

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 meeting area 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

PC: The PC continues to support a redevelopment in sympathy with the Conservation Area to enhance the Village. They are pleased to see the issues raised at the planning meeting of Area 1 on 24 October have been addressed and as stated in their previous letter commenting on the application would like to see conditions restricting the number of covers and opening hours.

Private Reps: 9 letters of objection received including letters from the immediate neighbours either side of the application site. One of the nine letters received is from a correspondent who had not previously made representations.

Objections centre on the following grounds:

- Potential for young adults to congregate which may cause additional noise and disruption as well as affecting safety;
- Question how long it would be before the rear garden became a children's play area, even if it has been removed from the plans;
- Plans regarding the terrace are misleading – there will be a loss of privacy;
- Demand for parking spaces generated by the existing use of the premises cannot be used as an argument for the number that might be required for the proposed café;
- Issue of car parking remains a concern;
- Parking spaces alluded to are those in the lay-by and the development will not have exclusive use to these spaces;
- Safety of customers continues to be at risk as the turning area for No. 150 is clearly shown to cross a proportion of the frontage of the shop;
- Existing use of the terrace would only be as occupants access their home, there would be only a passing interest – the proposal is for a viewing balcony for members of the public to access – not similar to the current arrangement;
- The range of goods to be cooked is of no consequence given the number of covers and proposed opening hours;

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- Café will still have the ability to provide a more extensive range of foods once it has an A3 use;
 - Ventilation and extraction will be required to serve a commercial kitchen, a domestic system will not be acceptable;
 - No study regarding 'noise break out' has been carried out;
 - Noise nuisance from customers using the external areas up until 8pm 7 days a week;
 - Excessive hours of opening;
 - Up to 15 covers to the front of the premises would reduce accessibility to the premises and creates a problem for safety;
 - Permitted development rights only relates to the existing premises, prior to any extension and can only be implemented on a temporary basis until May 2015;
 - Alleyway is very narrow – question whether a risk assessment has been undertaken to ensure there is adequate room for the refuse bins to be pushed along this area;
 - Alleyway is too narrow to be used as a fire escape;
 - Small scale local research referred to is vague – it would be interesting to know how small the sample population was that were asked to give an opinion on whether they would walk or cycle to the café – wish to see empirical evidence that supports this claim;
 - Greater level of concern over hours than previously as these are more extensive than previously proposed;
 - Bus service cited in the Travel Statement does not operate within the opening hours, with the final service terminating at 6pm weekdays and Saturdays;
 - Applicant has entirely failed to grasp the negative impact of the proposed development;
 - Responses to neighbour concerns are weak, lacking in evidence and are insufficient to address the objections made;
 - Question why the use cannot be tied to the applicant rather than the building;
 - Question appropriateness of applicant lobbying local support;
 - Question whether use would accommodate private parties and have live music;
 - Building work may affect foundations of neighbouring property and require a Party Wall Agreement [*DPHEH: this is not a material planning consideration in this case but an informative could be attached to any permission drawing attention to these matters*]

30 letters of support have also been received, which raise no issues beyond those reported previously. These letters of support come from residents of the wider village, including Riding Park, Farm Lane, and the Brookmead estate and beyond.

Mr Kelly Wheble at 156 Tonbridge Road has written to all Members of the Planning Committee stating that they are unable to attend this evening's meeting but stressing that the number of objectors present should not be seen as an indication that they are now less concerned by the proposals. He also makes the following statement:

“Myself and my wife are still very concerned and in fact somewhat aggrieved, as the committee clearly gave the applicant notice to tone down the application and we do not see any reduction in size, scale etc. Therefore we are still concerned with the issues raised by us and many others previously. We are concerned that the applicant’s celebrity status is being used as a tool to achieve their objectives and in fact feel a more standard applicant would not have been offered the chance to tone down their application.

We watched with interest that a previous application was rejected on a note of overlooking a neighbour.”

We are also aware that Mr and Mrs Keenan at 150 Tonbridge Road have written to all Members of the Planning Committee expressing their objections to the application. A copy of that correspondence is attached and is referenced below.

DPHEH:

Dealing firstly with the statement by Mr Wheble reproduced above, Members will be aware that many applicants are afforded the opportunity to amend their applications or provide additional information either during the course of Officer negotiations or following a debate taking place at Committee. The government actually encourages discussions/negotiations with applicants.

I note that Mr Wheble is aware of a refusal of planning permission in the vicinity on the grounds of a loss of privacy but without further details I am unable to comment in detail, other than to mention that each case is judged on its own individual merits based on a balance of all issues.

The 100 covers now identified in the revised application should be seen as a maximum and it is recommended that this be controlled by planning condition.

I understand that on most occasions, the café will only be opening between the hours of 8am until 6pm but the applicant would ‘occasionally’ wish for the facility to be open until 10pm when the demand calls for it. Therefore, it is not envisaged by the applicant that the café would be open every night until 10pm as the recommended condition might be considered to imply. The recommended condition is therefore worded in a way that takes account of the maximum hours that the café may be open until, which is considered acceptable in terms of residential amenity when considering the current unfettered A1 use and the available “permitted development” rights for this part of the site.

The applicant has provided a detailed statement explaining the nature and type of foods to be cooked on the premises. The cooking of these foods would not necessitate the installation of a commercial grade ventilation/extraction system as the neighbours have suggested, provided that there is a control to prevent other food being cooked. A domestic grade system would not cause a detrimental impact on residential amenity. I have recommended that a condition be imposed, should Members be minded to grant planning

permission, which restricts the range of goods cooked to those expressly cited by the applicant. This will ensure that a greater range of foods cannot be cooked on the premises without first having the formal approval of the LPA.

It is correct that only the existing shop could be used as a café or restaurant under “permitted development” rights, and only for a single continuous period of up to two years, without requiring formal approval from the LPA. However it has to be recognised that this could be done without any form of control concerning the number of covers (although the floorspace itself would limit this to some degree), the type of foods cooked on the premises or the hours of opening, all of which could have the potential to impact greatly on residential amenity.

Equally, it must be remembered that the shop could become used for any manner of uses falling within the A1 use class on a permanent basis, again with no level of control afforded to protect the amenities of residents.

There appears to be some confusion in respect of the front forecourt and how its use might impede the neighbours at 150 Tonbridge Road ability to access their driveway. The space to the front of the building is intended to provide pedestrian access, with a small space set aside for outside seating (maximum of 15 covers). There is no intention for any parking by staff, customers or delivery vehicles within this front forecourt. The statement by MKA Architects in this respect refers instead to the ability of vehicles to park in the lay-by between the application site and the B245 itself.

I appreciate that the owners of 150 Tonbridge Road have some concerns about the safety of customers as they use the shared crossing in order to access their driveway. However, I do not consider that this arrangement would be materially different to the historic relationship shared between the commercial use of part of the site as a newsagents and this neighbouring dwelling – the level of the use may well be intensified but not to such a level that would cause a safety concern. I would suggest that an additional Informative could be attached to any permission given asking the applicant to alert customers of the shared access arrangement and the need to be vigilant when walking across the frontage. It must be remembered that uncontrolled footfall and a uncontrolled vehicle access to the rear of the site took place previously and could recur in the event that this development were not to go ahead. It is, perhaps, helpful to reiterate that the existence of the private right of way to the rear of 152 cannot be a material factor in deciding this case, but in any event nothing in the layout of the submitted scheme implies that there will be any impact on that right of way. One neighbour has questioned why a planning permission could not be tied to the applicant rather than the building itself. I recall Cllr Rhodes also made this point at APC1 in October. This is commonly known as a personal permission. The circumstances in which it is appropriate to grant a planning permission that is personal to the applicant are rare. The reason for this is that permissions normally “run with the land”, this being a well-established principle in Planning Law. It is normally very difficult to identify circumstances in which it would be appropriate to grant a personal permission and

certainly not in a case such as this where the recommendation is not based on any personal need.

The overriding principle is that conditions should be used to make acceptable development that would, without the condition, be unacceptable and the use of conditions in such circumstances is to be preferred to the refusal of planning permission.

AMENDED RECOMMENDATION:

Additional Condition:

14. No seating shall be placed on and no food or drink shall be consumed from the first floor terrace hereby approved at any time.

Reason: In the interests of residential amenity.

Additional Informatives:

- 1. The applicant is asked to ensure that access to 150 Tonbridge Road is not obstructed at any time and to ensure customers are suitably aware of the shared nature of the access when entering the premises. The applicant is encouraged to discuss with the occupiers of 150 how the space between the two buildings is best managed to ensure that the private right of way is maintained.**
 - 2. If the development hereby permitted involves the carrying out of building work or excavations along or close to a boundary with land owned by someone else, you are advised that, under the Party Wall, etc Act 1996, you may have a duty to give notice of your intentions to the adjoining owner before commencing this work.**
 - 3. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.**
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**Tonbridge
Medway**

TM/13/02307/FL

Hybrid Application: Development of Priory Works involving (A) Detailed Permission for the erection of two and two 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 at Former Priory Works Tudeley Lane Tonbridge Kent TN11 0QL for Ashill Developments Ltd

Private Reps: 2 further letters received objecting on the following grounds:

- This site has not been abandoned for many years, until recently (within the last 12 months) the site was the home of Chemfeed, a vital long term employer of local labour;
- Vignette of the entrance does not show the road closure to be retained – opening this bridleway to traffic would be unacceptable. This also does not match with the CGI view of the entrance.

We are also aware that Mr Lee Prebble has recently written to all Members of the Planning Committee expressing his objections to the application and making points on procedures. A copy of that correspondence is attached and is referenced below.

DPHEH:

A number of aspects of this case have been alluded-to in correspondence received since the publication of the report and are dealt-with below.

The proposal includes the provision of 30% affordable housing, split between affordable rent and shared ownership tenures (69/31). The four bungalows referred to at paragraph 6.20 are proposed to be for affordable rent and form a key part of the affordable housing offer here, because unusually this applicant has been willing to make such provision – which will allow some large under-occupied units elsewhere to be released for family use. The development overall contains a mix 2, 3 and 4 bedroom houses with some 1 and 2 bedroom apartments. The affordable housing element contains a mix of all of these house types, including a total of 15 3-bed and 7 4-bed houses for affordable rent to meet family housing needs.

Turning specifically to the correspondence Members received from Mr Prebble, reproduced in full and attached to this Supplementary Report for reference, I can confirm that an updated vignette has now been provided showing the closure of Tudeley Lane to be retained; this is now available to view online and is displayed tonight. This is an illustrative approach and the full detail will be required by condition. There is also a

condition (13) requiring details of the junction between the main site road and the existing public highway and in discharging this condition, we would have specific details of how this area would be laid out and landscaped in due course – these will be subject to public consultation. This condition is not intended to refer to flooding *per se* but of course the detailed design work will be required to cover that issue as the application will also require KCC consent under the Highways Act to connect to Tudeley Lane and highway flooding will not be acceptable to KCC.

Should Members be minded to resolve to grant planning permission, Officers will continue to negotiate with the developer in connection with the terms of the legal obligation. Once completed and signed this document, as is normal, will form part of the formal decision and be available as part of the planning register and will be available to view as a public document on the website.

Mr Prebble is also concerned that no details have been provided concerning the proposed wetland habitat and that there is no pond shown on any of the drawings. I am recommending that full details of the wetland habitat are specifically required by planning condition and these details will be subject to public consultation when those submissions are provided. A detailed condition requiring full details of the provision and management of ecological interests is also set out in the recommendation.

It is a commonly held planning principle to make a comparison between a development proposal and the last established level of use within a site, this was a matter that was established with KCC early on and the TA was the subject of considerable discussion with KCC. It is, of course reflected in the Council's allocation for the site as a major business/employment site, with all the attendant traffic implications. Following changes in Government Policy in early 2012 it is now the case that for a highways objection to be sustained it would be necessary to demonstrate that "severe" adverse conditions would arise. The Government's aim is also to release uneconomic employment land to increase the supply of housing land.

In terms of the works to the improvements to the bridleway and footpath link to Lodge Oak Lane, this is far from a 'behind the scenes deal' between KCC Highways officers and the developer. The works will be subject to KCC's administration of statutory procedures in due course – these are independent of the planning application process. PROW procedures involve publicity through the display of site notices. It is also to be dealt with via the S106 obligation as is set out in the original recommendation.

The various conditions recommended in respect of flooding are intended to ensure the development is safe and would not create an increase to flood risk elsewhere. These conditions have been borne out of discussions with the EA and are appropriate. These relationships of accessibility would equally apply to a business redevelopment of the site.

The Committee report goes into some detail about how the TPO came about in 2007/08 and detailed conditions relating to landscaping across the site have been recommended.

Whether residential development on Area B (proposed for commercial) would be acceptable is not a matter for this decision. .

The main report makes clear that the development is likely to come forward in a phased manner meaning that it is likely to be impractical to require the completion of the eastern footway to the A26 and the improvements to the western footpath before any dwelling is occupied. However every effort will be made to bring these improvements forward at the earliest opportunity. Condition 2 is intended to bring forward full details of the implementation process of the development, including details of the riverside walkway and this may be a matter for negotiation once those details are received. It is important that these elements do come to fruition at an appropriate stage of the development – we are currently reviewing how best to ensure this by planning condition whilst continuing to recognise the need for the development to be appropriately phased.

It has been suggested that the reasons for the conditions should refer to Development Plan policies where appropriate. This is no longer the case for, on 25 June, amendments to the Development Management Procedures Order removed the requirement to specify policies in the reasons for conditions, the requirement is now simply *"where planning permission is granted subject to conditions, the notice shall state clearly and precisely their full reasons for each condition imposed."* The latest *draft* Guidance on use of model conditions is *"Model conditions can improve the efficiency of the planning process. Such conditions **should not be applied in a rigid way** and without regard to whether the six tests will be met. It is recommended that local planning authorities use national model conditions where appropriate in the interests of maintaining consistency"* (TMBC emphasis)

As occurs routinely after publication and before Committee Officers have taken the opportunity to revisit the recommended conditions, having had regard to the points raised where appropriate. Given the complex nature of the scheme and the fact that the application will be subject of a legal agreement should Members be minded to resolve to grant planning permission, Officers will continue, with legal colleagues, to revisit the exact wording of the conditions and their cross-relationship with any S106 obligation(s). .

RECOMMENDATION REMAINS UNCHANGED subject to any revisions to Conditions and additional Conditions as appropriate and necessary including any considerations regarding the outstanding legal agreement (final wording delegated to DPTL in consultation with the Director of Central Services)

Members should also note that following further investigation it can be confirmed there is not a requirement within the Town and Country Planning (Consultation) Direction 2009 to refer the application to the Secretary of State as stated in paragraph 7.2 of the main report.

Erection of a detached three bedroom chalet bungalow (revised scheme pursuant to extant planning permission TM/12/02948/FLX and withdrawn application TM/13/01500/FL) at Plot 1 6 Derby Close Hildenborough Tonbridge Kent TN11 9JU for Mr P Eastlake

No supplementary matters to report.

**Hildenborough TM/13/02664/FL
Hildenborough**

Construction of an extended car parking area to provide 120 commuter parking bays at Philpots Allotments And Parking Rings Hill Hildenborough Tonbridge Kent for Mr Edward Simpson

Private Reps: 1 further letter received making the following comments:

- Impact of the development upon vegetables and fruit growing on the existing allotments through vehicle emissions;
- Request for paths around the site to prevent commuters crossing the allotments and causing damage to the produce being grown;
- Parking closest to the allotments should be for those with an allotment and fees for these people should be more reasonable;
- Crossing the road to the station is becoming more dangerous and therefore KCC Highways should install lighting and traffic calming measures. This cost should be incurred by KCC Highways as it is not the users of Philpots allotments who are the cause of speeding.

RECOMMENDATION REMAINS UNCHANGED

**Hildenborough TM/13/02224/FL
Hildenborough**

Construction of twelve houses, being an amended scheme to that previously approved under planning permission reference TM/06/00140/FL and including the addition of single storey additions to six of the houses, other elevational changes, and the incorporation of additional land into individual gardens at Oakhurst Park Gardens Hildenborough Tonbridge Kent for Coombe Bank Homes

Private Reps: 4 further letters of objection received objecting on the grounds previously set out in the main report and also making the additional objections:

- Feel completely let down with the way the Council has dealt with this case since investigations began;
- Unbelievable that the Council invited a retrospective planning application to be made;
- Conditions previously imposed in order to retain the open parkland were not robust;
- No mention of the close boarded fences subdividing the 'main area of land' – the previous landscaping scheme showed absolutely no such fences;
- Permeable paving has not been incorporated – does this form part of the new application?

DPHEH:

The main Committee report quite properly concentrates on certain key aspects of the development as constructed, those being seen as the main, fundamental changes to the scheme from that previously approved. However, Members will of course be aware that the planning application before them seeks permission for the scheme in its entirety, not just those main aspects discussed at length in my main report.

For the avoidance of any doubt, the privacy screens between the units approved within the earlier landscape scheme were shown to be formed of 1.8m brick walls. Although the close boarded fences are different in appearance to the approved brick screens, the impact on the openness of the Green Belt would be comparable and have no greater and impact. The use of post and rail fences to separate the remaining areas of garden is appropriate in this rural locality and would not cause any harm to the openness of the Green Belt, being rural character fencing that in the normal run of things can be used to subdivided areas of land on the Green Belt without needing the Council's approval (for instance the "permitted development" subdivision of paddocks).

It is understood that a type of permeable tarmac has been used for the areas of hardstanding within the development. I have no cause to dispute this at this time but this can be investigated further. The landscaping scheme insofar as it is completed is acceptable in visual terms it must be remembered that the requirement to carry-out landscaping only arises in the planting season *after* the completion of the development, so the site has not yet reached that stage. There was no evidence of the site frontage experiencing drainage problems when the site was visited in late October,

It is appreciated that the public find the situation somewhat confusing in that strict adherence to an approved scheme is not an automatic obligation on a developer. The law allows for the submission of retrospective applications and the submission of such an application allows the Council to consider the emerging scheme. While this may be highly frustrating to both the public and the Council Parliament has legislated to allow this to occur. As Members will be well aware that the Council is not able to justify enforcement action simply because a breach of planning control is occurring, it is required to assess the nature of the breach and reach a judgement of the planning merit of the works themselves. It is that assessment of merits that is set out in the main Report.

RECOMMENDATION REMAINS UNCHANGED

Copy of email from Mr and Mrs Keenan dated 28.11.2013

Dear Committee

We understand that the above mentioned planning application is up for discussion again at the Planning Meeting on 5th December. Ahead of that we just wanted to highlight to the committee some of our concerns relating to the amended plans. We do of course understand that you will be unable to comment directly in response to this.

We have attached a copy of our latest objections for your reference although we are sure you have already had sight of these.

Change of use to A3 without the need for further planning permission

The only part of the premises that is currently under A1 use is probably about 25% of the downstairs space. Every other part of the building (both 152 and 154 Tonbridge Road) is C3 Residential use only. As far as we can see there are no rights under the additional change of use permitted development rights applying from May 2013 to convert from C3 to A3 without planning permission.

Our right of access

In the letter from MKA architects dated 8th November in point 1.3 they talk about the property having space for parking of 2 cars and delivery vehicles. Then in point 1.4 they acknowledge that the shared access (pink shaded area on the plan they submitted) allows us to drive across this area to access our property. And indeed when the applicant purchased the property she signed an agreement to that effect. The covenant on this shared access does actually state that it should be kept clear at all times. A few points to highlight in regards to this access:

1. This access is the exactly the same as when the property was trading as a newsagents (to clarify the question from the Chairman at the last meeting). There were numerous occasions when our access to our own driveway was blocked by customers of the shop or delivery vehicles.
2. As mentioned the applicant signed her agreement to the covenant on the shared access when she purchased the property that this area would not be blocked. The pink shaded area should remain clear at all times as we need to use the full area to access and reverse off our driveway. However the plans seem to show that the building line is being bought forward therefore impinging on this area.
3. The revised plans show an extra bike rack for 10 bikes at the front of the property. Again given that a standard bike is about 5 foot long I would have thought the positioning of this bike rack would also impinge on the pink shaded area and therefore seriously impede our access to our property.
4. If the applicant is intending to use the space not given over to tables and chairs for car parking (point 1.3 in the letter from mka architects) then our shared access would

disappear completely and we doubt we would be able to use our own driveway.

5. Notwithstanding the above in excess of 100 people are going to be forced to enter the café across this shared access due to the positioning of the 15 covers at the front of the café. We do have serious concerns about safety and do not feel we should have to live in constant fear of causing an accident every time we want to use our driveway.

Hours of use

We may have misunderstood what was discussed at the last meeting but we definitely had the impression that the long opening hours were a cause for concern by the Committee. It was quite astounding to therefore see that the revised plans have increased the overall total opening hours. The plans state that the external areas will only be used until 8pm. Does this mean that everything will be cleared away at 8pm? More likely the staff will wait until the café is closed at 10pm to do this so actually we, and our school aged children, will in fact be disturbed way past 10pm 7 days a week. There is also no mention of the hours of use of the meeting and beauty therapist rooms - are they also to be in use until 10pm 7 days a week?

The letter from mka architects of 8th November states that the existing use of the building can operate without any time restriction within the Use of class Order A1 – again the portion of the building that this applies to is approximately 25% of the downstairs space. As the rest of the entire 2 properties are currently C3 use of class I presume these unlimited hours of operation do not apply to the majority of the building.

We understand that the applicant held an event in the village hall on 15th November and mocked up the inside of her proposed café and served 150 Hildenborough residents. We don't know if any of the Borough Councillors were invited but we understand some of the comments allegedly made by the applicant in regards to the development were quite interesting:

1. The café will only be open til 6pm – not according to the plans currently submitted.
2. The balcony will not be a problem as anyone using it will only ever look down on the café below rather than across the gardens of the neighbours in Mount Pleasant – not entirely sure how the applicant is going to ensure anyone on the balcony only ever looks down?
3. The change of use applied for is specifically for the applicant only so there is no danger of the property being sold and a different type of restaurant taking its place – interestingly this was raised at the last Planning meeting when Councillor Mark Rhodes asked if the A3 use could be given to the applicant rather than the building. Although, again, I don't think this forms part of the planning permission the applicant has actually applied for I understand that, whilst not common practice, this is entirely feasible. The A3 use can be given to the applicant rather than the building.

Again the celebrity status of the applicant has ensured that a huge number of comments in favour of the café have appeared on the Planning website. I guess there is every likelihood that many of these people will register to speak in favour of the development at the meeting on 5th December We would like to point out, again, that not one of these people

live close enough to the proposed development for it to have any material negative impact on their lives. If they want to spend a quiet afternoon in their gardens they will be able to – we won't. If they want to enjoy a summers afternoon and have their windows and doors open they will be able to – we won't. If they have children who need undisturbed sleep they will be able to – our children will not.

We can only hope that the Planning Committee continues to keep the very real concerns of the immediate neighbours impacted by the proposed development at the forefront of their discussions and ultimate decision making process.

Regards

Bruce and Emma Keenan

Copy of email from Lee Prebble dated 02 December 2013

Dear Councillor

Area 1 Planning Committee: Item 6 TM/13/02307

I apologise for writing to you directly but I have a number of concerns regarding the officer report in relation to the proposed development of Priory Works which cannot be dealt with adequately in 3 minutes of speaking time as well as summarising my objections to the development.

I should say that I am a qualified Planner with some 40 years' experience and therefore bring some expertise to my assessment.

My concerns relate to the content of the application, the content of the report and some of the conclusions drawn in the report. I would also say that the report is difficult to follow as it fails to, separately, identify the main issues and there are no subject headings. The report can, of course, be corrected but the development it relates to, once granted, cannot.

The Application

As to the content of the application the plans and drawings are inconsistent. It is noted that some further details are to be submitted in connection with the recommended conditions but as matters stand there are some parts of the various submissions that show alternative layouts, for example, especially around the entrance.

More importantly, crucial details are not being provided for public scrutiny. There are no details of the proposed improvement works to the bridleway or the footpath link to Lodge Oak Lane. These will be works to the public realm that the public ought to be consulted on rather than the result of a 'behind-the-scenes deal' between KCC Highways officers and the developer.

The content of proposed s106 obligations are required, by legislation, to be included on the Public Register. There are no details on the Council's website and a specific request to the officer has not met with a response.

There are no details of the proposed wetland habitat. There is no pond shown on any of the drawings.

Councillors should not be taking a decision on this application on the basis of inconsistent and incomplete information.

The Report Content

The officer has summarised the submissions made in representations to the Council. I am concerned that the summaries are over-brief and that there are omissions. For example, the officers' attention has been drawn to problems with provision of a footpath alongside the only vehicle access to the site and the likely loss of the roadside hedge. That is not included in the report. Concerns at the lack of provision for cycling are not mentioned.

Councillors should not be taking a decision on this application without a full report of the content of the objections and comments so that these can be properly considered.

Officer Assessment

Use and Access

At paragraph 6.23 the report appears to refer to the previous use and traffic generation as a material consideration. The fact is that the site is vacant, all the buildings have been demolished, the use has been abandoned and there is no current lawful use that would generate any traffic.

What is now proposed is a residential use that will generate an entirely different pattern of traffic to any former use or the development plan designation. It is a site on the edge of Tonbridge, cut off from the rest of the town to the extent that one has to leave the Borough to reach it by car. The whole development is one long cul-de-sac with proposed properties in the northern part of the site some 0.4 miles from the roundabout with Woodgate Way. It may be a suitable location for business use but this proposal is for homes where people will live. There is no alternative for emergency vehicles. The traffic assessment deals with road capacity and not the practicalities of how this site will function for those living there.

Access to the local schools, shops and the town on foot is only via a steep narrow overgrown footway that a stream runs down in wet weather. There are alternatives via Gorham Drive that the applicant, apparently, refuses to consider. As it stands this proposal is not for sustainable development.

At the same time there is no consideration of the lack of easy access to the proposed new LAP and LEAP for existing housing which currently has no such facilities.

At paragraph 6.29 the report says that there will be dry, safe, pedestrian and vehicle access. This is not consistent with the next paragraph that suggests that the properties need to be raised above ground level to avoid flood conditions. Even since the replacement bridge the only access road still floods and there are no proposals to deal with the flooding of the western footpath. The report has not satisfactorily dealt with the concerns relating to access and flooding.

Woodland

At paragraph 6.39 the report says that the Tree Report provides an assessment of the trees across the site. In fact the Tree Report states in its introduction that is "not sufficient" to accompany a planning application. There is an Arboricultural Impact Assessment but that is based on the assumption that the woodland will be removed; it does not assess the value of the woodland.

There is no proper all-round balanced assessment of the value of the woodland. The Ecological Report confirms that the woodland is one of the more interesting features of the site. There is no proper visual assessment looking at how the woodland contributes to the surrounding area.

This is a woodland that the Council decided was worthy of protection just five years ago. The case for its wholesale loss is not made.

The suggestion that the wildlife interest would not be lost is not true. A wetland habitat is not going to replace the nesting habitat for birds or the roosting habitat for bats. In any

event, no details of the wetland habitat have been provided; there is no pond shown on any of the plans.

The loss of the woodland is unnecessary and not consistent with the principles of sustainability. The report demonstrates that there is no demand for any commercial development on this site. The woodland could be saved and more housing built on Area B.

Conditions

Recommended condition 13 is a model that has not been adapted to relate to this development; it fails the tests of Circular 11/95. If it is intended to ensure improvements to the site access to overcome the flooding and make the area attractive then it is welcome but should be more appropriately worded.

Recommended condition 29 would prevent delivery vehicles from entering the commercial area at unsocial hours. This effectively forces them to park and wait on the residential roads which, elsewhere, has resulted in more, not less disturbance.

There should be an additional condition that requires the completion of the eastern footway to the A26 and improvements to the western footpath before any dwelling is occupied.

The reasons for the conditions should refer to Development Plan policies where appropriate; very few make any policy reference.

Overall

The Council has only one shot at getting this development right. Many of the issues could not be fixed retrospectively and certainly not without considerable cost to the public purse. As proposed the proposal is not for a sustainable development.

Members are asked not to agree to this recommendation without ensuring that a decision is made on the basis of full, consistent and correct information. Please refer it back to the officers with an instruction to correct the report and seek amendments that ensure a satisfactory sustainable form of development with proper attention to access and retention of the woodland.

Thank you for taking the time to read this.

Lee Prebble