

REPRESENTATIONS BY THE HENDY GROUP ON THE TUNBRIDGE WELLS BOROUGH DRAFT LOCAL PLAN (REGULATION 18), 20TH SEPTEMBER TO 15TH NOVEMBER 2019

Introduction

- 1.1 Brown & Co Planning Ltd are instructed by the Hendy Group (our client) to submit the following representations to the Tunbridge Wells Borough Draft Local Plan (TWBDLP), Regulation 18.
- 1.2 Brown & Co Planning have undertaken a comprehensive review of the Tunbridge Wells Borough Draft Local Plan document as well as the relevant supporting evidence base. In accordance with the guidance set out within the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2012, the following representations relate specifically to the “legal compliance” and “soundness” of the draft Local Plan. As well as the specific tests of soundness set out in the NPPF.
- 1.3 For ease of reference we have set out our representations within this single document which addresses the relevant questions set out within the questionnaire and which makes clear references to specific paragraphs, policies and site allocations within the draft plan. Where relevant we have cross reference Topic Papers and other supporting documents.
- 1.4 The representations highlight where; the plan has made critical omissions which strike at the heart of “legal compliance” and “Soundness.”
- 1.5 For further ease of reference, we have adopted the Council’s rating system: Object, Support, Support with conditions, and General Observation and this is stated before each comment.
- 1.6 These representations relate specifically to our clients’ land interests at Mount Ephraim/ Culverden Street/ Rock Villa Road (allocation RTW 8), Woodsgate Corner, Pembury1 (allocation PE 7), and the existing Renault site on Langton Road.

¹ There is currently a live application for the development of a Motor Village Car Dealership on land to the south of the Tesco Car Park, Pembury Road, Pembury (Ref: 19/00884/FULL).

The Hendy Group

- 1.7 The Hendy Group is a family run motor dealership group founded in 1859 and with a presence across the south. The Company's geographic reach stretches across the South Coast, spreading from Devon, through Hampshire and West Sussex into East Sussex, Surrey and Kent.
- 1.8 In 2016, Hendy acquired the Lifestyle Group. This was a major acquisition which has transformed the business and provides a platform for future growth and investment. The deal increased Hendy's presence in Tunbridge Wells.
- 1.9 Throughout the past 150 years, Hendy businesses have thrived by looking forward and building better ways of looking after customers. The quest for improvement is constant and the organisation excels when it reinvents itself to deal with the challenges of intense competition.
- 1.10 Tunbridge Wells is today a strong market area for the business and represents a key focus for future growth.

The Hendy Group's Land Interests

- 1.11 The Hendy Group have land interests in 3 sites in the Tunbridge Wells Borough.
- 1.12 The first site is the Hendy Mount Ephraim dealership site (formerly the Lifestyle Ford site) (allocation RTW 8). The Client is the freehold owner of this site and has progressed initial proposals for the residential led redevelopment of the site.
- 1.13 The use of the Mount Ephraim site has grown organically over many years to now accommodate four motor manufacturers on a very small site. The level of activity has developed to the point where, due to the urban character of this location and the obvious physical constraints there is no opportunity to improve the site layout or facilities to meet current manufacturers standards.
- 1.14 With new residential led mixed-use development taking place all around the Mount Ephraim area and the change in character that this brings, the current motor trade activity has now almost become a non-conforming user, which impinges upon neighbouring uses. The buildings on site are dated and do nothing to contribute to the surrounding area. The lack of public access through the site from Mount Ephraim

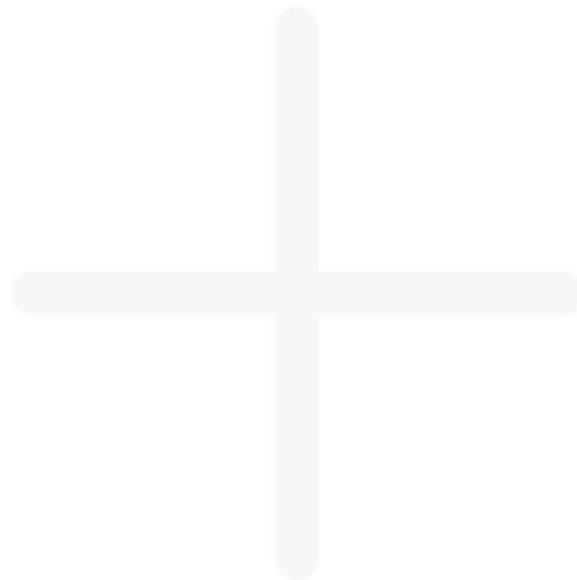
isolates the new Royal Wells Park Development from the main town centre commercial area.

1.15 The second site is at Woodsgate Corner, Pembury (allocation PE 7). Hendy have agreed to purchase the site from Tesco subject to the grant of planning. There is currently a live application for the development of a Motor Village Car Dealership (Ref: 19/00884/FULL) on the site. The proposed site encompasses part of the existing under-utilised Tesco car park together with land that was previously part of the adjoining Tesco site and which Tesco originally acquired for the potential future expansion of the foodstore. As part of the Tesco, implemented but not progressed, proposals for a store expansion as granted under planning permission Ref: 09/01265/FULMJ, the land was proposed as a potential future Park and Ride site. The site represents a historic allocation for Park and Ride use which has been rolled forward from previous iterations of the Local Plan to the current Adopted Local Plan. The Park and Ride site has not, however, been delivered and is now not included as part of the emerging Local Plan for a variety of reasons as set out in the Park and Ride Feasibility Review prepared by Mayer Brown, dated 21st December 2018, submitted with the current Full Planning Application at Pembury Road (Ref: 19/00884/FULL) (Document 1). As set out in this report, the key reasons the Park and Ride has not been delivered include:

- The cost of acquiring the site;
- The limited projected benefit – a maximum three-minute potential journey time reduction (dependent on wider road widening measures) and projected limited take-up with minimal impact on current traffic levels;
- The significant physical challenges of delivering the necessary road widening measures to achieve the necessary bus priority measures on the A264 Pembury Road;
- The impact on existing town centre parking charges;
- The need to amend existing parking restrictions;
- The annual operating costs for the facility would run at a significant deficit.

1.16 The proposed Motor Village use on Pembury Road will facilitate a reorganisation and expansion of the Hendy Group business within the region including facilitating relocation from the existing Mount Ephraim Hendy dealership within the centre of Tunbridge Wells which will then free this site up for redevelopment.

1.17 The third site is the Renault site on Langton Road. Hendy do not own the freehold of this site; however, they have an existing long term leasehold interest and an active existing use.



COMMENTS ON A POLICY

Policy Number: **STR/RTW 1 - The Strategy for Royal Tunbridge Wells**

Comments; Support with conditions

- 1.18 Our Client supports the need to mitigate against the impact of development in Tunbridge Wells, however, it is considered that this policy should recognise that contributions to mitigate the impact of a development should be proportionate and cannot address existing deficiencies.
- 1.19 A proportionate approach is supported by paragraph 2.27 of the Infrastructure Delivery Plan (IDP, draft 2019) which states that new development is generally expected to meet the needs for infrastructure that are generated from the development itself.
- 1.20 As set out at paragraph 34 of the NPPF, plans should set out the contributions expected from development, but this *“should not undermine the deliverability of the plan”*.
- 1.21 The Council cannot rely solely on new development to meet infrastructure needs and both the Council and statutory providers will also need to contribute in order to address existing deficiencies in infrastructure in Tunbridge Wells (see comments below on the Vision and Objectives 1).

Support subject to the following recommendations:

- **To ensure that development is not overburdened, the policy should state that the contributions should be proportionate and based on the relative impact of the development.**

Policy Number: **AL/RTW 8 - Land at Lifestyle Ford, Mount Ephraim/Culverden Street/Rock Villa Road**

Comments; Support with conditions

- 1.22 Our Client supports the continued inclusion of Site RTW 8, Land at Lifestyle Ford and the increase in the number of approximate dwellings that is considered developable on this site.

1.23 The Council have maintained the allocation and so are clearly of the view that the site remains an important and deliverable part of their strategy.

1.24 Our Client has undertaken initial design and feasibility assessment work which indicates that the site has the capacity for an increased density which would enable a greater contribution to the Council's housing need. As such our Client strongly recommends that this policy is reworded to ensure that the policy allows the site to be developed to its maximum potential of circa 100 dwellings to enable the delivery of more housing.

This policy sets out very prescriptive requirements for the site as set out below. Our Client is concerned that some of these could stifle, rather than encourage, development contrary to the presumption in favour of sustainable development (NPPF, paragraph 11).

Point 1

1.25 Initial design assessment work suggests that it may be possible to retain the façade of No. 15 Mt Ephraim, however, whilst it is agreed that it would be desirable to retain this frontage the building is not specifically designated, and it should not be a definitive requirement of the policy that it is retained. Furthermore, the other buildings on site do not merit retention and cannot realistically be adapted. In order to make effective use of the site it will, therefore, be necessary for comprehensive site clearance.

Point 6

1.26 The setting of the adjoining stained glass window in St Andrew's United Reform Church is currently very compromised. Our Client would therefore suggest that the policy is positively reworded to encourage development on site to **'improve the current setting of the window'**, rather than *'obscuring or preventing adequate light from reaching the window'*.

Point 8

1.27 Point 8 of the policy identifies that development on the site should provide on-site amenity/natural green space and children's play space and improvements to existing allotments, parks and recreation grounds and youth play space.

- 1.28 Although plans should set out the contributions expected from development, such policies should not undermine the deliverability of the plan (paragraph 34, NPPF).
- 1.29 Our Client recognises that some form of public space where possible, including landscaping, should be provided on site, however, it is an urban site and as such there is a limit to what can be realistically and viably provided on site.
- 1.30 The policy furthermore requires additional contributions (a-f) '*if necessary*'. To ensure that development is not overburdened, the policy should state that the contributions should be proportionate and based on the relative impact of the development.

Points a

- 1.31 By virtue of the nature of the proposed use and sustainable location of the site, it is less intrusive than the current use and will create less traffic.
- 1.32 Mitigation measures for 'highway works within the vicinity of the site' should also be proportionate and reflect the likely overall significant reduction in vehicle movements from the current use of the site.
- 1.33 Our Client believes that as currently worded, the policy is potentially misleading and infers that town-wide mitigation measures could be sought, without appropriate assessment of the specific impact of the proposed use compared to the current use of the site.

Point d

- 1.34 Point d of policy AL/RTW 8 requires the provision of buildings and spaces to provide cultural infrastructure².
- 1.35 As set out in the TWBDLP and IDP, the only current planned provision in Royal Tunbridge Wells is for the Cultural and Learning Hub (The Amelia Scott). This however already has a secured grant funding of over £5m and the development is expected to start on site later in 2019 (paragraph 3.262, IDP, draft 2019).

² Defined as Infrastructure to mitigate the impact on cultural need through the provision of buildings and spaces (Policy STR 5, TWBDLP). The NPPF defines cultural infrastructure as coming under community facilities (paragraph 20, NPPF).

- 1.36 No other proposals for cultural infrastructure have been identified in the Local Plan or IDP.
- 1.37 As stated at paragraph 3.260 of the IDP (draft 2019), '*it is recognised that public art is a key component of the delivery of cultural provision*'. Public art is already required in point 3 of the policy. This does not need to be duplicated in point d of the same policy.
- 1.38 Our Client therefore considers that the requirement of providing cultural infrastructure to mitigate the impact of development is not clear or justified and as such is contrary to Paragraph 35 of the NPPF.
- 1.39 The long list of proposed mitigation measures could significantly risk the viability of the site as it will already be a costly and challenging site to redevelop given the site constraints. The development cannot be overburdened with additional infrastructure and it should be reasonably expected to only provide mitigation based on the assessed impact of the proposed development compared to the existing site.
- 1.40 As currently drafted, our Client would question the robustness of this policy and its consistency with national policy to enable the delivery of sustainable development.
- 1.41 It should also be noted that the redevelopment of the Mt Ephraim site for future residential development is dependent on identifying a suitable relocation site for the motor dealership business. Hendy have identified a new site at Pembury Road as an appropriate alternative for the development of a Motor Village Car Dealership. This site is proposed as a separate allocation – Woodsgate Corner, AL/PE 7.

Support subject to the following changes:

Our Client strongly recommends that this policy is reworded as follows to ensure that this policy is robust and consistent with national policy:

*"This site, as defined on the Royal Tunbridge Wells draft Policies Map, is allocated for residential development (C3) providing approximately ~~80~~ **100** dwellings.*

Development on the site shall accord with the following requirements:

- 1. While it is accepted that ~~considerable demolition will be necessary, this should be avoided where possible, particularly at~~ **existing buildings on site will need to be***

cleared, the front façade of No.15 Mount Ephraim, *which must **should** be retained **if possible** as part of any redevelopment.*

6. Development on the site shall be designed **to improve the current setting of** ~~so as not to obscure or prevent adequate light from reaching the large stained glass window in St Andrew's United Reform Church;~~
8. Provision of on-site amenity/natural green space and children's play space and **where necessary and justified wider** improvements to existing allotments, parks and recreation grounds and youth play space in accordance with the requirements of Policy OSSR 2: Provision of publicly accessible open space and recreation.

It is expected that **proportionate** contributions **based on the relative impact of the development** will be required towards the following *if necessary*, to mitigate the impact of the development:

- a. The provision of sustainable and active transport mitigation measures, highway works within the vicinity of the site **(proportionate to and based on the specific impacts arising from the proposed development)** ~~including the provision of pedestrian crossing and/or town centre-wide, or town-wide transport mitigation measures (see Policy TP 1: Transport Assessments, Travel Plans, and Mitigation and TP 2: Transport Design and Accessibility);~~
- d. ~~The provision of buildings and spaces to provide cultural infrastructure;"~~

Policy Number: **Policy STR/PE 1 – The Strategy for Pembury Parish**

Comments; Support with conditions

- 1.42 The Strategy for Pembury Parish should support the delivery of all of the allocated sites, including Site PE 7, in order to ensure that the summary objectives do not stifle growth or provide a brake on development.

AONB

- 1.43 The policy wording does not recognise that sites allocated for development in the Local Plan have already been considered with respect to the AONB, as set out in the Council's evidence base³.
- 1.44 In order to ensure that allocations are brought forward in line with the Local Plan, sites should not have to go through the process of demonstrating that the proposal will make a positive contribution toward achieving the AONB Management Plan objectives.
- 1.45 To ensure that the wider AONB areas can be effectively protected whilst still ensuring that the Council meet their growth targets it is essential that full and proper use is made of the identified locations for new growth. The identification of site PE 7 supports this policy objective and the Council are urged to ensure that maximum productive use is made of this site.

Limits to Built Development

- 1.46 Our Client fully supports the inclusion of allocation AL/PE 7 within the Limits to Built Development.
- 1.47 However, the whole allocation site, as outlined on Map 93 (page 338 of the TWBDLP), has not been included on the draft Policies Map.
- 1.48 To avoid confusion in bringing forward the allocation of AL/PE 7, our Client would recommend that the Limits to Built Development is amended to include the whole allocation outline.

Support subject to the following proposed changes:

Our Client strongly recommends the following changes to ensure that this policy is robust and consistent with national policy:

- **2. *“Where a site is within the AONB, and not allocated in the Local Plan, it should be demonstrated that the proposal will make a positive contribution towards achieving the objectives of the most recent AONB Management Plan and show how relevant guidance from the AONB Joint Advisory Committee***

³ Distribution of Development Topic Paper for Draft Local Plan, Regulation 18: Appendix 3 - Assessment of AONB sites

has been considered to meet the high standards required of the other policies in this Plan for the High Weald AONB landscape;”

- **Amend the Limits to Built Development to include the whole of the site AL/PE 7 allocation outline**

Policy Number: **Policy AL/PE 7 (Woodsgate Corner)**

Comments; Support with conditions

1.49 Our Client fully supports the allocation of this site which will protect existing jobs in the Borough, create new jobs and facilitate the relocation of the Mt Ephraim site (AL/ RTW 8), freeing up this site for development. However, the policy should be reworded as follows to ensure consistency with the live planning application.

Point 1

1.50 The general wording of ‘*provision of car showroom and associated uses/employment*’ should be reworded to **‘the provision of a Motor Village Car Dealership with associated employment uses’**.

Point 6

1.51 As no buildings are proposed to be demolished, the reference to ‘avoidance of demolition’ is not relevant and should be removed from the policy wording.

Point 7

1.52 As the site is not located in a Groundwater Protection Zone⁴, this is not relevant to the allocation and should be removed from the policy wording.

Other Contributions

1.53 The broad range of mitigation measures can also be more focussed given that this is a live application. The improvements to the public realm at the centre of Pembury are not considered necessary to make the development acceptable in planning terms or required to mitigate the impact of the development. Improvements are better focussed

⁴ Figure 5, Flood Risk Assessment and Drainage Strategy, Nolan Associates, January 2019, submitted with the currently live application at Pembury Road, Ref: 19/00884/FULL.

within the vicinity of the site. In this regard the current planning application proposes to include additional woodland edge and shrub planting, provision of a green roof on the rear showroom, provision of 'green walls' along the gabion retaining wall, and provision of Bird and Bat boxes.

- 1.54 Our Client therefore recommends that point (a) is removed from this policy.
- 1.55 Points (b) and (c) of the Policy identifies that 'other highways related works' and 'measures to enhance bus travel' may be necessary to mitigate the impact of the development.
- 1.56 These measures should directly relate to the impact of the proposed development and should be balanced against the consented and implemented Tesco Park and Ride consent (Ref: 09/01265/FULMJ).
- 1.57 Point (5) of the Policy already states that development should assess the impact of the proposal on transport and highways and is clear that contributions should be provided to mitigate any impact that is considered to be severe.
- 1.58 As such, our Client considers that the additional points (b) and (c) are thus unnecessary and can also be removed from the Policy wording.

Other

- 1.59 The supporting text at paragraph 5.134 notes that the site includes an SSSI. This is not correct, and our Client suggests that reference to the SSSI is removed.
- 1.60 Map 93 (Page 338 of the TWBDLP) should be amended to reflect the proposed development boundary as defined on the Site Plan (Ref: 1710 PL.04 P2) as submitted as part of the current planning application Ref: 19/00884/FULL (Document 2). The development area including all buildings, car parking, circulation areas, site access and areas of proposed signage should be shown as white land within the Proposed Site Allocation Policy boundary. These areas should not be included under any designation as open space or as a landscape buffer.
- 1.61 As stated above under **Policy STR/PE 1** the whole allocation site, as outlined on Map 93, has not been included on the draft Policies Map.

1.62 To avoid any confusion in bringing forward allocation AL/PE 7, our Client would recommend that the Limits to Built Development is amended to include the whole allocation area.

Support subject to the following amendments:

Our Client strongly recommends that this policy is reworded as follows to ensure that this policy is robust and consistent with national policy:

1. ~~“Provision of car showroom and associated uses/employment~~ **a Motor Village Car Dealership with associated employment uses;**

~~6. Avoidance of demolition wherever possible (see Policy EN 2: Sustainable Design and Construction);~~

~~7. Regard to be given to the Groundwater Source Protection Zone affecting the site, in consultation with the Environment Agency;~~

~~a. Improvements to the public realm at the centre of Pembury;~~

~~b. Any other highways related works;~~

~~c. Measures to enhance bus travel.”~~

Our Client strongly recommends the following change to the supporting text:

“5.134 This site:

- Includes a Tree Preservation Order ~~and SSSI;~~”

Amend the Limits to Built Development to include the whole of the site AL/PE 7 allocation outline

Policy Number: **Policy EN 1 - Design and other development management criteria**

Comments; Support with conditions

1.63 The broad principles of this policy are supported; however, our Client has some concerns regarding the implications of practically applying the subjective criteria.

- 1.64 The tone of the policy is likely to serve to curtail rather than encourage development. The policy is suggesting a general presumption against development, which goes against the heart of the NPPF Framework (paragraph 10, 2019). In particular, our Client is concerned that the policy has the potential to undermine the development of specific site allocations identified in the Plan and thus impact on the delivery of the Council's housing target.

Point 1 - Character and site context

- 1.65 The design criteria key questions for 'Character and site context' suggests that inspiration should be drawn from surrounding development. In some instances, this is not the best approach as new development can make better use of an area and define new character of spaces to improve the area.
- 1.66 For example, our Client's site allocation at Mt Ephraim (AL/RTW 8) and Pembury Road (AL/PE 7) cover substantive areas and have an opportunity to create new form and character to improve the area and ensure best and most effective use are made of the site.

Point 3 - Landscaping, Trees, and Amenity

- 1.67 The protection of individual trees or groups of trees outside of a conservation area or that are not protected under a Tree Preservation Order should not be afforded further protection through local policy as this adds a further constraint on development and is not justified.

Point 4 – Biodiversity and Geodiversity

- 1.68 It is considered that proposals affecting biodiversity should mitigate harm, however, in order to support the provision of net gain of biodiversity, the plan should identify opportunities for securing measurable net gains as supported in the NPPF (paragraph 174, NPPF).

Point 5 - Highway Safety and Access

- 1.69 It is considered that the statement "new development should not significantly increase traffic to cause material harm to the safety of the local highway network" is not in line with the NPPF, which states at paragraph 109 that "if there would be an unacceptable

impact on highway safety". In this regard, our Client recommends that the policy is reworded in line with the NPPF.

Point 6 - Residential Amenity

1.70 It is considered that in urban areas it is impossible not to have some impact on noise, vibration, odour, air pollution, activity, or vehicular movements, or overlooking. It is also considered that the word 'excessive' to describe noise is not clear as this is subjective. In order to support development, this policy should recognise that there may be some harm to residential amenity.

Point 10 – New technologies

1.71 Our Client supports the future proofing of new development through the provision of power supply and infrastructure, however, technology changes and it may not always be possible to provide electric car charging points upfront.

1.72 The provision of Electric Vehicle spaces should be considered on a site by site basis, with consideration given to the level of demand from occupiers. The provision of Electric Vehicle charging points/spaces should be proportionate to the scale of the development, with the option to provide the infrastructure to allow for additional units to be installed in the future as required.

Support subject to the following amendments:

*"1.b. (key questions/checks) - Are there any distinctive characteristics within the area, such as building form, styles, colours, and materials, or the character of streets and spaces, that the development should draw inspiration from, **or could the development make better use of an area and define new character of spaces to improve the area.***

3.1. ~~Existing individual trees, or groups of trees, that contribute positively to the area shall be retained.~~

*4. (key questions/checks) – **include a way for securing measurable net gains***

*5. new development should not significantly increase traffic to cause ~~material harm~~ **unacceptable impact** to the safety of the local highway network.*

10. New developments *must* **should** include **where possible** infrastructure that meets modern communication and technology needs, and restricts the need for future retrofitting. Such infrastructure should include broadband, fibre to the premises (FTTP) where possible, high speed internet cabling/ducting, and provision of a power supply and infrastructure that would support green technology initiatives, such as electric car charging points (**although the provision of electric car charging points should be considered on individual basis. The provision of Electric Vehicle charging points should be proportionate to the scale of the development, with the option to provide the infrastructure to allow for additional units to be installed in the future as required.**)”

Policy Number: **POLICY EN 3 – Sustainable Design Standards**

Comments; Object

1.73 We would recommend that a policy should not be included with the specific ‘Pre-assessment estimator’, HQM and BREEAM standards as these may be subject to change over the lifetime of the plan.

1.74 Policy EN2 sets out details for the design standards for new development and additional measures are effectively covered within Building Regulations. As such there is no need for these standards to be included in planning policy.

UNSOUND: The specific inclusion of ‘Pre-assessment estimator’, HQM and BREEAM is not justified.

Recommended Action:

- **We suggest this policy is deleted with appropriate supporting text added to policy EN 2.**
-

Policy Number: **Policy EN 4 - Energy Reduction in New Buildings**

Comments; Object

1.75 This policy supports the delivery of ‘radical’ reductions in greenhouse gas emissions. Whilst our Client supports low emission development, ‘radical’ reductions is not

measurable and should be defined to remove the ambiguity of this requirement in line with paragraph 16 (d)⁵ of the NPPF (2019).

- 1.76 Our Client is also concerned that the target of a fabric first approach, plus a 15% reduction of CO₂ emissions is an ambitious target which may not be attainable on all sites.
- 1.77 As recognised in the Energy Policy Viability Report⁶, there is a high degree of variation in the energy use and potential for carbon savings in non-domestic buildings - evidence from recent studies that savings of 10-15% are achievable. The target of a fabric first approach, plus 15% is therefore ambitious, particularly for non-domestic buildings and may have the effect of stifling development. As such this policy is unsound as it is not prepared positively in a way that is aspirational and deliverable⁷.
- 1.78 Furthermore, this target is based on Standard Assessment Procedure (SAP)10, which has not yet been adopted for regulatory compliance purposes. If this is not adopted, development proposals will have to be assessed against SAP2012, but compared to the higher targets of SAP10. This is not consistent with national standards and as such is unsound.
- 1.79 The prescriptive list⁸ of renewable energy technology in this policy also concerns our Client, as the technologies available could change in the plan period, including the emergence of new technology that would be more preferable than those listed.
- 1.80 The Energy Policy Viability Report did not research the preferred approaches for technological solutions to meet the carbon performance requirement uplifts⁹. The list of renewable energy technology has also not been justified in the Energy Topic Paper (Regulation 18 Consultation, August 2019).

⁵ "Plans should: d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" (paragraph 16 (d) of the NPPF, 2019).

⁶ Page 53, September 2019.

⁷ "Plans should: b) be prepared positively, in a way that is aspirational but deliverable" (paragraph 16 (b) of the NPPF, 2019).

⁸ "Renewable energy generating technology includes photovoltaics, solar hot water, air source heat pumps, ground source heat pumps, wind turbines, hydropower, and biomass boilers. Low carbon technology presented as an alternative to renewable energy generating technology, such as Combined Heat and Power (CHP), will be considered on a case by case basis." (Policy EN 4, TWBDLP, Reg 18).

⁹ Page 56, Energy Policy Viability Report (September 2019)

1.81 Our Client therefore considers that the list of renewable energy technology contained in this policy is unsound as is not based on any evidence.

UNSOUND: Our Client considers that the target for the reduction of CO₂ emissions is not consistent with national standards.

Recommended Action:

- **The target should be based on the adopted Standard Assessment Procedure 2012.**
- **The list of acceptable renewable energy technology should be removed.**

Policy Number: **Policy EN 5 - Climate Change Adaptation**

Comments; Support with conditions

1.82 Whilst our Client is supportive of adapting to the impact of climate change, the measures outlined in this policy propose a further burden on development which will impact the viability of providing affordable houses.

Support subject to the following amendment:

- **A less rigid approach to the application of development standards.**

Policy Number: **Policy EN 6 - Historic Environment**

Comments; Support with conditions

1.83 It is noted that this policy requires all new development to commit to, where possible, 'enhancement, of the historic environment', however, in line with the NPPF this policy should also consider the desirability of enhancing the historic environment.

Support subject to the following amendments:

*"All new development shall commit to the overall conservation and, where possible, enhancement **(and the desirability of enhancement)**, of the historic environment of the borough."*

Policy Number: **Policy EN 10 - Outdoor Lighting and Dark Skies**

Comments; Object

1.84 This policy states that the levels of lighting provided should be '*broadly consistent with the views of the local parish or town council*'. This is not measurable and could potentially be compromised with subjective views of the local parish and town council.

1.85 The NPPF advocates that plans should be "clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" (paragraph 16 (d)).

UNSOUND: To ensure that this policy is fair and measurable, reference to '*broadly consistent with the views of the local parish or town council*' should be removed.

Policy Number: **Policy EN 11- Net Gains for Nature: biodiversity**

Comments; Object

1.86 The wording of this policy goes beyond national guidance and overburdens development.

1.87 Furthermore, as set out above under **Policy EN1**, rather than requiring the developer to apply an acceptable method of measurement, the plan should identify the opportunities for securing measurable net gains, as supported in the NPPF (paragraph 174).

UNSOUND: To ensure that this policy is in line with National Policy, the Local Plan should specify a strategy for securing measurable net gains.

Policy Number: **Policy EN 12 (Protection of Designated Sites and Habitats) and Policy EN 14 (Trees, Woodlands, Hedges, and Development)**

Comments; Support with conditions

1.88 Our Client is supportive of the protection of the environment; however, these policies should only relate to unallocated sites at the risk of overburdening locations which have

been identified for development and where the impact of designated sites and habitats will already have been considered.

- 1.89 In order to ensure that allocations are brought forward in line with the Local Plan, allocated sites should not have to go through the process of demonstrating that the proposal will not have a direct or indirect adverse effect on the nature conservation or geological interest of a designated site or adversely affect important trees, woodlands, and hedgerows.

Support subject to the following amendments:

- **So as not to prejudice the delivery of allocations, the policies should be reworded to only relate to unallocated sites.**

Policy Number: **Policy EN 21 (High Weald Area of Outstanding Natural Beauty (AONB))**

Comments; Support with conditions

- 1.90 The policy wording does not recognise that sites allocated for development in the Local Plan have already been considered with respect to the AONB. This assessment is set out in the Council's evidence base¹⁰.
- 1.91 In order to ensure that allocations are brought forward in line with the Local Plan, allocated sites should not have to go through the process of demonstrating that the proposal will make a positive contribution toward achieving the AONB Management Plan objectives.
- 1.92 To ensure that these areas can be effectively protected whilst still ensuring that the Council meet their growth targets it is essential that full and proper use is made of all other potential locations for growth. The identification of Site Allocations RTW 8 and PE 7 support this policy objective and the Council are urged to ensure that maximum productive use is made of these sites.

¹⁰ Distribution of Development Topic Paper for Draft Local Plan, Regulation 18: Appendix 3 - Assessment of AONB sites

Support subject to the following amendments:

- **So as not to prejudice the delivery of allocations, the policy should be reworded to only relate to unallocated sites.**

Policy Number: **Policy EN 23 - Air Quality and Policy EN 24 - Air Quality Management Areas (AQMA)**

Comments; Object

- 1.93 Although our Client recognises the importance of managing air quality, the wording of these policies goes beyond national guidance and risks overburdening development, which will impact the viability and deliverability of providing allocations.
- 1.94 Moreover, our Client is concerned that there is no evidence base work to support these policies.

UNSOUND: Lack of evidence base to justify these policies.

Policy Number: **Policy H 1 - Implementation of Planning Permission for New Residential Dwellings**

Comments; Object

- 1.95 Our Client supports the need to ensure the delivery of development, however, often unworkable or complicated sites require a long period of time to implement planning consents, particularly factoring in legal agreements.
- 1.96 Our Client is concerned that this policy would stifle development and moreover could lead to further pressure on the Development Control Team. With the current significant deficiencies in the provision of housing in the Borough it is essential that the Local Plan provides the necessary support to ensure that development is secured.

UNSOUND: This policy is not positively prepared and should be reworded.

Recommendations:

- **Remove reference to “That the permission be implemented within two years from the date of decision”**

Policy Number: **Policy H 4 - Housing Density**

Comments; Support

- 1.97 Our Client supports making sure that development makes efficient use of land.
- 1.98 In this regard, our Client would like it to be made clear the allocation for Mt Ephraim is seen as a minimum to ensure that the site is developed to its maximum capacity to enable a greater contribution to the Council's housing need.

Policy Number: **Policy H 5 - Affordable Housing**

Comments; Support with conditions

Local Connection; Support with conditions

- 1.99 The policy states that affordable housing will be provided on the basis of a 'local connection cascade'. Our Client is concerned that this is likely to be too complicated and will interfere with the effective delivery of affordable housing.

Support subject to the following amendments:

- **Reference to 'local connection cascade' should be simplified.**
- **Affordable housing should be delivered by a RSL and they should allocate the housing how they see fit.**

Tenure; Support with conditions

- 1.100 Our Client also considers that providing 60% of on-site affordable housing as social rent will not be workable on all sites. Our Client is concerned with how this figure has been determined considering that a tenure split of 52.2% social/affordable rented and 47.8% intermediate tenure were identified across the Tunbridge Wells Borough¹¹.

¹¹ Appendix C, Borough of Tunbridge Wells Housing Needs Study, July 2018: Households were asked to state tenure aspirations. Table C8 summarises the aspirations of both existing households in need and newly forming households by tenure. Overall, this gives a tenure split of around 52% social/affordable rented and 48% intermediate tenure across the Tunbridge Wells Borough.

1.101 This shows a discrepancy of at least 10%, although some areas across the borough identified a lower need for social rent – as low as 32.5% in all rural parishes¹².

Support subject to the following amendments:

- **Reduce the percentage of social rent housing tenure.**

Exceptional Circumstances; Support with conditions

1.102 Our Client is concerned that it could be an impossible task to provide conclusive evidence that there are no Registered Provider's to take the affordable units.

Support subject to the following amendments:

- **Put a mechanism in place whereby it can be recognised that there are no Registered Provider's so that this policy does not stop development coming forward.**

Design and layout approach to affordable housing; Support with conditions

1.103 Our Client considers that it is not necessary to evenly spread 'clusters' of affordable homes across a development. For management purposes affordable homes should be built together, in one area.

Support subject to the following amendments:

- **Remove the need for developments to 'evenly spread 'clusters' of affordable homes'.**

Policy Number: **Policy H 8 - Vacant Building Credit**

Comments; Object

1.104 The statement that '*Vacant Building Credit will only be applied in exceptional circumstances*' is contrary to national guidance which states that where vacant buildings are being reused or redeveloped, any affordable housing contribution due

¹² Table C8, Appendix C, Borough of Tunbridge Wells Housing Needs Study, July 2018.

should be reduced by a proportionate amount to support the re-use of brownfield land (paragraph 63, NPPF).

UNSOUND: The policy should be reworded to be in line with National Policy.

Policy Number: **Policy TP 3 - Parking Standards**

Comments; Support with conditions

1.105 Our Client supports the parking standards, however, this policy needs to be flexible where there is limited land available in urban areas, such as our Clients site on Mount Ephraim, which is in a sustainable location.

Exceptional circumstances

1.106 The exceptional circumstances could potentially cause problems down the line as overcomplicating the standards could lead to sites not being deliverable and stifling development.

Support subject to the following amendments:

- **The parking standards should be a maximum to encourage sustainable travel.**
 - **Simplify/remove the exceptional circumstances case.**
-

Policy Number: **Policy OSSR 2 - The provision of publicly accessible open space and recreation**

Comments; Object

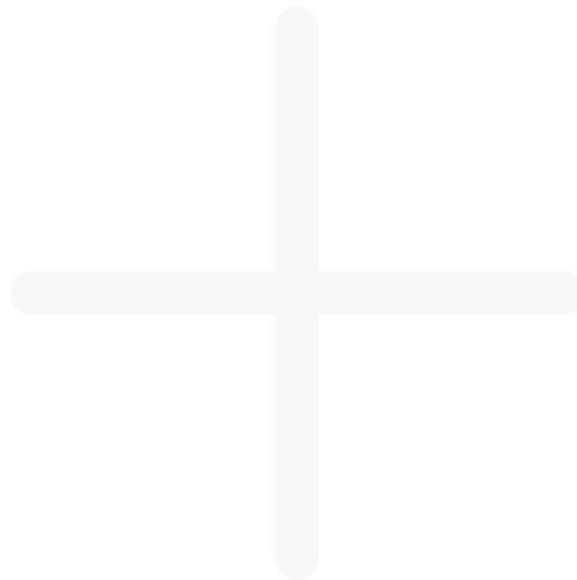
1.107 The policy identifies that development on the site should provide on-site amenity/natural green space and children's play space and improvements to existing allotments, parks and recreation grounds and youth play space.

1.108 Although plans should set out the contributions expected from development, such policies should not undermine the deliverability of the plan (paragraph 34, NPPF).

1.109 The wording of this policy risk overburdening development which will impact the viability of delivering the allocations in the local plan.

1.110 Our Client recognises that some form of green space should be provided with developments, however, there is a limit to what can be realistically and viably provided on some urban sites.

UNSOUND: This policy is not positively prepared or effective and should be reworded in order not to prejudice the delivery of allocated sites.



COMMENTS ON THE VISION (SECTION 3)

The Vision and Objectives 1; Object; General Observation

- 1.111 The 2036 vision for Tunbridge Wells is set out on the basis of being infrastructure-led with this infrastructure being largely funded by new development.
- 1.112 As set out at paragraph 34 of the NPPF, plans should set out the contributions expected from development, but this *“should not undermine the deliverability of the plan”*.
- 1.113 Strong infrastructure will be important to support new growth. However, the plan must be realistic in terms of what may be achieved from new sites in order to ensure that over ambitious objectives do not stifle growth or provide a brake on development.
- 1.114 As set out in the Infrastructure Delivery Plan (IDP, draft 2019), new development is expected to meet the needs for infrastructure that are generated from the development itself (IDP) (paragraph 2.27).
- 1.115 The Council cannot rely solely on new development to meet infrastructure needs and both the Council and statutory providers will also need to contribute in order to address existing deficiencies.
- 1.116 However, as set out in Appendix 1 (Infrastructure Delivery Schedule) of the IDP, the Council set out the delivery body and funding position for each infrastructure project. The critical and essential priority projects¹³ are outlined below for Tunbridge Wells and Pembury:
- Tunbridge Wells – there are 14 critical/ essential priority projects, of which 13 are to be funded either solely or partially through developer funding (CIL/S106).
 - Pembury – the only essential¹⁴ priority project in Pembury is a medical facilities hub. Funding for this is not yet confirmed.

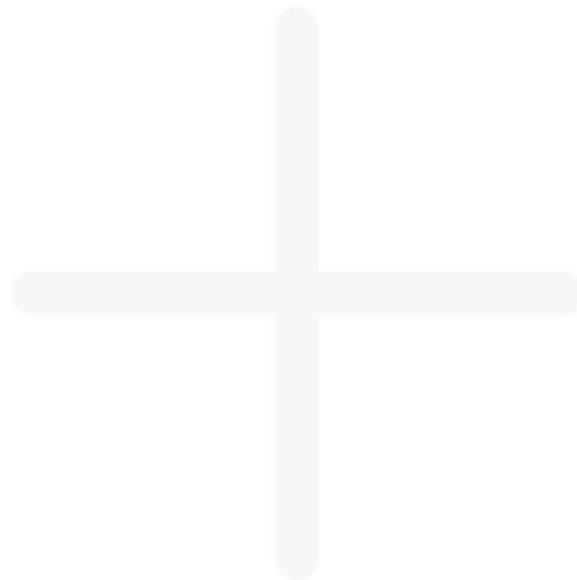
¹³ The desirable priority projects have not been considered as they are less urgent.

¹⁴ There are no critical projects for Pembury.

- 1.117 The IDP has not made it clear if the projects to be partially funded by other sources¹⁵ in Tunbridge Wells have secured any funding.
- 1.118 Most notably, the Council are currently preparing a Local Cycling and Walking Infrastructure Plan (LCWIP). The IDP states that having a LCWIP in place will enable the Council to apply for any funding that becomes available under the Government's Cycling and Walking Investment Strategy (CWIS), as well as any other relevant funding streams (paragraph 3.58 of the IDP, draft August 2019).
- 1.119 However, the Council have already cited that funding for some of the critical/essential projects in Tunbridge Wells will be partially delivered through the LCWIP, but there is no LCWIP in place.
- 1.120 As such it is clear that funding for critical infrastructure projects in Tunbridge wells is a long way off, with funding being heavily reliant on developer funding. This will impact the delivery of new development in the borough.
- 1.121 It makes sense to focus initial growth in the plan period within and on the edge of existing settlements.
- 1.122 Such development will not normally trigger a need for investment in new infrastructure, beyond any site-specific requirements, and will thus be more deliverable earlier in the Plan period and can contribute at an early stage to addressing the Council's current housing supply deficit.
- 1.123 Sites such as the Client's Mt Ephraim site in Tunbridge Wells (AL/ RTW 8) and the new Motor Village Dealership at Pembury (AL/PE 7) will (subject to relocating the existing business) be able to contribute in the short term to the Council's housing need and the provision of jobs in the Borough. However, with anticipated high development costs, the additional impact of funding new infrastructure in the borough could (unless appropriately controlled) make redevelopment of the site unviable.
- 1.124 Our Client would question the robustness of this aspect of the vision and its consistency with national policy – enabling the delivery of sustainable development.

¹⁵ Other sources including South East LE/ Local Cycling and Walking Infrastructure Plan / Government Future High Streets Fund (or similar).

UNSOUND: Absence of evidence for relying predominately on Developer funding for infrastructure, means that the Council cannot proceed with confidence that this will not undermine the deliverability of development in the borough.



COMMENTS ON THE STRATEGIC OBJECTIVES (SECTION 4)

Policy STR 1 - The Development Strategy; General Observation

- 1.125 Policy STR 1 states that 'Where major development is provided for at specific identified sites in the AONB, this is only where the tests set out in the NPPF are met'.
- 1.126 Our Client would like to highlight that through the allocation of a site in the AONB, the Council is recognising that the site is suitable for development.
- 1.127 In order to ensure that allocations are brought forward in line with the Local Plan, allocated sites should not have to go through the process of demonstrating that the proposal will make a positive contribution toward achieving the AONB Management Plan objectives as the site has already been assessed against national policy tests (see comments on **EN 21** above).
- 1.128 To ensure that these areas can be effectively protected whilst still ensuring that the Council meet their growth targets it is essential that full and proper use is made of all other potential locations for growth. The identification of Site Allocations RTW 8 and PE 7 support this policy objective and the Council are urged to ensure that maximum productive use is made of these sites.

Policy STR 5 - Essential Infrastructure and Connectivity; support with conditions

- 1.129 Policy STR 5 states that it is "*essential that all new development will be supported by the provision of the necessary infrastructure*".
- 1.130 The Council cannot rely solely on new development to meet infrastructure needs and both the Council and statutory providers will also need to contribute in order to address existing deficiencies in infrastructure in Tunbridge Wells (see comments above on the Vision and Objectives 1).
- 1.131 Our Client would like to highlight that it is not financially viable for every new development to provide infrastructure and that the level of infrastructure 'necessary' should be proportionate to the merits of the individual site.

Support subject to the following amendments:

- The wording should change to “**where financially viable all new development will be supported by the provision of the necessary infrastructure**”.

Policy STR 6 – Transport and Parking; support with conditions; General Observation

1.132 Our Client also supports the provision of electric car charging points.

1.133 The measures for improvements to the strategic highways network, as outlined at point C, are supported, however, in line with comments on other policies the Council should undertake further work to assess the deliverability of this infrastructure and the extent to which it can realistically be funded through developer funding.

1.134 The up-front provision of Electric Vehicle charging points should be proportionate to the scale of the development, with the option to provide the infrastructure to allow for additional units to be installed in the future as required.

1.135 Our Client also supports the encouragement of sustainable travel. In line with this, our Client supports making Policy TP 3 (Parking Standards) a maximum standard to encourage sustainable travel.

Policy STR 7 - Place Shaping and Design; Support with conditions

1.136 Our Client has concerns that the use of the specific design codes on strategic and larger scale sites could restrict the development of sites which would otherwise enable the delivery of additional housing.

1.137 Point 3 is unsound as it is not consistent with national policy; there is no reference in the NPPF to protecting and enhancing historic assets.

Support subject to the following amendments:

- **The design codes should only be applicable to large strategic sites (i.e. above 150 houses).**
- **Reword point 3: Conserve the historic environment and the desirability of sustaining and enhancing the significance of heritage assets.**

**Policy STR 8 - Conserving and enhancing the natural, built, and historic environment;
Support with conditions**

1.138 Points 1 and 5 of this policy states that the High Weald AONB will be conserved and enhanced, and that development in the AONB will be expected to demonstrate that the proposals have regard to the objectives of the AONB.

1.139 Our Client would like to highlight that through the allocation of a site in the AONB, the Council is recognising that the site is suitable for development and that the AONB objectives have been met. As such, proposals should not need to go through another AONB evaluation. Our Client is concerned that this policy may stifle growth on allocated sites.

Support subject to the following amendment:

- **So as not to prejudice the delivery of allocations, the polices should be reworded to only relate to unallocated sites.**

Brown & Co Planning Limited
15th November 2019

Encl.

- Document 1: Pembury Park and Ride Feasibility Review prepared by Mayer Brown, dated 21st December 2018.
- Document 2: Site Plan (Ref: 1710 PL.04 P2) as submitted as part of the current planning application Ref: 19/00884/FULL.