

**SHEPHERD NEAME LTD - LAND R/O RED LION PH, LOWER GREEN ROAD,  
RUSTHALL, TUNBRIDGE WELLS**

**PLANNING POLICY CONTEXT**

**1. INTRODUCTION**

1. Section 38 (6) of the Planning & Compensation Act 2004 states that Council's are under a statutory duty to determine a planning application in accordance with the development plan unless material considerations indicate otherwise. In this case, the prevailing development plan context for Tunbridge Wells is set out in the Adopted Tunbridge Wells Borough Local Plan, March 2006 (Saved Policies); the Adopted Core Strategy, June 2010 and the National Planning Policy Framework, July 2018 as a significant material planning consideration.

**2. THE NATIONAL PLANNING POLICY FRAMEWORK, JULY 2018**

2. NPPF Para 11 states that at the heart of the NPPF is a *'presumption in favour of sustainable development'*. It continues that:

*'For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

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

*(ii) any adverse impacts of doing so would be significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*

3. In light of the fact that Tunbridge Wells BC only has **2.46** Years Housing Land Supply (YHLS) (TWBC Five Year Housing Land Supply and Housing Trajectory 2017, February 2017 – Para 10), it is evident that TWBC housing policies are deemed to be 'out of date' in which the 'tilted balance' applies in favour sustainable housing development.

4. With respect to the fact that the Red Lion PH is a Grade 2 listed building in which any development proposal might affect its 'setting', it evident that NPPF Para 190 states that:

*'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking into account of the available evidence and any necessary expertise'.*

5. Importantly, NPPF Para 134 states that:

*'Where a development proposal will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use'*

## **2. SAVED POLICIES OF THE ADOPTED TUNBRIDGE WELLS LOCAL PLAN, MARCH 2006**

5. Those Policies which were saved as a result of the Secretary of State's Direction, March 2009 are set out below. These policies should continue to be weighed in the balance as part of the planning application's determination (*Suffolk Coastal DC v Hopkins Homes Ltd, 2017*)

<b>RELEVANT POLICY</b>	<b>APPLICANT'S RESPONSE</b>	<b>DO THE PROPOSALS COMPLY WITH POLICY?</b>
<b>H5: Housing - Making the Best Use of Land and Buildings Within Limits to Built Development</b>		
<i>Within the Limits to Built Development, as defined on the Proposals Map, the following types of residential development will be permitted, provided that the comprehensive development of the site would not be prejudiced</i>	The development proposals comprise 3 x 3 bed terraced house on surplus Class A4 Drinking Establishment land within the Tunbridge Wells Limits to Built Development on Previously Developed Land	Yes
3. At Royal Tunbridge Wells.... (i) Infilling; (ii) the redevelopment of existing development sites; (iii) the inclusion of an element of residential use within a mixed-use development	The proposals constitute a small 'infill' / 'windfall' development' within the confines of the built-up area on underused surplus and vacant land.  The existing Class A4 Drinking Establishment would be retained and improved as part of the development proposals.	Yes
<b>EN1: Environment</b>		
<i>All proposals for development within the Plan area will be required to satisfy all of the following criteria:</i>		

<p><i>1. The nature and intensity of the proposed use would be compatible with neighbouring uses and would not cause significant harm to the amenities or character of the area in terms of noise, vibration, smell, safety or health impacts, or excessive traffic generation;</i></p>	<p>In terms of the 1987 UCO residential development next to a Class A4 Drinking Establishment represents an appropriate use in which full consideration has been given to relevant noise and disturbance issues in the siting and design of the development proposals. This issue has been the subject of detailed discussions with T/Wells BC EHO.</p> <p>Further detailed consideration has been given to the siting of the development proposals in terms of the setting of the listed building. This issue had been the subject of 2 pre-application discussions with T/Wells BC's Planning and Conservation Officers.</p> <p>The development proposals would be a low traffic generator in terms of the creation of a new vehicular access onto Lower Green Road. This issue has been the subject of Pre-Application discussion with KCC Highways</p>	<p>Yes</p>
<p><i>2. The proposals would not cause significant harm to the residential amenities of adjoining occupiers, and would provide adequate residential amenities for future occupiers of the development, when assessed in terms of daylight, sunlight and privacy;</i></p>	<p>Post pre-app advice, careful attention to detail has been given to the siting of the development proposal in terms of the rear habitable facing windows / garden area of No.86 Lower Green Road (Privacy; overlooking) and in respect of Nos XXX Lower Green Road – terrace of cottages opposite the site. It is evident that the development proposals do not infringe any privacy standards in terms of distances / facing window angels. Further, fencing / trellis / garden depth means that the rear garden areas are screened from view.</p> <p>The distance between the front of the development proposals and the terrace of houses opposite the site on Lower Green Road means that there is no infringement of privacy standards.</p> <p>There are no latent daylight or sunlight considerations.</p>	<p>Yes</p>
<p><i>3. The design of the proposal, encompassing scale, layout and orientation of buildings, site coverage by buildings, external appearance, roofscape, materials and landscaping, would respect the context of the site and take account of the efficient use of energy;</i></p>	<p>In terms of the setting of the listed Public House and the listed terrace of cottages, it is evident that the siting / scale / traditional design of the propose terraced of 3 cottages fits neatly into the local townscape / environment, in which this type of backland development can be found elsewhere in the local area at Deny Bottom.</p>	<p>Yes</p>
<p><i>4. The proposal would not result in the loss of significant buildings, related spaces, trees, shrubs, hedges or other features important to the character of the built-up area or landscape;</i></p>	<p>In agreement with Planning and Conservation Officers the open land to the front of the site is retained to protect the setting of the public house and the terrace of cottages. Key trees on site are also retained. New trees, shrubs and hedges are proposed as part of the development proposals in which careful consideration has been given to the boundary treatment between the</p>	<p>Yes</p>

	development proposals and the pub.	
<i>5. There would be no significant adverse effect on any features of nature conservation importance which could not be prevented by conditions or agreements;</i>	A habitat 1 & 2 ecology assessment has been carried out for the site. On the basis that the site comprises mainly managed grassland, no protected species have been identified.	Yes
<i>6. The design, layout and landscaping of all development should take account of the security of people and property and incorporate measures to reduce or eliminate crime; and</i>	As with any scheme within the built-up area, overlooking of communal spaces / access / security of rear garden areas has been addressed as part of the development proposals.	Yes
<i>7. The design of public spaces and pedestrian routes to all new development proposals should provide safe and easy access for people with disabilities with particular access requirements</i>	The proposals have been designed in accordance with relevant standards relating to disabled access.	Yes
<b>TP4: Transport (Part)</b>		
<i>Proposals will be permitted provided all of the following criteria are satisfied</i>		
<i>1. The road hierarchy and the function of routes have adequate capacity to cater for the traffic which will be generated by the development, taking into account the use of, and provision for alternative modes to the private car;</i>	The proposals will be a low traffic generator. Work undertaken by RGP demonstrates that there is sufficient capacity on the local road network due to it being lightly trafficked. The site is a short walk from Rusthall Village centre and the local bus routes.	
<i>2. A safely located access with adequate visibility splays exists or could be used;</i>	In accordance with RGP Highway Consultants travel survey data and relevant technical standard set out in Manual for Streets and the Kent Design Guide, 2006, the proposed access provides the necessary visibility splays for the traffic speeds on Lower Green Road	Yes
<i>3. Within the Limits to Built Development, as defined on the Proposals Map, an additional access or the intensification of use of an existing access directly onto a Primary or District Distributor, would not significantly worsen traffic conditions in terms of delay or the risk of accidents....;</i>	In accordance with RGP Highway Consultants travel survey data, the proposed design of the new access and visibility splays would not increase the risk of accidents	Yes
<i>5. The traffic generated by the proposal does not compromise the safe and free flow of traffic or the safe use of the road by others. Where a proposal necessitates highway improvements, the developer will be required to meet the costs of the improvements where these are fairly and reasonably related to the development</i>	In discussion with KCC Highways, it is evident that the development proposals are a low traffic generator which would not compromise the safe use / free-flow of Lower Green Road (which is lightly trafficked at 2 to 3 car per minute at peak AM and PM periods	Yes

### 3. ADOPTED TUNBRIDGE WELLS CORE STRATEGY, JUNE 2010

6. In the absence of a 5 YHLS, those adopted policies relating to housing land supply remain out-of-date. There exists a presumption in favour of housing development subject to it complying with relevant sustainable development criteria (economic, social and

environmental). In this context, the requirement to provide additional housing within the Borough to meeting its local housing need is of material importance of significant weight.

RELEVANT POLICY / OBJECTIVES	APPLICANT'S RESPONSE	DO THE PROPOSALS COMPLY WITH POLICY?
<b>SD2: Sustainable Development Objectives (Part)</b>		
<i>To maximise the use of previously developed land and of the existing property stock</i>	Surplus Class A4: Drinking Establishment land (PDL).	Yes
<b>Core Policy 1: Delivery of Development (Part)</b>		
<i>1. Priority will be given to the allocation and release of previously developed land within the LBD of settlements</i>	The development proposals are fully in accordance with both Government and Local Plan policy.	Yes
<b>Core Policy 4: Environment (Part)</b>		
<i>The Borough's built and natural environments are rich in heritage assets, landscape value and biodiversity, which combine to create a unique and distinctive local character much prized by residents and visitors alike. This locally distinctive sense of place and character will be conserved and enhanced as follows:</i>	The development proposals constitute infill development within the built-up area which will contribute the local townscape pattern and will not detract from the setting of nearby listed buildings. A small hidden away terrace of houses, located on backland, would be in keeping with other rows of terraced houses within the Rusthall local area.	Yes
<i>1. The Borough's urban and rural landscapes, including the designated High Weald Area of Outstanding Natural Beauty, will be conserved and enhanced;</i>	The development proposals would not detract from the prevailing townscape pattern.	Yes
<i>5. The Borough's heritage assets, including Listed Buildings....will be conserved and enhanced and special regard will be had to their settings;</i>	Post preparation of a heritage assessment and pre-application discussions with T/Wells BC Planning & Conservation Officers it is agreed that the siting of the proposed row of terraced houses would have a 'less than substantial impact' on the setting of the Public House – in which open land to the front of the Public House is to remain undeveloped (communal front gardens, car parking)	Yes
<b>Core Policy 6: Housing Provision (Part)</b>		
<b>Housing Land Supply</b>		
<i>1. ..Sufficient sites will be allocated and released to enable a net increase of 6,000 dwellings to be provided in the Borough in the period 2006-2026;</i>	On the basis that the Borough only has 2.46 Years housing land supply, the Council's housing supply policies are out-of-date. As such, there exists a presumption in favour of sustainable housing development in which the need to provide additional housing carries significant material weight (tilted balance) when assessed against other material policy considerations (such as the protection of a heritage asset). In this case, the need to provide additional housing carries more weight than the less than substantial harm the development proposals	Yes

	would have on the setting of the listed building.	
<i>2. At least 65% of all housing development in the period 2006-2026 will be delivered on previously developed land;</i>	Ditto – It is nevertheless evident that the development proposals comply with this policy criteria.	Yes
<b>Core Policy 9: Development in Royal Tunbridge Wells</b>		
<i>The sensitive regeneration of Royal Tunbridge Wells to provide and maintain a Regional Hub of strategic importance will be achieved by development or redevelopment for a mix of uses, including housing...Development must conserve and enhance the landscape and heritage and biodiversity assets of Royal Tunbridge Wells..</i>	The development proposals fall within the Limits of Built Development for RTW. The nature of the proposed development is very much in keeping with the historic evolution of the town’s townscape pattern, particularly within the Rusthall area – Denny Bottom	Yes
<i>2. Approximately 4,200 net additional dwellings will be delivered on sites to be allocated and released in accordance with Core Policy 1: Delivery of Development</i>	As previously stated, the Council’s lack of a 5 YHLS means that this policy is technically out of date. A presumption in favour of sustainable development exists at present	Yes

#### 4. CONCLUSIONS

7. It is evident that the development proposals constitute infill development on a previously developed land site within the Limits of Built Development in the Royal Tunbridge Wells local area. In discussion with Planning and Conservation Officers, the development proposals have been designed to respect of the setting of the Grade 2 listed Red Lion Public House. As such, it is agreed that the development proposals would have ‘less than substantial harm’ on the heritage asset.

8. In terms of the 5 YHLS position, it is evident that the Council is not meeting its full objectively assessed needs with only 2.46 years supply in which relevant policies relevant to the supply of housing in the Adopted Core Strategy are now deemed to be out of date. As such, it is evident that the material benefit of the development proposals in contributing to the Council’s 5 YHLS position carries significant material weight in which there exists a presumption on favour of sustainable development.

9. In view of the fact that the development proposals would not result in any significant adverse impacts and that significant weight must be applied to the provision of additional housing in the Borough, there are strong grounds in support of granting planning permission in this case.

SM/1