximity to fenestration. For this reason, it should be re-located around the perimeter of the site. Notwithstanding this, a landscaping plan has been requested as part of the suggested conditions, and the new details would allow details such as the siting of the hedge to be dealt with at that time.
- 7.30 Taking these issues into account, I consider that the proposed development would be acceptable on trees and landscape grounds, with the inclusion of conditions relating to arboricultural method statement and tree protection and landscape details.

### **Biodiversity**

- 7.31 Policy DM3 sets out the importance of protecting the natural environment and providing net gain for biodiversity from all new development.
- 7.32 It is noted that, due to the site remaining empty for some years, it has now become overgrown. The development of this site will now result in some loss of biodiversity, although no protected species have been found on the site.
- 7.33 In order to mitigate the loss of biodiversity, it is suggested that a green roof is added to the proposed development, in addition to the provision of other items to encourage wildlife onto the site. For these reasons, a condition for biodiversity

enhancements including the installation of a green roof will be added, and this has been agreed in writing by the agent.

### **Highways and access**

- 7.34 Policy DM1 and DM23 (and LP appendix B) take into account the type of the development, car parking, access, cycle facilities on new developments and the incorporation of electrical vehicle charging infrastructure.
- 7.35 The previous application/appeal highlighted concerns relating to highway and pedestrian safety. However, the current application has omitted the undercroft parking, leaving seven allocated parking bays, and bin and cycle storage within the frontage of the development proposal.
- 7.36 The Highways officer has raised concerns that, due to the re-introduction of the access after in excess of 10 years, there may be a knock-on effect regarding the safety of the Puffin crossing situated in close proximity to the access.
- 7.37 These safety issues would be alleviated with the installation of a newer Puffin Crossing, as it would have more poles and signal heads improving visibility in addition to removing the flashing amber stage of the process. With this in mind, if the developer undertakes a Section 278 agreement with KCC to upgrade the crossing facility and associated technology, this will mitigate any safety concerns. The provision of these upgrades can be secured by condition as the Highways officer was concerned about the re-instatement of the access in this location after it being closed for a period in excess of 10 years..
- 7.38 The previous application contained a parking space for each flat. However, the site does not have the space to accommodate this level of parking. However, as acknowledged by the Highways officer, the application site is situated within a sustainable location with bus stops in close proximity and a train station a short walk away. Para 6.99 of the supporting text of DM23 highlights that 'the Council offers a flexible approach to minimum and maximum parking standards to reflect local circumstances and the availability of alternative modes of transport to the private car.' I note that, in this location, a parking space for each flat is highlighted as a maximum standard and, for this reason, this level of parking is not required to be achieved. I also note that, with the car parking spaces removed from the layout of the site, the development proposal is more acceptable and the siting and layout are less cramped. As such, the site is more easily utilized with the seven spaces offered. KCC highways have raised no objection to this level of parking provision.
- 7.39 Further conditions relating to the provision and permanent retention of the vehicle parking spaces and cycle parking and the installation of 7 electric vehicle charging points are requested.

### **Affordable housing**

- 7.40 SP20 states that affordable housing provision of 30% will be achieved on housing sites supplying over 10 units (major applications) within the Maidstone Urban Area.
- 7.41 The housing officer has advised that 4 flats would ideally be for affordable rent. As the ground floor would have 4 x 2 bedroom units they may suit the affordable

housing part of the development. This has been discussed with the agent and he has agreed to this. The affordable housing can be dealt with as part of the Section 106.

### **Other Matters**

- 7.42 The Parks and Open Spaces officer has set out that contributions will be required for outdoor recreational spaces. However, this will be dealt with as part of CIL.
- 7.43 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

### **PUBLIC SECTOR EQUALITY DUTY**

- 7.44 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

## **8.0 CONCLUSION**

- 8.01 The development proposal has been designed taking into account the Inspector's appeal decision from the previously refused application and would have an acceptable impact on the character and appearance of the area.
- 8.02 The Inspector commented that the previous development proposal would have had an acceptable impact on the character of the locality. The design of the flats has subsequently been altered, but the contemporary style is not considered to be out of character with the surrounding area bearing in mind the mix of traditional housing and larger flat roofed developments nearby. The high quality materials would result in a good standard of development, and the use of brickwork for the majority of the development is a material that is widely used in this location albeit in varied colours. The reduction in the bulk, massing and height of the development proposal would ensure that it would not result in a dominating form within the street scene. A condition relating to material samples will be added to ensure a high quality development.
- 8.03 The Inspector determined that the previous application was acceptable in terms of its scale and siting in relation to neighbouring properties to the rear of the application site. The current application has been re-sited further away from the neighbours to the rear, although the sloping form that made up the rear elevation has now been replaced with a vertical wall. Notwithstanding this, the distance between the properties to the rear is sufficient to minimise any potential impact in terms of privacy, overbearance and overshadowing issues. Furthermore, the set-down of the proposed building into the site would also help to alleviate any potential issues in this regard.
- 8.04 The Inspector was of the opinion that the previously refused application would significantly affect the occupiers of No 49 in terms of loss of privacy and outlook. However, the increase in the gap between the development proposal and No 49 and the set-back of the fourth floor, as well as the reduction in the height, bulk and massing and the substantial reduction in fenestration on the side elevations, would result in a design that would overcome the design flaws of the last scheme. Furthermore, conditions have been added to ensure that the fenestration and terrace boundaries that may potentially result in over-looking issues would be obscure-glazed. Also, details of the balconies have been requested as a condition to ensure that they don't result in over-looking of the neighbours at No 49.

- 8.05 The Inspector set out that, in terms of the trees, specifically the lime at the front of the site and on the boundary with the Bower Mount Medical Centre, would be unlikely to be harmed as a result of the previous development. The current application has a similar footprint and, on this basis, the Inspector's comments are still relevant. Tree protection and arboricultural method statement conditions would be applied to ensure the retention of these trees. Furthermore, the Inspector stated that a suitably mature, replacement native hedgerow, whilst smaller than the category B trees, would still, on balance, be sufficient to mitigate their loss, in terms of the character and appearance of the area. On this basis the application would be considered acceptable with a landscaping condition securing details of the siting of the replacement species while ensuring that the planting is adequate, robust and of a suitable species.
- 8.06 The Inspector also expressed concerns relating to the previous development adversely affect the living conditions of future occupiers of the single aspect ground floor flats, with particular regard to outlook. However, the revised design comprises double aspect flats which have an improved outlook when compared with the previous scheme. In addition, the space standards are acceptable and would provide acceptable living conditions for future occupiers.
- 8.07 The Inspector was not of the opinion that the undercroft car parking would be acceptable in terms of highway and pedestrian safety. However, the current layout provides a clear demarcation for pedestrians. In addition, the loss of the undercroft parking would result in a more spacious and well-designed layout on the site. As the location of the proposed development would be in a sustainable area, future occupiers would be able to use more sustainable modes of travel to access local facilities. Conditions relating to a S278 for the provision of a Puffin crossing would be added, in addition to conditions relating to the retention of parking, cycling and bin stores, and the incorporation of electric vehicle charging points.
- 8.08 In terms of biodiversity, the development proposal would result in the loss of green space due to it being unused for a long period of time. The biodiversity officer has requested that enhancement be included as a condition to the development proposal. In addition, a green roof is to be added, and this has been agreed by the agent. Not all of the roof will be green as some space will be left in order to incorporate renewables. Biodiversity enhancements and renewables conditions will both be added to the decision.
- 8.09 The proposed development would have an acceptable impact in terms of affordable housing provision. The submitted proposal has been considered and has been found to be acceptable by the Housing officer, on the proviso that four flats will be set aside for use as affordable housing. On balance, the development proposal is considered acceptable and, for this reason, the officer's recommendation is for approval.

## **8.02 RECOMMENDATION**

The Head of Planning and Development BE GIVEN DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee):

- the prior payment of s106 monitoring fees of £500 in total
- Affordable housing contributions comprising 4 flats to be used for affordable rent



and the imposition of the conditions as set out below:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

05 Jul 2021	HM96-02	Proposed Sections
05 Jul 2021	HM96-05	Proposed Location and Block Plan
05 Jul 2021	HM96-06	Proposed Bin, Bike Stores Floor Plans an...
05 Jul 2021		Cover letter
05 Jul 2021		Preliminary Ecological Appraisal Report
05 Jul 2021		Tree Survey Report
05 Jul 2021		Design and Access Statement with Planning Statement
19 Jul 2021		Application Form
19 Jul 2021	HM96-01A	Proposed Site/Roof Plan and Street Elevations
19 Jul 2021	HM94-03A	Proposed Elevations
17 Aug 2021	HM96-03B	Proposed Floor Plans
11 Oct 2021		Daylight/Sunlight Assessment

Reason: For the avoidance of doubt.

- 3) Notwithstanding the information received, prior to the commencement of development hereby approved (including site clearance) an up-to-date Arboricultural Method Statement (AMS) and tree protection details in accordance with the current edition of BS 5837 shall be submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees (including the hedgerow immediately to the south of the proposed dwelling), including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme. The development shall only proceed in accordance with the agreed details including the installation of tree protection measures prior to any on site works and the retention of these measures for the duration of the construction works.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 4) Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back gardens 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: To safeguard the amenities of future occupiers.

- 5) Prior to the commencement of development hereby approved an air quality assessment shall be carried out by a competent person in accordance with current guidelines and best practice with the written assessment report submitted to and approved in writing by the local Planning Authority. The report shall contain a) 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 future occupiers of the development. b) 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 retained thereafter.

Reason: To protect air quality and the amenity of future occupiers. Details are required prior to commencing to ensure that the maximum range of mitigation measures are available.

- 6) Prior to the commencement of development hereby approved a report shall be submitted to and approved in writing by the Local Planning Authority including a calculation of pollutant emission costs from the vehicular traffic generated by the development, (utilising the most recent DEFRA Emissions Factor Toolkit and the latest DEFRA IGCB Air Quality Damage Costs for the pollutants considered). The report should include identification of the additional vehicular trip rates generated by the proposal (from the Transport Assessment); the emissions calculated for the pollutants of concern (NO<sub>x</sub> and PM<sub>10</sub>) [from the Emissions Factor Toolkit] and the air quality damage costs calculation for the specific pollutant emissions (from DEFRA IGCB). The result should be totalled for a five year period to enable mitigation implementation. The calculation is summarised as Road Transport Emission Increase = Summation [Estimated trip rate for five years x Emission rate per 10km per vehicle type x Damage Costs]. The pollution damage costs will determine the level of mitigation/compensation required to negate the impacts of the development on the local air quality.

Reason: To protect air quality and the amenity of future residents. Details are required prior to development commencing to ensure that the maximum range of mitigation measures are available.

- 7) Prior to the commencement of the development hereby approved, a Code of Construction Practice 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 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).

The code shall include the following:

- (a) An indicative programme for carrying out the works,
- (b) measures to minimise the production of dust on the site,
- (c) 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 barriers, maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site,

(d) Routing of construction and delivery vehicles to/from site,

(e) Parking and turning areas for construction and delivery vehicles and site personnel,

(f) Temporary traffic management/signage, design and provision of site hoardings,

(g) Details relating to site security,

(h) measures to prevent the transfer of mud and extraneous material onto the public highway,

(i) measures to manage the production of waste and to maximise the re-use of materials,

(j) measures to minimise the potential for pollution of groundwater and surface water and prevent its discharge onto the highway,

(k) the location and design of site office(s), storage compounds and timings of deliveries,

(l) arrangements for public consultation and liaison during the construction works. The development will be constructed in accordance with the details provided.

Reason: In the interests of highway safety, the security of the site during construction and to protect the amenities of neighbouring occupiers.

- 8) The development hereby approved shall not commence until, details of the proposed slab levels of the building and the existing and proposed site levels have been submitted to and approved in writing by the local planning authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site.

Prior to the commencement of the development hereby approved, a S278 agreement shall be in place for the incorporation of a single pedestrian crossing upgrade outside No. 51 London Road, Maidstone to include the installation of a newer Puffin crossing, and no dwelling shall be occupied until such time as the puffin crossing has been installed and is operational. Reason: In the interests of highway safety

- 9) Prior to the commencement of development hereby approved, a detailed sustainable surface water drainage scheme for the site shall be submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme 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 within the curtilage of the site if infiltration is demonstrated as feasible, otherwise with a connection to the public sewer at a rate approved by the Lead Local Flood Authority, 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) Prior to the first occupation of the development hereby permitted, a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be 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. The development shall be constructed taking into account the contents of the verification report and shall be completed prior to the first occupation of the development and retained hereafter.

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.

- 11) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 12) The development hereby permitted shall not commence above slab level until details of measures to minimise the risk of crime in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED). The approved measures shall be implemented before the development is occupied and retained thereafter.

Reason: to secure crime prevention and safety of the area

- 13) The development hereby approved shall not commence above slab level until details of a scheme for the enhancement of biodiversity on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through the incorporation of a grass roof, and shall

provide wildlife niches such as swift bricks, bat tubes or bee bricks, and additionally through provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors. The development shall be implemented in accordance with the approved details prior to the use of the development and all features shall be maintained permanently thereafter.

Reason: To enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.

- 14) The development shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority (to include gaps at ground level in the boundaries to allow the passage of wildlife) and the development shall be carried out in accordance with the approved details before the first occupation of the buildings and maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers and for the passage of wildlife.

- 15) Prior to the first occupation of the development hereby approved, the vehicle parking spaces, cycle parking and bin storage facilities shown on the submitted plans shall be provided and shall be retained hereafter in perpetuity.

Reason: In the interests of highway safety and to secure storage of property.

- 16) Prior to first occupation of the development hereby approved, landscaping shall be in place on the site that is in accordance with a landscape scheme that has previously been submitted to and approved in writing by the local planning authority. The landscape scheme shall be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012). The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, include a planting specification, implementation details and a [5] year landscape management plan (Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted). Details of screening shall be provided, including trees and hedging, around the perimeter of the site to mitigate for the development and strengthen the front (southwest) boundary to enhance the locality.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 17) All approved landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first use of the dwelling(s) die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 18) Prior to the first occupation of the development hereby approved, 7 operational electric vehicle charging points for low-emission plug-in vehicles for each allocated space shall be installed and ready for the use of the new occupant with the electric

vehicle charging point thereafter retained and maintained operational as such for that purpose.

Reason: To promote to promote sustainable travel choices and the reduction of CO2 emissions through use of low emissions vehicles.

- 19) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors and the sensitive landscape location. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: In the interest of neighbour amenity.

- 20) Before the first occupation of the development hereby permitted, the windows and external spaces on the southeast elevation as set out on the drawing referenced Dwg HM93 3 A shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such at all times;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of existing and prospective occupiers.

- 21) Before the first occupation of the development hereby approved measures to screen the balconies on the southeast elevation of the site shall be constructed in accordance with details that shall be submitted to, and approved in writing by the Local Planning Authority. The screening details shall be erected in accordance with the approved details prior to the first occupation of the units they serve and shall remain in place in perpetuity thereafter..

Reason: In the interests of the amenities of the occupiers of No 49 London Road, and to protect the amenities of future occupiers.

- 22) Notwithstanding the information provided, the development hereby approved shall not commence above slab level until, written details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

- 23) The development hereby approved shall not commence until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, will be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To ensure an energy efficient form of development. Details are required prior to development commencing to ensure the methods are integral to the design and to ensure that all options (including ground source heat pumps) are available.

- 24) The roof areas of the development hereby permitted not shown on the approved plans as amenity areas shall not be used as a balcony, roof garden or similar amenity area at any time.

Reason: To prevent overlooking of adjoining properties and to protect the privacy of the occupiers.

### **INFORMATIVES**

- 1) 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 where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

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

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

- 2) 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). Approved models are shown on the Office for Low Emission Vehicles Home Charge Scheme approved charge point model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>
- 3) The foul sewerage shall be disposed in accordance with Part H1 of Building Regulations hierarchy. It may be possible for the foul flows from the proposed development to be connected to a nearby public sewer, and the applicant shall investigate this option. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. To make an application visit Southern Water's Get Connected service: [developerservices.southernwater.co.uk](https://developerservices.southernwater.co.uk) and please read our New Connections Charging Arrangements documents which are available on our website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](https://southernwater.co.uk/developing-building/connection-charging-arrangements)
- 4) The Environment Agency should be consulted directly by the applicant regarding the use of a private wastewater treatment works which disposes of effluent to sub-soil irrigation. The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to

discharge surface water to the local watercourse. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119)The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Case Officer: Jocelyn Miller