

Tonbridge
Medway

560233 145554 5 August 2013

TM/13/02307/FL

Proposal: Hybrid Application : Development of Priory Works involving (A) Detailed Permission for the erection of two and 2 and a half storey houses and three and three and a half storey buildings of apartments comprising a total of 183 units with associated access roads, parking, landscaping and provision of open space and (B) Outline Permission with all matters reserved except for access for the development of part of the site for B1 and/or B8 use comprising a minimum footprint area of buildings of 3820 square metres and a maximum height of buildings of 13m

Location: Former Priory Works Tudeley Lane Tonbridge Kent TN11 0QL

Applicant: Ashill Developments Ltd

1. Description:

- 1.1 This application has been submitted in hybrid form, with full planning permission being sought for the construction of 183 residential units with associated access roads, parking, landscaping and open space. Outline planning permission is also sought for the construction of B1/B8 floorspace. In this respect, all matters except access are reserved for future consideration but the developer has indicated that the maximum height of the buildings would be 13m with a minimum footprint of 3820 sq.m proposed.
- 1.2 The existing access from Tudeley Lane via Five Oak Green Road is proposed to be reconfigured to provide access to the entire scheme. There is no intention to reopen Tudeley Lane to the west, which will remain stopped up. The majority of the site to the west and north of the access will be developed for residential purposes, with the area to the east of the access to be redeveloped for commercial/employment generating uses once an occupier has been found. Submitting this part of the scheme in outline form only will allow the applicant to continue to market the commercial aspect of the development, whilst not getting embroiled in the finer detail until such time that an occupier, with their particular requirements, has been identified.
- 1.3 The residential aspect of the scheme will accommodate a total of 183 units of varying size and type, including the provision of 30% affordable housing (containing a mixture of tenure type and unit sizes). It is proposed to range from single storey bungalows up to 3 ½ storey apartments.
- 1.4 The Design and Access Statement identifies that a number of character areas will be created within the development including an open space to the entrance of the site, a street frontage along Tudeley Lane, traditional streets and cul-de-sacs throughout the development along with the creation of a 'village square' and 'village green.'

- 1.5 Materials to be used will consist of hanging tiles, render, timber boarding and brickwork for the walls, with plain tiles for the roofs. Chimneys, bay windows and porches are also proposed to be incorporated to individual plots to create visual variety.
- 1.6 The proposed development has been designed in such a way to retain the better quality mature trees within the site along with the retention and enhancement of the vegetation along the site boundaries. Links and enhancements are proposed to be created within the existing Public Right of Way network. The landscaping strategy also involves the creation of a Local Area of Play (LAP) and a trim trail – Local Equipped Area for Play (LEAP). It also includes the provision of a riverside area of open space, with a riverside footpath link and the creation of a wetland habitat area within the northern part of the site.
- 1.7 Information provided indicates that the development will be designed to a minimum of Level 3 of the Code for Sustainable Homes.
- 1.8 In support of the application, a significant number of documents and supporting statements have been submitted for consideration. These are discussed where appropriate within the body of the assessment that follows.
- 1.9 Since the original submission, the applicant has submitted amended plans to incorporate four bungalows within the development in lieu of three pairs of semi-detached houses. These will form part of the affordable housing offer. Further information and amendments have also been provided in respect of ecology, parking provision and flooding matters.

2. Reason for reporting to Committee:

- 2.1 High level of public interest and Departure from the Development Plan.

3. The Site:

- 3.1 The site lies within an area of land designated as safeguarded employment land. Residential development lies to the west of Priory Works, with open land to the east and south, beyond the Tonbridge By-Pass. All buildings connected with the historic industrial use of the site have now been demolished.
- 3.2 The majority of the site is covered in hardstanding but the boundaries are screened by belts of mature trees, with a number of trees within the site being protected by TPO.
- 3.3 Part of the site lies within Flood Zone 3 as the Somerhill Stream defines the eastern boundary of the site. This stream also forms the Borough boundary with Tunbridge Wells BC.
- 3.4 Railway lines pass along the northern boundary of the site but are set at a lower level than the application site.

4. Planning History (most recent/relevant):

TM/91/10583/OUT grant with conditions 8 March 1991

Outline application for re-development to provide 8,400 sq. m (90, 416 sq. ft) production unit with ancillary offices (Class B2) and 22,297 sq m (240,000 sq. ft) Business Park (Class B1).

TM/94/01223/OA grant with conditions 15 February 1994

renewal of outline permission TM/89/1620 for redevelopment to provide 8,400 sq m (90,416 sq ft) production unit with ancillary offices (Class B2) and 22,297 sq m (240,000sq ft) Business Park

TM/94/01224/FL grant with conditions 20 July 1994

Redevelopment to provide industrial, warehouse and office use within Classes B1, B2 and B8, together with temporary and permanent access roads, servicing, car parking and associated works

TM/95/50998/OA Refuse 1 December 1995

Outline Application: demolition existing buildings, erection retail store including bakery, coffee shop, crèche, pharmacy, petrol filling station, car wash, ancillary offices, storage, servicing and access

TM/99/01124/FL Grant With Conditions 9 September 1999

renewal of TM/94/00476 for development of site for a mix of industrial and warehousing development

TM/04/02263/FL Grant With Conditions 7 September 2004

Renewal of TM/99/01124/FL for development of site with a mix of industrial and warehousing development

TM/07/02156/OA Withdrawn 16 April 2008

Outline Application: redevelopment comprising 191 no. dwellings and community facility, together with associated open space and car parking.

TM/12/00318/DEN Prior Approval Not Required 29 February 2012

Site occupied by Siemens Water Technologies to be demolished comprising 9,950 sq.m within 2.8 ha

TM/12/02629/DEN Prior Approval Not Required 18 September 2012

Site owned by United Utilities to be demolished comprising 4,161 sq.m on 5.2 ha

TM/13/00929/DEN Prior Approval Not
Required

25 April 2013

Prior Notification for Demolition: Oast house to be demolished to ground level

5. Consultees:

KCC (H&T): *Original Submission:*

- 5.1.1 Extensive pre-application discussions have been held between the applicant and KCC Highways and Transportation and the scope and content of the Transport Assessment have been agreed in principle.
- 5.1.2 Vehicular access to the site is gained via a simple priority junction on to Tudeley Lane. To the west of the access, Tudeley Lane is subject to a Stopping Up Order and is physically closed to motor vehicles. Tudeley Lane is subject to a 30mph speed limit and forms a connection with the A26 to the east of the site at the A26/B2017 roundabout junction. It is a site that not only enjoys a long history of uses that were in the past traffic generators but also involves a Development Plan allocation for substantial business use development.
- 5.1.3 Following assessment of the original traffic/transport submission KCC required further study work to be carried out. This work has been successfully carried out and the proposals as redesigned to deal with certain aspects of parking provision, is now acceptable in principle subject to certain conditional controls and legal obligations.
- 5.1.4 Officers from KCC Highways and Transportation and KCC Countryside Access have also conducted a site visit with the applicant to identify improvements to the bridleway on Tudeley Lane and the Public Right of Way linking the site to Lodge Oak Lane, which will be the subject of a Section 106 Obligation with the County Council. On this basis, I can therefore confirm that, provided the following requirements are secured by condition or planning obligation, I would raise no objection on behalf of the local highway authority:-
- The provision, by way of a Section 106 obligation by the applicant in favour of KCC (Countryside Access), of the agreed funding contribution to deliver the identified improvements to the bridleway on Tudeley Lane and the Public Right of Way linking the site to Lodge Oak Lane.
 - The provision, by way of a Section 278 Agreement between the applicant and KCC Highways and Transportation, of the agreed highway improvements to Five Oak Green Road, including the provision of a footway on the west side of the carriageway.
 - Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

- Provision of measures to prevent the discharge of surface water on to the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

5.1.5 Please note that the grant of planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should be advised to contact Kent County Council directly.

5.2 EA: Following extensive discussions between the Agency and the applicants and their technical advisors, and also following the production of an addendum to the Flood Risk Assessment, the Agency has withdrawn their initial holding objection and now Raise No Objection subject to the imposition of a condition [which is set out as Condition 20, 21 and 22 below].

5.3 NE: Protected landscapes:

5.3.1 No objection – the proposed site lies adjacent to the northern boundary of the High Weald Area of Outstanding Natural Beauty (AONB). Having assessed this application and consulted the AONB unit, Natural England does not believe that this proposed development would impact significantly on the purposes of designation of the High Weald AONB. However we would suggest the Council consults the AONB unit for their views, by contacting Andrew Shaw (Policy Manager) via a.shaw@highweald.org or on 01580 879955.

Protected species:

5.3.2 No objection – we have not assessed the application and associated documents for impacts on protected species.

5.3.3 Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including a flow chart for each species to enable an assessment to be made of a protected species survey and mitigation strategy.

5.3.4 You should apply our Standing Advice to this application. As Standing Advice it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. If

you have any specific questions not covered by our Standing Advice or have difficulty in applying it to this application please contact us at consultations@naturalengland.org.uk.

Amended and Additional Information:

- 5.3.5 General comments provided.
- 5.4 KWT: No response received to date.
- 5.5 KCC PROW: No response received to date.
- 5.6 Ramblers Association: No major comment on the actual development proposals themselves but I would draw your attention to the existence of Public Footpath MU39 which runs alongside the western boundary of the site.
- 5.7 The path is a tarmac one which connects the cut off section of Five Oak Green Road to Lodge Oak Lane. It is bounded on both sides by 2m high chain link fencing and is clearly used despite its current somewhat 'hemmed in' feel.
- 5.8 If not already being considered I would request that the development proposals include at least one connection into this path in order to better connect the site, which until now had been an isolated industrial corner of the town, in particular, the direct link which the path potentially forms between the site and the primary and girls' Grammar schools in Brionne Gardens. Such a connection would obviate the need for a much lengthier trek along the busy bypass over the Paddock Wood railway line and then through the squeeze point when Lodge Oak Lane crosses the Tunbridge Wells line.
- 5.9 It would also be [nice] if the landscaping proposals for the site could include the removal of the site side chain link fencing and some tree work to make the path more attractive and generally accessible that it currently is. Dog walkers would, I am sure, welcome access to this path.
- 5.10 Kent Fire Officer: No response received.
- 5.11 PALO: No response received.
- 5.12 Tunbridge Wells BC: The site is close to a registered Historic Park and Garden at Somerhill and is close to Tudeley Woods Nature Reserve Site of Nature Conservation Interest. The proposed residential element of the scheme is likely to result in increased recreational pressure on these. It may be appropriate for a financial contribution to be made by the developer towards the future protection and management of these assets.

5.12.1 Private Reps (original submission and amended plans): 417 + site + press notice: 3X/16R/S. Objections raised on the following grounds:

- Site is reserved for employment use – at the rate houses are being constructed in Tonbridge, employment is vital and this is not the time to remove an employment land designation;
- Application is a Departure to the Development Plan and should be taken through the proper procedures;
- Although the density and scale of buildings and housing mix appear acceptable, the detail is deficient;
- Expect the Council to give proper attention to the provision of affordable housing;
- Tonbridge is being swamped with new housing developments and is reaching saturation point;
- Increased pressure on the local schools which are already heavily subscribed, doctors and other local services – how will this be dealt with?
- Would like more detail on how the footpath might be improved – it is a dark and intimidating space;
- Concern that opening up the footpath will attract anti-social behaviour;
- Highway junctions are already suffering from heavy congestion at peak times, there are frequent and substantial delays for traffic coming into Tonbridge from Five Oak Green in the morning peak;
- Current traffic movements are based on a theoretical use of the site but in reality the site has not generated any volume of traffic movements for a considerable period of time;
- Inadequate provision for emergency vehicles;
- Site is a breeding ground for newts and grass snakes;
- Ecology survey undertaken at the wrong time of year;
- Further survey should be undertaken with reference to further species – badgers are known to be in the area – the den is likely to be in the railway embankment;
- Trees are protected and there is no justification for loss of the trees;
- Loss of privacy;

- Apartment block is out of keeping with the surrounding development;
- Northern part of the site has never been built on and should be left undeveloped;
- Site forms two distinct parts – one where the industrial and office development previously existed and a green space that has never been previously developed;
- Implications for drainage capacity;
- Development would increase surface water runoff and cause flooding to existing properties;
- Council must be assured that the only vehicle access to the site will not flood – the submitted documentation does not fully deal with this issue. The same is true of the footpath link to Lodge Oak Lane;
- Stream contains little or no life as it flows via the industrial estate and therefore too much is made of the river walk and wetland area;
- Disruption to existing residents during construction;
- Cannot see how development of the site for housing could be resisted – only concern would be if Tudeley Lane was reopened as an access – motorbikes use this as a cut through already;
- Water standing on the road at the entrance to the site has been noted recently – not the best arrangement for the only entrance to a large development;
- Bat Survey continues to confirm that the woodland provides a range of opportunities for wildlife yet there is no actual compensatory habitat proposed – no proper justification for removal of the woodland;
- Developer is ignorant of many of the site conditions;
- Trees should be retained and we should learn to build around them;
- Much of additional information submitted during the course of the application is dismissive and cursory;
- Access to serve the development is insufficient.

6. Determining Issues:

- 6.1 The site is safeguarded for employment purposes by policies E1 (K) and E3 (m) of the DLA DPD. These policies state that except where otherwise specified, proposals for non-employment uses i.e. uses other than General Industrial Use

(B2), Business Use (B1) or Storage and Distribution Uses, will not be permitted. The application proposes that the majority of the site will be developed for residential purposes with a smaller element of B1/B8 proposed within the eastern portion of the site (covering a minimum of 3820 sq.m). This means that a significant proportion of the proposal represents a Departure from the Development Plan.

- 6.2 Paragraph 22 of the NPPF states that *“planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”*
- 6.3 With this in mind, the applicant has submitted a Commercial Property Market Study prepared by Bracketts Chartered Surveyors. This provides a broad overview as to the current state of the market in Tonbridge and the immediate vicinity, including comment as to availability of premises and vacancy levels. The report concludes that the recent marketing of the site has shown minimal demand from commercial developers and occupiers. Evidence has also been provided which indicates a drop in market demand for office space within the town. It highlights a number of notable town centre office buildings coming to the open market for sale or re-letting where the owners have decided to consider alternative uses and/or redevelopment. Bracketts has highlighted that these sites, which include Sovereign House, Lyons House, 7 River Walk and Deacon House, are all superior to the Former Priory Works site in locational terms. In respect of industrial, warehousing and distribution uses Bracketts has highlighted that Tonbridge has large warehouse and industrial estates situated to the east of the town centre and that in the last 6 – 7 years the level of supply of second hand space coming to the open market has just about been matched by demand, although frequently units have been unoccupied for 12 months or more before attracting a tenant or buyer. In general terms, the opinion of Bracketts is that demand for such premises within the town is driven by local demand. The report also acknowledges that there are two key employment sites within the industrial estate; Gateway Park (Vale Rise/Vale Road) and the TON 100 site (2 – 8 Morley Road).
- 6.4 Bracketts has concluded that development of the whole site for a single commercial use or mixed commercial uses would not be a viable option as market demand from end users would not exist at a level to absorb the amount of space that could be developed on the site.
- 6.5 The application is also accompanied by an Employment and Marketing Report prepared by Jones Lang LaSalle. Prior to its merger with Jones Lang LaSalle, King Sturge LLP had advised on the marketing of the site since 1989. The report provides a detailed breakdown of the local office and industrial market. It also

explains that the marketing of the Priory Works site has a long history but overall the site has attracted very limited interest from developers/investors as an opportunity for the development of employment uses (B1, B2 and B8) and equally very limited interest from potential occupiers requiring new business facilities.

- 6.6 The report concludes that the marketing of this site for employment uses has shown over an extended period (both pre-and post-recession) that there is very limited developer/investor interest in the site for commercial uses and very limited interest from potential occupiers. It considers that the characteristics of Priory Works constrain its potential for large scale B1, B2 B8 employment development. In particular, it identifies that the immediate access to Priory Works is relatively poor for such a large scale employment development and, in their opinion, limits the site's development potential for employment uses and its market appeal, especially for larger scale employment uses, particularly B8 warehouse/distribution uses. It also suggests that the site's lack of prominence and visibility would reduce its market appeal for a wide range of businesses.
- 6.7 The report also states that the proximity of residential uses to the west of the site would constrain the potential for employment development, particularly for B2 and B8 uses on this part of the site. In addition, high employment rates and low unemployment rates suggest that there is no overriding need for the whole of Priory Works to be developed for employment uses.
- 6.8 Having had full regard to the tranche of relevant requirements within the NPPF and the LDF and the evidence put forward on behalf of the applicant, I conclude that there appears to be no reasonable prospect of the site as a whole coming forward for the allocated employment use and, when considering the emphasis the NPPF places on not seeking to protect such allocations in the long term, I do not consider there to be any justification to resist the principle of the proposed development.
- 6.9 The NPPF states that best use should be made of opportunities within existing urban areas to meet housing need by encouraging the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value (paragraph 111). The NPPF defines previously developed land as being land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.
- 6.10 This is generally supported by policy CP1 of the TMBCS which states that development should be concentrated at the highest density compatible with the local built and natural environment mainly on previously developed land and served by sustainable modes of transport. Policy CP11 of the TMBCS states that new development should be concentrated within the urban confines of Tonbridge.

- 6.11 Until recently, the site was occupied by a series of industrial buildings across much of the site, with the remainder serving as the associated curtilage to those buildings. I appreciate the representations made by some neighbours in respect of the northern most end of the site never having been developed. However, the definition of PDL contained within the NPPF is clear and as such there is no objection in principle to the development of the curtilage of the historic industrial buildings on site. Instead, it will be necessary to establish whether all of the curtilage *should* be developed and this will be informed by the acceptability of the layout which is discussed later in this report.
- 6.12 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 states 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 states 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.
- 6.13 These policies accord with the thrust of the NPPF.
- 6.14 The residential layout is proposed to be arranged around an irregular loop road which provides access to all parts of the site. Linear streets and cul-de-sacs have been included between open spaces, which assist in creating an intimate but not unduly cramped environment. The layout would not only allow for the creation of pockets of open space but also provides a suitable amount of private gardens to serve the individual plots.
- 6.15 Perhaps the main feature of the development is the 'Maltings' style apartment buildings which create a gateway into the site. Whilst I appreciate that this might not be to everyone's personal taste, the NPPF stresses that planning decisions should not attempt to impose architectural styles or particular tastes. It does however recognise that it is proper to seek to promote or reinforce local distinctiveness.

- 6.16 I consider that the physical form of the residential development is a good example of contemporary suburban design, appropriately arranged and detailed. The suggested palette of materials to be utilised are appropriate here and would contribute to a high quality environment, reflecting the 'gateway' status of the site.
- 6.17 I acknowledge the representations made by some, stating that apartments within this area are uncharacteristic of the area. However, the apartment buildings are set well within the site itself, rather than on the boundaries with the existing residential development to the west and are not unduly tall, being limited to 3 ½ storeys. Moreover, I would stress that this development, whilst adjacent to the residential development to the west, would be seen very much as its own entity, although its western edge would still appropriately integrate with the existing residential development in terms of built form and footpath links. As such, I am satisfied that the inclusion of 3 ½ storey apartments, interspersed within the development, would in no way harm the character of the surrounding locality.
- 6.18 The proposed layout of the development and its relationship with the existing residential development to the west in terms of privacy and physical presence is such that the residential amenities of the existing and future residents will be suitably protected. A selection of residents residing in Gorham Drive, backing onto the northern portion of the site, believes that this part of the site should remain undeveloped. For the reasons stated earlier within this report, there is no objection in principle to the development of this part of the site. Furthermore, I consider that the particular layout of the development and the drop in land levels here would ensure that the amenities of these neighbours would not be harmed. Since the original submission, amendments have been made to reduce the number of units at the northern most part of the site and to two pairs of semi-detached bungalows rather than two-storey houses. This will serve to reduce the presence of the buildings when viewed from the nearest neighbours in Gorham Drive.
- 6.19 The right to a view is not a material planning consideration and I would stress that the *entire* site is allocated for employment purposes and, had the market been in a different place, the northern part of the site could have been subject to a wide scale redevelopment for industrial purposes. This would potentially have had far more wide reaching consequences on the amenities of these residents in terms of the physical presence of the buildings and the types of activities that might have been undertaken. In the circumstances that the site came forward for commercial development in its entirety, these impacts are likely to have been even greater.
- 6.20 Core Strategy policy CP17 seeks provision of 40% affordable housing units for developments of 15 units or more in an urban area such as Tonbridge. Paragraph 6.3.26 of the LDF Core Strategy indicates that this will be the starting point for negotiations which will have regarding to, amongst other things, the viability of the scheme. In accordance with the approach advocated by the Affordable Housing SPD (July 2008), the developer has prepared a detailed financial appraisal on a confidential basis. This has been assessed by the Council's retained valuers, who

have accepted the conclusions regarding the level of affordable housing proposed. Whilst this level is below the 40% sought by policy CP17, it contains a broad mix of unit types and tenures meaning that the offer includes a good provision of family homes along with the provision of 4 two-bedroom bungalows for rent to be targeted at older residents or those with mobility issues. This is therefore considered to be a high quality offer which should be welcomed, particularly given the recent predominance of flatted developments coming forward within the town centre in terms of affordable housing offers.

- 6.21 Policy CP2 of the TMBCS requires new development to be well located relative to public transport, cycle and pedestrian routes and with good access to local service centres. Since the original submission, amended plans have been submitted which reduce the total number of residential units within the site and increase the amount of allocated parking to accord with IGN3: Residential Parking which has been adopted for DC purposes. The level of parking now provided across the site is considered by KCC (H&T) as acceptable.
- 6.22 Officers from KCC Highways and Transportation and KCC Countryside Access have recently conducted a site visit with the developer to identify improvements to the bridleway on Tudeley Lane and the Public Right of Way linking the site to Lodge Oak Lane, which will be the subject of a Section 106 Agreement with the County Council should Members be minded to grant planning permission. On this basis, the local highway authority raises no objections to the proposal, subject to certain requirements being secured by condition or planning obligation.
- 6.23 Private representations have been received which raise concern about the likely traffic generation arising from the proposed development and the impacts on the nearby junctions that may arise. I would suggest that this judgement is formed in part by the fact that the site is now vacant and the lack of vehicular activity as a result is the prevailing experience for local residents. However, I would stress that this is an allocated site for B1, B2 and B8 development and that, until relatively recently, the site was operating on a commercial basis. The submitted Transport Assessment discusses the capacity of the nearest highway junctions and concludes that the proposed development is unlikely to have a material impact upon the local transport networks. The results of the analysis undertaken indicate that the proposals would not lead to a material increase in vehicular activity or trips during the peak travel periods or through the course of a typical day when compared to the former uses that operated from the site. The survey explains that although the site is now vacant, it is important to recognise that until relatively recently several commercial buildings that had a combined gross floor area of at least 14,111 sq. m comprising B1, B2 and B8 uses occupied the application site, having the potential to attract up to 200 vehicle movements during the peak travel periods.

- 6.24 Based on the findings of the Transport Assessment and the technical guidance offered by KCC Highways, I can conclude that the level of parking provision within the site is proposed at an acceptable level and that the level of traffic generated by the development would not be detrimental to the local network, particularly when considering the level of traffic generated by the historic commercial uses here.
- 6.25 The agreement of the applicant to contribute to the enhancement of the existing Public Right of Way along with the provision of a link between the existing public footpath into the development will encourage more sustainable modes of travel to and from the site.
- 6.26 Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test and if required the Exception Test, it can be demonstrated that:
- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
 - development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.
- 6.27 Paragraph 104 states that for individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Exceptions Test. Applications for minor development and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements for site-specific flood risk assessments.
- 6.28 Policy CP10 of the TMBCS states that within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development. Development which is acceptable or otherwise exceptionally justified within areas at risk of flooding must be subject to an FRA, include an appropriately safe means of escape above flood levels anticipated during the lifetime of the development and be designed and controlled to mitigate the effects of flooding on the site and the potential impact of the development on flooding elsewhere in the floodplain.
- 6.29 The application as originally submitted was accompanied by an FRA and, following the EA's initial objection to the planning application, an Addendum to the FRA was submitted. The site lies within flood zones 1, 2 and 3. This has to a large extent informed the layout of the proposed development, with the commercial element (being a less vulnerable use) occupying the part of the site closest to the Somerhill Stream. The conclusions of the FRA are that the proposed development

would not, subject to appropriate mitigation measures, be subject to an unacceptable risk of flooding nor would the proposed development result in flooding elsewhere. Dry, safe pedestrian and vehicular emergency access is readily available via the existing access to Tudeley Lane.

- 6.30 The FRA Addendum was compiled following a meeting between the developer and the EA and subsequently the EA has removed its objection to the development subject to a number of conditions/considerations. They have asked for conditions to be imposed requiring that certain flood mitigation measures will be incorporated into the development including details to ensure that finished floor levels of each dwelling are a minimum of 300mm above the estimated flood level for that location, based on flood modelling scenarios illustrated on Figure C5 and C6 (whichever gives the greater flood level) of the FRA. The request for this condition is reflected within the later recommendation and is worded in a way that will take into account the likely phased nature of the development and the nature of the site itself, being graduated in terms of its ground levels and relationship to the Somerhill Stream (and the subsequent flood zone each phase may fall within).
- 6.31 Other information requested by the EA to take the form of a condition relates to a scheme for sustainable surface water drainage, a scheme demonstrating overland flow routes from the adjacent sites, and details which demonstrate re-profiling of existing site levels will not increase the flood risk to adjacent sites or to proposed development on the site.
- 6.32 The EA has stated that the drainage strategy should demonstrate the surface water run-off generated up to and including the 100yr critical storm will not exceed the run-off from the *undeveloped* site following the corresponding rainfall event, and so not increase the risk of flooding both on or off-site. Although I appreciate the logic behind this recommendation, this is not a Greenfield site and is allocated for large scale development through the adopted DLA DPD (which was subject to the Sequential Test).
- 6.33 Turning to matters of trees, ecology and biodiversity, key causes for concern amongst local residents, paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by:
- protecting and enhancing valued landscapes, geological conservation interests and soils;
 - recognising the wider benefits of ecosystem services;
 - minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

6.34 It goes on to say (paragraph 118) that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

6.35 Policy NE4 of the MDE DPD states that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations. It also states that development that would result in the net loss or deterioration of woodland will only be permitted if all of the following tests are met:

- development cannot reasonably be located on an alternative site;
- the need for development clearly outweighs any harm which may be caused to the ecological, archaeological and landscape value of the woodland; and
- harm can be reduced to acceptable limits through the implementation of positive environmental mitigation measures within the site or by replacement planting elsewhere or enhanced management.

6.36 Ancient woodland will be protected, and where possible, enhanced through improved management. Development that would adversely affect ancient woodland will not be permitted unless the need for, and benefits of, the development in that location can be demonstrated to override the harm that would be caused to the ecological and historical importance of the ancient woodland.

6.37 Ancient woodland is defined within the NPPF as an area that has been wooded continuously since at least 1600 AD. The wooded area within this site is not ancient woodland.

- 6.38 Tree Preservation Order No. 6 2008 covers the wooded area to the north of the site and consists chiefly of Willow, Ash, Birch and Maple. The TPO also relates to a smaller group of trees containing 15 Sycamores and 2 Ash along with four individual trees being 3 Oak and 1 Ash. Moves to protect the trees on site began following the receipt of planning application TM/07/02156/OA which sought outline planning permission for the construction of 191 no. dwellings and community facility, together with associated open space and car parking. At that time, the Council had an aspiration that the wooded part of the site might have come forward as an area of public open space as part of that redevelopment. The TPO was therefore made as a possible safeguard to secure this provision.
- 6.39 More recently, it was accepted by Officers that there was a need for a thorough reassessment of the overall quality and value of the trees across the site and the submitted Tree Survey provides such an assessment. It explains that the wooded area consists of self-seeded, fast growing species, none of which have any individual presence or value. It goes on to state that most of the trees in this area are of poor shape and form, being of average condition at best. It concludes by stating that there is little long term value in the retention of the wooded area and its removal will not result in significant detriment to the character of the wider area. I agree with these conclusions and therefore would suggest that the removal of these trees would not cause any visual harm to the site or locality.
- 6.40 Rather than concentrate on the wooded area as previously anticipated in 2007, the open space element of the proposed development concentrates in part on the creation of a walkway alongside the stream which forms the eastern boundary of the site. Further pockets of open space are also provided across the development, with the best tree specimens retained. I consider that this approach allows for the areas of open space to integrate more fully with the development, rather than forming a separate parcel of land that might have been the case if attempts had been made to utilise the wooded area for this purpose. The improvements to the streamside vegetation would undoubtedly enhance this part of the site, resulting in the creation of an attractive walkway and enhancement of habitats which is discussed in more detail below.
- 6.41 I appreciate that the landscape strategy for the site as a whole is broadly conceptual at this stage but I am confident that the landscape objectives for the site are acceptable and would contribute to achieving a high quality built environment. Given the size of the site and the nature of the proposed development, it is likely that it will be undertaken in phases. Should Members be minded to grant planning permission, I would recommend that a condition be imposed requiring full details of all hard and soft landscaping for each phase as it comes forward. This will allow for a detailed and comprehensive landscaping scheme to come forward, informed by the more conceptual strategy currently before Members.

- 6.42 Policy NE2 of the MDE DPD states that the biodiversity of the Borough and in particular priority habitats, species and features will be protected conserved and enhanced. It also states that the restoration and creation of new habitats will be pursued where these promote permeability and contribute to the UK and Kent Biodiversity Action Plan targets. Policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. Policy NE4 states that the extent of tree cover and hedgerow network should be maintained and enhanced.
- 6.43 Natural England (NE) has referred the Council to its Standing Advice rather than providing specific or detailed comments on the proposed development and KWT has not made any representations during the course of the assessment.
- 6.44 The ecological appraisal prepared by ACD Ecology advises that a Phase 1 field study was undertaken in April 2013 along with a search of records for protected species. The site has been found to contain slow worms, common lizard and grass snakes and habitats which are considered to be of value within the site. The report explains that the site consists of a mixture of grassland, bare ground, broad leaved woodland, hardstanding, coarse grassland, scrub, scattered trees and hedgerow. The report contains general recommendations for enhancements to mitigate predicted impacts and deliver enhancements where possible.
- 6.45 The initial report concludes that the woodland, although not of any special conservation interest, is one of the more interesting features within the site in terms of ecology. The report considers that although the removal of the woodland would clearly result in the reduction of wildlife habitat, the wildlife interest would not be lost if a compensatory habitat was made available within the site. This could include a reptile bank, area of coarse grassland, and a pond. The report also recommends that the strip of scrub and grassland which runs alongside the eastern boundary of the site is retained although some could be cut back with hand tools to open up pockets of grassland to encourage floral diversity and basking areas for reptiles.
- 6.46 A background data search found several recent local records for 10 species of bats. There are no known roosts within the site, though there are numerous records between 800 – 2000m from the site in all directions. The last remaining building on site (recently demolished) contained no evidence of bat use prior to its demolition. The trees comprising the wooded area could potentially have features suitable for roosting bats, although most of the trees are relatively small and do not have multiple bat roosting features. However, the survey recognises that not all of the trees were visually inspected in detail. One large Oak tree has been considered to have potential for bat roosting but it is proposed to fell the tree because it is dead. The report concludes that the bat roosting interest in the site is considered to be negligible but some of the trees do have features capable of

supporting bat roosts. The site is however considered to be supportive of bat foraging and commuting given the habitats it supports and the subsequent interest is considered to be of up to local value.

- 6.47 Since the original submission, the applicant has submitted an 'Ecological and Bat Survey of Woodland Report' and a 'Bat Survey Tree Report'. The Tree Report concentrates on the single large, dead oak tree identified in the initial report as it has multiple features with the potential of supporting bat roosts. During the survey, no bats were found emerging from the tree; however several species of bats were recorded foraging and commuting around the site and around the tree itself. The report recommends that the tree is 'soft felled' to reduce the risk of possible harm to bats during its removal.
- 6.48 The survey of the woodland area states that there are no trees with obvious bat roosting potential and as such the removal of the woodland is unlikely to impact upon roosting bats but it would result in the loss of potential bat foraging and bird nesting habitat. It makes a number of recommendations to mitigate and enhance wildlife opportunities including:
- Ensuring that the trees are felled in a suitable manner;
 - Incorporation of compensatory habitats as recommended in the original report, including a wetland area to be created adjacent to the stream;
 - Planting of native trees and shrubs within the development and;
 - Installation of bat boxes within the development.
- 6.49 The scheme incorporates a riverside open space and the creation of a wetland habitat area within the northern section of the riverside open space. The inclusion of these areas is in line with the recommendations made by ACD Ecology but I would suggest that, to ensure it is implemented thoroughly and robustly, a condition should be imposed requiring full details of this wetland habitat area, along with a plan for its ongoing maintenance and protection. Other pockets of open space, including the provision of a pond, would also be in line with the recommendations of ACD Ecology. A condition requiring a scheme for the enhancement and long term management of biodiversity features across the entire site should also be imposed on any planning permission granted.
- 6.50 Policy OS3 of the MDE DPD states that on all residential developments of 5 units or above, there will be a requirement for open space provision in accordance with the quantitative standards set out in Policy Annex OS3. Where it is impractical or inappropriate to provide this on-site, a financial contribution will be sought for either new provision or the enhancement of existing open spaces within the relevant accessibility threshold. As discussed above, pockets of open space are proposed to be provided within the development itself which is broadly in accordance with the adopted policy. Additionally, as there are extensive open

spaces and facilities within and around Tonbridge Town Centre and there is a need to upgrade the existing sports and play facilities to meet the needs of the new development, a financial contribution should also be sought. The developer has agreed to pay the contribution required by the Open Space Calculator provided at Annexe D of policy OS3, rendering the proposal policy compliant in respect of policy OS3. Securing this will be the subject of a legal agreement should Members be minded to grant planning permission.

6.51 KCC has requested a contribution towards primary and secondary schools, libraries youth and community facilities. The Community Infrastructure Levy Regulations (6 April 2010), replacing the previous tests for planning obligations set out in Circular 05/2005, contains three Statutory tests. Regulation 122 states that a planning obligation may only be required if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

6.52 The case for requiring a developer contribution towards primary and secondary school places is accepted and for a development of this size should not be contested. The applicant has factored the need to make such a contribution into their viability appraisal; again, this can be the subject of a legal agreement. However, in respect of libraries, youth and community facilities, there has been no evidence demonstrating that existing facilities in the area could not absorb the needs of future residents and therefore the remaining contributions sought cannot be justified at this time.

6.53 Turning to matters regarding various sources of pollution, the submitted acoustic assessment prepared by Grant Acoustics shows that part of the site falls within NEC C. The report also demonstrates that relevant criteria as given in BS8233 as well as WHO standards can be met with the recommendation of enhanced glazing and acoustic ventilation in properties to the north east and south of the site. Given that the exact details of acoustic protection and the properties to which enhanced protection should be applied are not complete, I would recommend this matter be dealt with by condition should Members be minded to grant planning permission.

6.54 With regards to the part of the application for B1/B8 usage, I appreciate that it is not clear exactly what operations may use the site as this element of the proposal is speculative at this stage, with no occupier having yet been identified by the applicant. Activities by certain occupiers of the commercial space may have the potential to cause detriment to the proposed residential. I would suggest that conditions restricting aspects of the commercial use could be imposed to ensure that this does not occur.

- 6.55 The MDE DPD recognises that, if not properly controlled, insensitive artificial lighting can cause harm to residential amenity, the built environment and the sky at night. Equally, good quality lighting can make a valuable contribution to the design, efficiency, ambience and sense of place of an area. Given the size of this site, any external lighting has the potential to make either a positive or negative contribution to the environment. I would suggest that, in order to ensure that the impact is wholly positive, full details of any external lighting are required by condition if approval is given.
- 6.56 The reports prepared in respect of contaminated land are deemed to be fit for purpose and provide clear evidence that the site is contaminated which is unsurprising given its historic use. As such, I would recommend that a condition be imposed on any planning permission granted requiring further investigative works to be undertaken to allow for a scheme for remediation to be prepared for subsequent approval. This is reflected in the recommendation that follows.
- 6.57 The MDE DPD contains a tranche of policies pertaining to climate change and sustainability. The proposed development would be designed to a minimum of Level 3 of the Code for Sustainable Homes and is therefore broadly compliant with the thrusts of these policies. Policy CC1 of the MDE DPD states that the achievement of Code Level 4 will be *encouraged* in all proposals for new residential development. However, it would, in my view, be onerous to require any additional technologies here when considering the various constraints that restrict the site and the obligations placed on the developer to provide affordable family housing and a proportion of open space within the site along with various financial contributions.
- 6.58 In light of the above assessment, it is my conclusion that the proposed mixed use scheme would represent an acceptable form of development in both principle and detail when considering the various requirements of the NPPF and LDF and once complete would comprise an appealing place in which to live and work.

7. Recommendation:

7.1 Grant Planning Permission subject to:

7.2 Referral of the application to the Secretary of State in accordance with the Town and Country Planning (Consultation) (England) Direction 2009;

7.3 The applicant entering into a Section 106 Agreement covering the following matters:

- The provision of on-site affordable housing;
- a contribution towards public open space enhancements as set out in policy OS3 of the MDE DPD;

- a contribution towards the provision of primary and secondary school places;
- a contribution towards the enhancement of the public highway and public footpaths to be agreed with the Highways Authority and;

7.4 The following 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 No built development shall take place until details of the phasing of the development, including the open spaces, riverside walkway and wetland habitat, 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 appropriate consideration is given the factors to be assessed in the compliance with the conditions.

- 3 No development of any phase in accordance with Condition 2 shall take place above ground level until details and samples of all materials to be used externally for the buildings in that phase have been submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the visual amenity of the locality.

- 4 No development of any phase in accordance with Condition 2 shall take place above ground level until details of the storage and screening of refuse to serve the buildings in that phase have been submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the visual amenity of the locality.

- 5 No development of any phase in accordance with Condition 2 shall take place above ground level until a Biodiversity Management Plan which shall include a scheme for the provision and management of ecological interests within the site, including the provision of the wetland habitat and the installation of bat boxes has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved scheme.

Reason: In accordance with the requirements of the National Planning Policy Framework and the Managing Development and the Environment DPD 2010.

- 6 No development of any phase in accordance with Condition 2 shall take place above ground level until full details of the Local Area of Play and the Local Equipped Area of Play, including any fencing and equipment to be installed, shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be fully implemented prior to the first occupation of any of the residential units hereby permitted and shall be maintained and retained at all times thereafter.

Reason: In the interests of visual amenity.

- 7 Before the development of any phase approved in accordance with Condition 2 commences above ground level on site, a scheme of hard and soft landscaping and boundary treatment including a scheme for the future management of the communal open spaces relating to the land within that phase shall be submitted to and approved by the Local Planning Authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 8 The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990.

- 9 The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

- (b) No fires shall be lit within the spread of the branches of the trees.
- (c) No materials or equipment shall be stored within the spread of the branches of the trees.
- (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
- (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
- (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990.

- 10 Prior to the installation of any external lighting serving a phase of the development, full details of the lighting for that phase 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: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 11 No development of any phase in accordance with Condition 2 shall be commenced on site until:

(a) a site investigation has been undertaken to determine the nature and extent of any contamination, and

(b) the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted

(c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and

(d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity and public safety.

- 12 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: In the interests of protection of the environment and harm to human health in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 13 Development of the junction between the proposed service road and the highway shall not begin until full details of the junction have been approved by the Local Planning Authority; and the building shall not be occupied until that junction has been constructed in accordance with the approved details. (H015*)

Reason: To ensure the safe and free flow of traffic.

- 14 The use of any phase shall not be commenced, nor the premises within that phase occupied, until the area shown on the submitted layout as vehicle parking space for that phase has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space. (P004*)

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

- 15 No building shall be occupied until the area shown on the submitted plan as a turning area for that phase has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area. (P011*)

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

- 16 No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans. (H009)

Reason: To ensure the safe and free flow of traffic.

- 17 The use of the access shall not be commenced until turning facilities have been provided within the curtilage of the site and these facilities shall be retained thereafter free from any obstruction. (H012)

Reason: In order that a vehicle may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

- 18 No development shall be commenced until full details of a scheme of acoustic protection of habitable rooms having windows that will be exposed to a level of noise in Noise Exposure Category B, or C as set out in Policy SQ6 of the Tonbridge and Malling Borough Local Plan have been submitted to and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than 30 LAeq dB in bedrooms and 40 LAeq dB in living rooms with windows closed. Additionally, where the internal noise levels will exceed 40 LAeq dB in bedrooms or 48 LAeq dB in living rooms with windows open the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

Reason: To safeguard the aural amenity of the occupiers of the dwelling(s) hereby approved.

- 19 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, D, E and F (inclusive) of Part 1; of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to regulate and control any such future development in the interest of visual and residential amenity.

- 20 The development hereby approved shall only be carried out in accordance with the Flood Risk Assessment (FRA) prepared by WSP on behalf of Ashill Developments Ltd, ref 50600360 dated 1st August 2013.

Reason: To reduce the risk and impact of flooding on the proposed development and future occupants and in accordance with policy CP 10 of the Tonbridge and Malling Borough Core Strategy 2007 and the National Planning Policy Framework 2012 (paragraphs 100 – 104).

- 21 Prior to any above ground development commencing on site, details of the existing and proposed levels of the site including the finished floor levels of the buildings to be erected shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall also demonstrate that the re-profiling of existing site levels will not increase the flood risk to adjacent sites or to the approved development on the site together with details of how overland flow routes from the adjacent sites will be safely routed through the site. The development shall be carried out strictly in accordance with the approved details.

Reason: To reduce the risk and impact of flooding on the proposed development and future occupants and in accordance with policy CP 10 of the Tonbridge and Malling Borough Core Strategy 2007 and the National Planning Policy Framework 2012 (paragraphs 100 – 104).

- 22 Prior to any above ground development commencing on site, a sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce the risk and impact of flooding on the proposed development and future occupants and in accordance with policy CP 10 of the Tonbridge and Malling Borough Core Strategy 2007 and the National Planning Policy Framework 2012 (paragraphs 100 – 104).

- 23 Application for approval of the reserved matters in respect of Area B hatched on plan number 1264 P101 D shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 24 The development hereby permitted in outline shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 25 Approval of details of the layout and appearance of the development permitted in outline, the landscaping of the site, and the scale of that development (within the upper and lower limits for the height stated in the application hereby approved) (hereinafter called the “reserved matters”) shall be obtained from the Local Planning Authority.

Reason: No such approval has been given.

- 26 No development hereby approved in outline shall take place on the relevant component of development until details and samples of all materials to be used externally for that component have been submitted to and approved by the Local Planning Authority, and the development of the relevant component shall be carried out in accordance with the approved details.

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

- 27 No development hereby approved in outline shall take place on the relevant component of development until details of slab levels for that component have been submitted to and approved by the Local Planning Authority, and the work for the relevant component shall be carried out in strict accordance with those details.

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

- 28 The operation of the B1/B8 development shall not be carried on outside the hours of 08:00 – 18:00 Monday – Friday, 09:00 – 17:00 Saturday, with no working on Sundays or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- 29 No delivery vehicles shall arrive, depart, be loaded or unloaded within Area B, as hatched on plan number 1264 P101 D, outside the hours of 06.00 – 19.00 Mondays to Saturdays, 07.00 – 18.00 with no deliveries on Sundays or Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance to nearby residential properties.

- 30 Prior to the occupation of any part of the commercial floor space hereby permitted, full details of any plant, machinery or equipment (including ventilation, refrigeration and air conditioning systems) serving those uses shall be submitted to and approved by the Local Planning Authority and the work carried out in strict accordance with those details.

Reason: To protect the aural amenities of the future occupants of the residential units.

- 31 A condition listing the approved plans and documents.

Reason: For the avoidance of doubt and to reflect the submitted plans and in accordance with the spirit of the National Planning Policy Framework 2012.

Informatives

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmbc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 2 The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
- 3 The applicant is advised to liaise with the Royal Society for the Prevention of Accidents (RoSPA) with regards to control and safety measures prior to the submission of details and when placing play areas close to water bodies.
- 4 With regard to works within the limits of the highway, the applicant is asked to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181.
- 5 The applicant is advised that, in undertaking the works hereby approved, due regard should be had to the provisions of the Wildlife and Countryside Act 1981 relating to the protection of species and habitats.
- 6 The applicant is advised that Article 10 of the Habitats Directive stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats and promote the expansion of biodiversity.
- 7 The applicant should be aware that the issue of external illumination needs to be examined by a competent person to ensure that light does not penetrate into other premises and that not more than an adequate level of illumination is used for the designed purpose. The applicant may therefore wish to seek expert advice from a lighting engineer.

- 8 The Clean Neighbourhoods and Environment Act has added light pollution into the list of statutory nuisances contained within the Environmental Protection Act 1990. It is thus in the applicant's best interests to ensure that any lighting does not affect any nearby neighbours.
- 9 The applicant is encouraged to apply for a Section 61 Control of Pollution Act 'prior consent' notice to regulate working hours/methods. Failure to apply voluntarily may result in formal action to restrict operations without negotiation should complaints be received and substantiated.

Contact: Emma Keefe