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**Report of 24 October 2013**

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**Hildenborough**                      **556746 148692**    **6 September 2013**    **TM/13/02727/FL**  
Hildenborough

Proposal:                      Change of use from residential (C3) and ground floor shop (A1) to restaurant and cafe (A3) on ground floor and beauticians and bride area (A1) at first floor. Demolition of flat roof side and rear extension and removal of two storey rear extension. Construction of new single storey additions and alterations to front elevation

Location:                      152-154 Tonbridge Road Hildenborough Tonbridge Kent TN11 9HW

Applicant:                      Double Gold Enterprise Ltd

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**1. Description:**

- 1.1 Planning permission is sought for the change of use of the existing shop and dwellinghouse to a café (A3) at ground floor and a beauticians and bridal preparation area (A1) at first floor level.
- 1.2 The existing side and rear extensions are proposed to be demolished and, in their place, single storey front and rear additions and associated alterations are proposed. A roof terrace is proposed to be created above the rear extension serving the beauticians at first floor and alterations are also proposed to the front of the building.
- 1.3 The scheme also proposes to provide external seating within the front of the building.
- 1.4 Six cycle racks are proposed to be provided within the site.
- 1.5 Since the original submission, the applicant has provided an additional statement further explaining how the use is intended to operate and the overall vision behind the concept. This information has been the subject of re-consultation and any further representations received will be reported within the Supplementary Report.

**2. Reason for reporting to Committee:**

- 2.1 High level of local interest.

**3. The Site:**

- 3.1 The site lies within the rural settlement confines of Hildenborough, within the Conservation Area. It lies on the northern side of the Tonbridge Road (B245). The buildings form part of a row of Victorian dwellings, part of which has been

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converted to a shop and extended to the side and rear. A single storey front extension has also been added to the building to create a shop front and this feature currently detracts from the appearance of the CA.

3.2 The current use of the building is A1 (shops) and C3 (dwellinghouse).

#### 4. Planning History:

TM/50/10132/OLD grant with conditions 27 June 1950

Garage and access to A.21.

TM/71/10307/OLD grant with conditions 12 July 1971

Extension of shop and living accommodation

TM/73/10443/OLD Refuse 19 November 1973

Alterations and extension to shop and flat and re-siting of garage to be used as store

TM/74/12944/OLD Refuse 30 October 1974

Two storey dwellinghouse

TM/75/10264/FUL grant with conditions 26 October 1975

Internal alterations in forming additional sales area to ground floor and construction of external stairs to first floor living accommodation

TM/76/11239/FUL grant with conditions 2 November 1976

Erection of two storey extension to existing premises to provide additional shopping accommodation on ground floor together with residential accommodation

TM/81/11215/FUL grant with conditions 15 September 1981

Erection of single storey extension at rear of shop

TM/82/10799/FUL grant with conditions 20 January 1982

Detached house and garage on land to east

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TM/87/11198/ADV grant with conditions 16 March 1987

Internally illuminated fascia sign

TM/04/02700/FL Grant With Conditions 21 October 2004

Change of use of shop to residential including replacement of shopfront

## 5. Consultees:

5.1 PC: The PC believes the redevelopment of this building in a sympathetic style within the Conservation Area will enhance the Village given its current dilapidated state and they are not against the redevelopment of this site. However, the present application raises a number of concerns which the PC would like to see a resolution to.

- They would like to see a scaling back on the size of the development which appears to be excessive for a Village café;
- The length of the proposed opening times will impact on the immediate neighbours resulting in noise and light pollution. The PC would like to see the opening hours restricted, particularly the early mornings/late evenings;
- The building is of historic note and it is felt appropriate to ensure the name plate is retained;
- The PC notes the mention of trees to the rear and would like to ensure these are retained;
- Is the Borough Council aware there will be some loss of residential accommodation?
- The proposed development is likely to impact on the already limited street parking.

5.2 KCC (H&T): From the floor areas provided in the application form, the maximum car parking that could be provided would be 3 spaces for the beauticians and bride preparation area, and 23 spaces for the restaurant and café. Whilst there is an adjacent lay-by here on the Tonbridge Road, there is no off road car parking provision included with this application. Under maximum car parking standards zero off road provision is acceptable where severe road safety implications are not anticipated. In reality it is considered that the seating layouts shown look impractical and the restraints on the B245 and the surrounding roads will have a limiting effect on trip attraction and parking needs. Whilst the generated parking demands may have an impact on nearby residential amenity, it is not considered that resultant parking will have a tangible impact on road safety. I write to confirm

therefore that I have no objection to this application. It is further considered that there is sufficient reserved roadside and off road space available for deliveries to be satisfactorily undertaken. Under the full seating plan shown, 20 cycle stands will be required as a minimum although I consider that the provision of a minimum of 10 cycle racks would be more representative.

### 5.3 Private Reps: 5 + site + press notice/0X/21R/16S.

#### 5.3.1 Objections centre on the following grounds:

- No need for such a facility in the village – there are already several pubs and restaurants in the area;
- Café would result in the closure of other businesses – in this climate the Council should be assisting and supporting the existing buildings in the area;
- Use is better suited to Tonbridge High Street;
- Loss of a shop which provides an amenity for local residents;
- Unclear as to whether the beauticians would be operating independent of the bridal services;
- Excessive opening hours;
- Question when deliveries will take place;
- Lack of parking in the area and no parking proposed within the site for staff or customers;
- On street parking is already dominated by the Volvo garage, Gospel Hall and clients of the nearby offices to the detriment of the residents;
- Tonbridge Road is extremely busy and further demands on street parking would be dangerous;
- Noise and smell disturbance and nuisance arising from the use as a restaurant detrimental to residential amenities and the working environment of the adjacent offices;
- Future A3 occupants could create far more disturbance even if this applicant says their own type of catering would be low impact;
- Nothing to stop a fast food outlet moving in at some point in the future;
- Plans show capacity for 191 people which is extensive;
- Loss of light arising from extension;

- Excessive opening times;
- Loss of much needed residential accommodation;
- Work started before application was made;
- Loss of privacy;
- Use is likely to attract vermin to the area;
- Implications for property values;
- Inappropriate development in the area;
- Lack of detail regarding the extraction system to serve the kitchen;
- Inadequate storage for refuse;
- No designated smoking area has been provided;
- Extension and alterations to the front of the building will further detract from the character of the Conservation Area;
- Proposed materials are inappropriate in the Conservation Area.

#### 5.3.2 Support centres on the following grounds:

- Hildenborough is lacking somewhere to meet and socialise;
- Café would breathe some life back into the community;
- Renovation of the newsagents is needed as it currently looks run down;
- Increase in employment;
- Would think the majority of customers would be local and therefore would walk;
- Many people would prefer to meet friends and family in a café environment rather than one of the nearby pubs, and other establishments with cafes are too remote to travel with children;
- Could prove to be a vibrant hub of the community;
- Local businesses do experience problems with parking but clients do find spaces.

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**6. Determining Issues:**

- 6.1 Paragraph 28 of the NPPF states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, the NPPF states that plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings and seek to promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.
- 6.2 Additionally, policy CP12 of the TMBCS states that housing or employment development or redevelopment, conversions and changes of use will be permitted within the confines of the defined rural settlements which are defined as Rural Service Centres, which includes Hildenborough.
- 6.3 The site lies within the rural settlement confines of Hildenborough, meaning that the general principle of the proposed change of use is broadly acceptable in light of the emphasis placed on promoting the rural economy by the NPPF. I recognise that there are local concerns that the proposed change of use has the potential to impact upon the existing businesses within the local area. In the broadest sense commercial competition is not a material planning consideration and, in any case, I would suggest that the likely customer base of the proposed café would not necessarily overlap with the nearby public houses and there are no comparable or similar facilities in the village. Indeed, some of the letters of support have suggested that parents do not feel comfortable visiting a pub with young children and that a café would be a welcome addition to village life and the community.
- 6.4 Objection has been raised regarding the loss of residential accommodation within the village. However, there is no policy within the adopted LDF expressly seeking to retain residential accommodation and, in the balance of factors between supporting local and rural business, I would not consider this factor decisive.
- 6.5 In light of the above considerations, there is no objection to the principle of the proposed changes of use. Furthermore, as the site lies within the village confines, there is no objection to the principle of extending the building in the manner proposed.
- 6.6 Another of the core principles contained within the NPPF centres on the need to always seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 58 of the NPPF indicates that planning decisions should aim to ensure that developments respond to local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. Similarly, TMBCS policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it

will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which requires that all new development proposals should protect, conserve and where possible enhance:

- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
- the distinctive setting of and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.

6.7 Paragraph 131 of the NPPF also indicates that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case the nearby listed buildings and Conservation Area). Paragraph 132 states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The significance of such an asset can be harmed or lost through alteration of the asset or through development within its setting.

6.8 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that there is a general duty when carrying out any functions under the Planning Acts with respect to any buildings or other land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The CAA recognises that at the south-eastern end of the Conservation Area the character is less verdant than other parts of the CA and forms rather a stark setting for the Conservation Area.

6.9 Inevitably individual design judgements are, to a degree, subjective and some local residents consider the extensions and alterations, to this currently somewhat distressed and poorly altered building, would be out of keeping with the Conservation Area. The CA Appraisal reflects that:

*'Good design relies, amongst other things, on the choice and combination of materials. This is crucial to the success of a scheme. A richness of design and texture can be achieved through careful detailing and use of materials and through a fine balance between variety and uniformity in a building or development.'*

6.10 It is my view that, rather than making an utterly uncompromising set of changes to the building which would be out of keeping with the Conservation Area, the proposals would provide a well thought out, well articulated and much needed improvement to the appearance of the building, which would have a positive impact on the street scene and wider Conservation Area. The proposed palette of materials to be used in the extension and alteration of the building is a simple and contemporary combination but essentially traditional and the result would be a simple and attractive building that compliments rather than competes with or jars with its surroundings.

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- 6.11 The extension to the rear by virtue of its particular scale and its relationship with the neighbouring buildings either side is such that it would not cause any undue overshadowing or be viewed as a dominating feature.
- 6.12 The roof terrace to the rear has been set-back and designed in such a way to ensure suitable levels of privacy to the adjacent residential property are retained. Crucially, a privacy screen is proposed to be installed along the part of the terrace closest to this neighbouring dwelling.
- 6.13 The remaining issue therefore centres on the proposed use of the building and the associated impacts on the area in terms of potential noise and disturbance and the parking to serve the business.
- 6.14 In these respects I would firstly stress that, setting aside the existing residential element of the application site, the bulk of the premises are an existing shop (most recently a newsagent) that enjoys an unfettered A1 use, meaning that this part of the premises could be used for the retail sale of goods to the public without any control by the Local Planning Authority and at any time of day. The range of uses that could operate from the shop includes a Post Office, travel agent, hairdressers, funeral directors, dry cleaners, internet café or sandwich bar (cold food consumed off the premises). Furthermore, as there is no record of the historic A1 use being controlled in any way by planning condition in respect of the hours of operation, any of the above uses could occupy the shop for any length of day for 7 days a week.
- 6.15 I must also advise that, following the recent changes to the Town and Country Planning (General Permitted Development) Order 1995, there is now provision for an A1 unit to change to A2 (financial and professional services including banks, building societies and betting shops), A3 (restaurants and cafes) or Class B1 (business) for a single continuous period of up to two years. This means that the proposed café could occupy the existing shop (without undergoing the associated extensions and alterations) without any approval being required from the Local Planning Authority and, therefore, of course with no means of control afforded by planning condition being possible (such as hours of use). I appreciate that this relates only to a portion of the site but this explanation should give Members a clear understanding of the wide range of scenarios that could occur in respect of the shop without any control being available to the LPA.
- 6.16 I believe that the proposed use, undertaken in the particular manner described within the application, would not give rise to a scale or type of activity that would cause unacceptable harm to the amenities of the surrounding neighbours. Any planning permission granted could be the subject of conditions seeking to ensure the use is conducted in the manner expressly described by the applicant and controls could also be afforded regarding hours of opening. When considering the range of uses that could take place within the A1 unit, and the unfettered way in



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which such uses could be carried out as described above, I conclude that the grant of a controlled planning permission for the use proposed is more appropriate particularly when considering the amenities of neighbours.

- 6.17 There will be a need for some provision for odour control to serve the kitchen but at this stage details are limited as the nature and scale of the system will be informed by the particular cooking requirements. In the interest of residential amenity it is important that a condition is imposed requiring full details of any such system to be submitted for formal approval prior to installation and before the commencement of those cooking processes which would justify the installation of such plant. This would allow officers to fully consider the nature of such a system and its acceptability in terms of odour and noise.
- 6.18 One key objection from local residents centres on the lack of staff and customer parking and the likelihood of the on-street spaces being utilised where there is already pressure on these spaces. In this respect, I have had regard to the representations made by Kent Highway Services, which make no objections in respect of customer parking or provision for delivery vehicles to park within the site. These representations are reproduced at paragraph 5.2 of this report. I would also mention that the arrangements that have historically been enjoyed by local residents could never be guaranteed to continue in perpetuity.
- 6.19 I do appreciate that there is likely to be some more regular need for parking in the vicinity by staff and I acknowledge the intentions of the applicant to employ local people and the associated likelihood of there being a reduction in journeys to the site. However, in the final analysis, this is a location where on-site parking would not normally be required (and in this case such current on-site parking as exists is not protected by any planning condition) and the combined current uses of the use of the site are, in any event, themselves traffic generators against which the proposal must be judged.
- 6.20 I therefore consider that the proposed A3/A1 uses would be an attractive addition to Hildenborough Village in terms of increasing the vitality of the village. The associated works to the building itself would significantly improve its visual quality, resulting in it making a positive contribution to this part of the Conservation Area, which could, because of the current condition of the site, benefit from upgrading. The issues raised by local residents can be successfully mitigated by imposing a series of planning conditions, either managing the way in which the use operates or by requiring further technical detail. This is a preferable scenario if consideration is given to the potential permitted development fallback position for which there would be no level of control afforded.

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**7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 06.09.2013, Design and Access Statement dated 06.09.2013, Topographical Survey B13039-HILDEN-02.DWG dated 06.09.2013, Proposed Floor Plans 13/1779/100 dated 06.09.2013, Proposed Elevations 13/1779/101 dated 06.09.2013, Photo montage 13/1779/102 dated 06.09.2013, Letter ADD INFORMATION dated 03.10.2013, Letter ADD INFORMATION dated 07.10.2013, subject to the following conditions:

**Conditions:**

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 3 A condition to address the need for control over cooking odours, the detailed wording of which will be set out in a Supplementary Report.

- 4 The business shall not be carried on outside the hours of 06.00 to 20.00 Monday to Wednesday, 06:00 to 22:00 Thursday and Friday, 08:00 to 22:00 Saturdays and 10:00 to 17:00 Sundays and Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- 5 No external lighting shall be installed in connection with the building until such details have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and visual amenity of this rural locality.

- 6 Prior to the commencement of the use hereby approved, full details of the privacy screen serving the first floor terrace shall be submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: In the interests of amenity and privacy of adjoining property.

- 7 The uses shall not commence until a Travel Plan covering all staff shall be submitted to the Local Planning Authority for formal approval. Thereafter, the Travel Plan shall be implemented and monitored to ensure strict compliance with the approved scheme.

Reason: In the interests of highway safety.

- 8 The uses hereby approved shall be operated fully in accordance with the Design and Access Statement received on 06 September 2013 and email received on 03 October 2013.

Reason: In the interests of residential amenity and highway safety.

- 9 The designated cycle storage area shall be kept available for the storage of cycles at all times.

Reason: In the interests of highway safety.

- 10 The designated bin storage area shall be kept available for the storage of refuse bins and recycling boxes at all times.

Reason: In the interests of visual and residential amenity

Contact: Emma Keefe

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**SUPPLEMENTARY REPORTS****AREA 1 PLANNING COMMITTEE****DATED 24 October 2013**

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**Hildenborough                      TM/13/02727/FL  
Hildenborough**

**Change of use from residential (C3) and ground floor shop (A1) to restaurant and cafe (A3) on ground floor and beauticians and bride area (A1) at first floor. Demolition of flat roof side and rear extension and removal of two storey rear extension. Construction of new single storey additions and alterations to front elevation at 152-154 Tonbridge Road Hildenborough Tonbridge Kent TN11 9HW for Double Gold Enterprise Ltd**

Private Reps: 13 further letters received; 3 raising objections and 10 in support. Further objections centre on the following grounds:

- Issues of parking, deliveries and travel have not been addressed;
- Bus service is totally inadequate;
- Claiming that local staff will be employed is laudable but the required local staff may not be available;
- Stating that customers will be mostly local is a vague assumption – it is likely that customers will come from anywhere by whatever mode of transport suits them;
- Applicant should withdraw the current application and submit detailed plans showing a scaled down version of the plans;
- Personal issues raised in the applicant's supporting statement are not a material planning consideration;
- Question the level of research that has been undertaken in respect of opening hours;
- Applicant has provided no reassurance of the viability or acceptability of the proposed development;
- Right to light is a consideration that must be addressed;
- Two previous planning applications (04/02340/OA and 91/11440/FUL) were both refused due to potential problems with traffic accessing Tonbridge Road.

Letters of support reiterate those previously summarised within the main report.

I am also aware that Members of the Planning Committee have also been contacted by two local residents who have made the following comments:

- Applicant has been able to use her celebrity status to use social media to gain support;
- Committee report has disregarded many of the issues raised by objectors including loss of light to window serving neighbouring office building;
- Bulk of premises is not an existing shop – this is misleading;

- Tonbridge Road is a dangerous road and residents are amazed at the contents of the KCC representations;
- Lack of reference in the report to the NPPF emphasis on provision of affordable homes;
- Hildenborough is already a vibrant area and there is a wealth of fully employed people in the area;
- The capacity and intended operation of the premises shows that the development is going to be a restaurant not a café.

DPHEH:

To clarify, planning applications 04/02340/OA and 91/11440/FUL were both refused some years ago, the latter of the two some eight years before the current Government policy, in NPPF, came into being. The 2004 application related to the construction of 22 houses and bungalows with access onto Tonbridge Road on land at Chequers Farm (on the south side of Tonbridge Road) and was refused for a total of five reasons with two of those relating to the inadequacy of the proposed access onto the main road to serve the new houses. I do not consider that this proposal is in any way comparable to the application before Members for consideration as it related to an entirely different type of development, involving a new access onto a main road. Conversely, no new access is proposed as part of the scheme here.

The application referred to from 1991 related to a change of use from A1 to A3 (restaurant) on ground floor of former double shop premises including part demolition and new building at rear incorporating s/c entrance to first floor two bedroomed flat at 164 Tonbridge Road. Indeed the refusal of this application centred on the absence of adequate parking facilities and the likelihood of their being additional hazards to traffic as a result. This decision was taken on the understanding that the unit also had an unfettered A1 use at the time.

I would stress that this decision was made almost 20 years ago, at a time when the planning system was operating under a wholly different framework.

Additionally, it is important to emphasise that there is a clear distinction between the absence of parking provision having an adverse impact on the operation of the highway network and road safety on the one hand, and the impacts on residential amenity arising from there being a greater demand for on-street parking on the other. Advice from Kent Highway Services is that the lack of parking within the site would not adversely affect the operation of the highway network. NPPF requires that development is resisted in highways terms only if there is a severe issue arising and clearly KCC does not consider this to be the case here. I accept that the lack of onsite parking may result in there being a greater demand for the available spaces and this may mean that residents may not be able to enjoy the arrangements that have historically existed. However, I do not consider that this would be to the detriment of the amenities of those neighbours in a manner or to an extent that would justify refusal of this proposal on planning grounds.

I do appreciate that a private function such as a party or wedding would result in a potentially more intensive use of the premises, at concentrated periods of time, which could be to the detriment of the amenities of local residents. I therefore consider it

appropriate to restrict the use of the premises more extensively than that previously outlined in the recommendation contained within the main report.

I would stress that restaurants and cafes come under the same Use Class as set out within the Town and Country Planning Use Classes Order and as such there is no distinction to be drawn between the two.

I accept that the NPPF places great emphasis on the need to provide affordable homes, especially in rural areas, and note local residents' contention that the area is 'fully employed'. Rather than just focusing on the numbers of staff the enterprise would employ, there would be a certain amount of investment into the local rural economy which does reflect a key focus of the NPPF.

Paragraph 6.11 of the main report discusses the impacts the proposed extension would have on the immediate neighbours. The most direct relationship the extension would have is with the adjacent office building. However, I would stress that this is a commercial property rather than a private dwellinghouse which would be expected to enjoy a certain amount of daylight/sunlight to the rear facing windows and where the 45-degree rule as set out in the saved local plan policy would apply. Furthermore, I would stress that the extension to the rear is concentrated at single storey level and replaces a two storey rear protrusion close to this shared boundary.

Members will note that the recommended condition 3 in the main agenda does not set out a detailed wording for the proposed condition relating to the control of cooking odours. Having given this matter some further thought, I now propose a bespoke condition (as set out below) that recognises that a limited range of cooking processes may be intended, whilst at the same time safeguarding the position should that situation change in the future.

#### **AMENDED RECOMMENDATION:**

##### **Amended Conditions:**

**3. The use shall not commence until full details of the range of goods to be cooked on the premises along with an associated scheme of mechanical air extraction serving the kitchen, including arrangements for the continuing maintenance of this equipment and any noise attenuation measures required in connection with the equipment, have been submitted to and approved in writing by the Local Planning Authority. The approved schemes shall be fully installed before use of the kitchen commences and shall thereafter be maintained in strict accordance with the approved details. The range of goods to be cooked on the premises shall not be varied unless further details have been submitted to and approved by the local Planning Authority, including a corresponding re-assessment of the scheme of mechanical air extraction systems. No cooking of food shall take place unless the approved extraction system is being operated.**

**Reason: In the interests of the amenities of nearby properties.**

**8. The uses hereby approved shall be operated fully in accordance with the Design and Access Statement received on 06 September 2013 and email received on 03 October 2013 and no private functions, including weddings, wedding receptions and similar gatherings shall take place at any time.**

**Reason: In the interest of residential amenity and highway safety.**

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