

West Malling
West Malling And
Leybourne

568095 157784 17 August 2010

TM/10/00991/FL

Proposal: Erection of a mixed use development comprising 7 no. ground floor retail units, 5 no. 2 bed apartments with associated car parking and public space
Location: Mill Yard 26 Swan Street West Malling Kent ME19 6LP
Applicant: Bedlars Holdings (UK) LLP

1. Description:

- 1.1 The application is for the development of a large area of the site with a number of buildings which will visually appear as two large buildings that vary in height. Some elements are single storey, the majority of the buildings are two storey and there is a three to four storey element in the proposed building adjoining the car park. The buildings would provide a mixed use development comprising 7 retail units and 5 two-bedroom apartments. The proposed buildings work with the existing ground levels within the site as the existing public car park is at a higher level than the application site.
- 1.2 The area between the two sections of development will form a new public space/area that will be car free. It will be hardsurfaced with seating and low level lighting and will form a courtyard area between the two areas of development. This will also form a new pedestrian link between the public car park and Swan Street. The proposed flats will also be served from this public space. This space is accessed from Swan Street in the same way it is currently accessed. A new pedestrian access will be formed from the public car park, close to the south west corner. It is expected the existing recycling centre in the public car park will be repositioned in the same corner as existing.
- 1.3 The public space is however to be semi private and closed at night, therefore a separate access to the south west of the buildings is also proposed. This will be in the form of stairs and a proposed scissor lift for disabled access, due to the difference in ground levels. Some landscaping will also be proposed adjacent to this new access.
- 1.4 The proposed building designs are to have traditional materials and forms to replicate the historic environment in which the site is situated, yet have a contemporary edge with the use of some modern features and detailing. The majority of the buildings are proposed to be timber weatherboarded with Kent Peg tiled roofs. All joinery will be timber and painted. However rendered panels are also proposed and feature glazing to give it a contemporary element is incorporated into the design.

- 1.5 Car parking is proposed to the west of the site and includes 11 spaces; 6 of these are accessed from the public car park and 5 from the existing Swan Street entrance. Three of the spaces will be sited under a projecting balcony area serving one of the proposed apartments. Cycle storage is also proposed at the northern boundary of the site and close to the residential lobbies.
- 1.6 A bin collection area is proposed adjacent to the Swan Street entrance and refuse bins are to be stored in a dedicated area along the northern boundary of the site behind the buildings.
- 1.7 Two units of the five residential units being proposed are allocated for Affordable Housing, although a Registered Provider has yet to be identified.
- 1.8 Details have been provided in respect of Archaeology, proposed servicing of the units, refuse collection, Tree survey, lighting details, the proposed materials and detailed consideration of the proposed design and layout and its impact on the locality.
- 1.9 This application needs to be read in conjunction with application TM/10/01045/FL on land to the rear of 71-73 High Street, West Malling, which is also on this Committee agenda.

2. Reason for reporting to Committee:

- 2.1 Complex issues to report in respect of this development.

3. The Site:

- 3.1 The application site is situated at the southern end of Mill Yard, off Swan Street in West Malling. The site is within the central area of West Malling which is a district centre and is also within the Conservation Area. The site is also situated within the historic core of West Malling and in an Area of Archaeological Potential.
- 3.2 Mill Yard is currently a small collection of commercial units with a variety of different occupiers. The buildings comprise traditional single and two storey weatherboarded buildings that are stained black. Adjoining Mill Yard and the northern boundary of the application site is the West Malling Post Office.
- 3.3 The site currently comprises unused areas around the existing building, that are largely unkempt and overgrown, hardsurfaced areas that are used as car parking and also form the footpath through the site and a band of trees and shrubs. These trees extend along the southern and eastern boundaries of the site and are covered by a Tree Preservation Order.
- 3.4 Directly to the west of the site are the rear yards of properties in the High Street. These buildings are between two and three storeys in height and most of them are Grade II listed or of local interest. Most of these buildings have also been

significantly extended with small rear yards serving the commercial uses that occupy the ground floor. There is some residential accommodation on the upper floors.

- 3.5 To the south of the site and forming the southern boundary of the proposed development is a public car park; this car park is heavily used and also forms the car parking for the nearby Tesco store on the High Street. There is also a local recycling centre adjacent to the south eastern corner of the proposed development. A pedestrian route used by the public also runs across the site and links the car park to Mill Yard and Swan Street; this is closed by a gate overnight.
- 3.6 To the east of the site are the gardens of residential properties on Swan Street. These also adjoin the northern boundary of the application site. There are five residential properties adjoining the site (3 dwellings and 2 flats). Further east and within close proximity are the grounds of St Mary's Abbey which is a Scheduled Ancient Monument and also a Grade I listed wall that adjoins the south eastern corner of the application site.

4. Planning History:

TM/84/10561/FUL Grant with Conditions 24 September 1984

Conversion of existing store for use as craftsmens market/mini shops with car parking spaces.

TM/85/10838/FUL Refuse 20 September 1985

Application under Section 32 to occupy premises without compliance with condition (vi) of planning permission TM/84/978 i.e. conversion of barn to 12 units for use as craftsmens market/mini shops and elevational alterations

TM/89/11886/FUL Grant with Conditions 21 June 1989

Erection of greenhouse in connection with existing garden area and shoppers footpath.

TM/90/10709/FUL Grant with Conditions 16 October 1990

Extension to workshop/studio.

TM/90/11480/FUL Grant with Conditions 11 May 1990

Retrospective change of use of part of first floor as tea rooms and for hot food sales.

TM/92/00929/FL Grant with Conditions 15 April 1993

Change of use of part of first floor to offices

TM/97/01936/TNCA No Objection 16 January 1998

removal of 2 conifers along front driveway and lop Thuja Plicata and conifer hedge (hollies to be retained)

TM/03/03673/FL Refuse 20 October 2004

Demolition of existing glasshouse and erection of 4 residential units and a commercial unit (Class A1) with parking, revised access and associated works

TM/05/00060/TNCA TPO Made 28 February 2005

Fell one mature Western Red Cedar

TM/05/03034/FL Refuse 27 July 2006

2 no. 2 bedroom houses and 1 no. commercial unit (Class A1) with parking, revised access and associated works

TM/06/02656/TNCA No Objection 12 October 2006

trim back one multi-stemmed Hazel (T02) and one Sycamore (T03) to boundary

TM/06/02830/FL Approved 22 December 2006

Retail unit to replace recently demolished greenhouse

TM/06/02832/FL Approved 22 December 2006

Retail unit to replace recently demolished greenhouse

TM/06/03824/FL Application Not
Proceeded With 27 June 2008

3no. 2-bedroomed houses and 1no. 3-bedroomed house, a commercial unit (class A1) with parking, revised access and associated works

TM/06/03826/FL Application Not
Proceeded With 27 June 2008

3 no. 2-bedroom houses and 1 no. 3-bedroom house, a commercial unit (class A1) with parking, revised access and associated works

5. Consultees:

5.1 PC: Members were supportive of this application but expressed concerns on the following issues:

- Because of the proximity of this development to the historically important Ancient House, site of a medieval garden behind No 71/73 High Street and Malling Abbey they requested that an archaeological survey be carried out before any work commences and during construction work that involves surface excavation. We understand that this is standard practice on sensitive sites.
- The concrete like slabs on the sides of the proposed buildings are not in keeping with other buildings in this conservation area.
- Because construction traffic will need to access the site via the short term car park this is likely to be very disruptive to the life of West Malling as such vehicles will take up valuable parking spaces and cause logjams due to the one-way traffic system in place in the car park. Members therefore wanted access for construction traffic to be managed effectively and suggest that such vehicles arrive, unload and depart from the site by 7.00am.
- As above, members were concerned about the problems that could arise from delivery vehicles servicing the seven retail outlets once they are in operation.
- Access for emergency vehicles
- Confirmation that sufficient space is to be provided for refuse bins for the residents of the apartments.
- Members would welcome some tree planting to soften the effects of the development.

5.2 Following Additional Information: No objections, but endorsed the suggestions contained in the letter dated 5th January 2011 from Wendy Rogers KCC, in particular the penultimate paragraph of her letter.

5.3 DHH: Housing: The scheme is for 5 units in a rural area, therefore triggering an affordable housing requirement as detailed in CP17 which has a threshold of 5. A 40% contribution would equate to two units for social rent. I would advise the applicant to discuss the requirements and study the Affordable Housing SPD.

5.3.1 Environment Protection: The issue of 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 wish to seek expert advice from a lighting engineer. 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 in the applicants best interests to ensure that any lighting does not affect any nearby neighbours.

- 5.3.2 No development approved by this permission shall be commenced prior to noise attenuation measures being identified by the developer/applicant, submitted to and approved by the LPA. Of particular concern here is the potential for noise disturbance from the adjacent public car park (which is open 24 hours a day) and the Recycling Centre.
- 5.3.3 Dependant upon the nature of use of the ground floor units, the applicant will need to consider the installation of noise insulation between the dwellings and retail units. The applicant should be required as a condition of approval, to submit a noise insulation scheme, together with appropriate cross-sections, for the conversion. This should ensure that the proposals satisfy the Approved Document E to the Building Regulations 2000.
- 5.3.4 Further if any food retail outlets are to be considered, the applicant will need to submit details to the LPA of a ventilation system for the removal and treatment of cooking odours, drawing reference to the requirements and recommendations of the DEFRA guidance. The acoustic details shall include full spectrum octave analysis for the proposed ventilation equipment, demonstrating that the noise from the equipment shall not exceed NR35 at the nearest noise sensitive premises/site boundary; this would include any flats above the proposed premises.
- 5.3.5 Waste Management Services: General guidance in respect of refuse and recycling is relevant.
- 5.3.6 Contaminated Land: On the basis of available data and information, the site is not identified as a site of potential concern nor is any adjacent site. To safeguard the situation in the event that significant deposits of made ground or indicators of potential contamination are discovered during development I suggest the imposition of an appropriately worded condition.
- 5.3.7 Following additional information: Food Safety: My only concern would be from a health and safety point of view. Increase in retail units will result in more deliveries to Mill Yard, there is potential for conflict between vehicles and pedestrians.
- 5.4 KCC Highways: Since visiting the site, the proposals utilise the existing access off Swan Street. There is adequate parking within the site to serve the apartments. Kent Parking Standards require 1 no. space per dwelling therefore the remaining spaces can either be utilised by visitors to the apartments or visitors to the retail outlets. With regard to visitor parking, West Malling benefits from a controlled parking zone with parking restrictions on roads within the centre. There is sufficient parking within West Malling to accommodate the retail element of the application

without causing detriment to highway safety. Although unenforceable by KHS, I would like the applicant to consider delivery times to serve the development without causing unnecessary disruption to residents in the surrounding area.

5.5 KCC Archaeology: The site of the application lies within the historic core of West Malling. This settlement may be of early medieval origin although it seems to have flourished mainly as a medieval market town. Its development is probably closely associated with the establishment of the Abbey and to a certain degree the present settlement still reflects its medieval character. West Malling is one of the medieval market towns covered by the Historic Towns Survey for Kent and understanding its development is a key issue. The medieval town probably developed along the High Street and down Swan Street towards the Abbey. The application site is situated within this key area and there is potential for important remains to survive here. I note part of the Friary Wall (restored section) is along the southern side with a Grade I listed wall immediately to the west. There are clearly major heritage issues here which need to be fully addressed before the scheme proceeds.

5.5.1 In view of the proximity of the Grade I listed structures and the Scheduled Ancient Monument of St Mary's Abbey a few metres east, I recommend that English Heritage is consulted on historic buildings issues as well as archaeological issues for this latest application. With regard to archaeology, this proposed development may have considerable impact on surviving buried, and possibly upstanding, archaeological remains, associated with the Scheduled Abbey complex and with the medieval and post medieval settlement of West Malling.

5.5.2 At present there seems to be insufficient information on the presence/absence of archaeological remains on the site, the importance of any remains or the potential impact of the development on such remains. Further clear and detailed consideration of the heritage issues would be appropriate and this application needs to be supported by an Archaeological Deskbased Assessment as well as an Archaeological Impact Assessment (setting out how groundworks may impact on buried remains). These reports should provide reasonable information on the heritage issues and provide guidance on the possible appropriate mitigation measures. In conclusion, I recommend archaeological issues are more thoroughly addressed. A Deskbased Archaeological Assessment is required prior to determination of this application in order to ensure informed decisions are made as this scheme progresses.

5.5.3 Following the submission of Additional Information: I welcome the submission of an Archaeological Deskbased Assessment but it seems that CAT were only instructed to produce a "preliminary" assessment and as such the information in the report simply repeats the standard Historic Environment Record data and early OS map data already known. What is required is a more thorough review of documentary resources such as any pre-19th century maps and records, perhaps documents held within the Abbey itself. It is this kind of more in-depth information

which may suggest the presence of monastic buildings or medieval town houses on the site, or alternatively may suggest that the site is not likely to have contained any medieval buildings but is rather within the rear of medieval tenement blocks. If more detailed documentary research is not feasible or productive, then there should be consideration of intrusive work. As recommended in PPS 5, paragraph 6.1:

“ Where an application site includes, or is considered to have the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where desk-based research is insufficient to properly assess the interest, a field evaluation.”

- 5.5.4 Therefore, although the Archaeological DBA is welcome, it does not actually progress our understanding of the archaeology of the proposed development site. In depth deskbased assessment is needed, or intrusive fieldwork and these should be undertaken prior to determination of a detailed development scheme.
- 5.5.5 As soon as we have a better understanding of the archaeology surviving within the development site, it would be possible to consider appropriately the issue of how the proposed development, especially foundations and services, might impact on archaeology, especially anything of significance. There may be buried medieval remains which merit preservation in situ and these should be avoided by the proposed development. Therefore an Archaeological Impact Assessment is also required but this needs to be informed by a better understanding of what actually survives on the site.
- 5.5.6 The revised Design and Access Statement seems to consider the need for a sympathetic approach to the historic character of the surrounding buildings and that the new development should not be detrimental to the upstanding historic buildings.
- 5.5.7 A further issue which I suggest needs more consideration is the impact of the proposed building (phase 1 construction) on the Scheduled Abbey wall. It is at the south east corner that the application site boundary is directly on the scheduled boundary wall. There needs to be consideration of how the new building and its construction will impact on the fabric of the wall and how the setting will be affected. I recommend consultation with English Heritage Ancient Monument Inspector for the South East.
- 5.5.8 At this present time, prior to determination of this application, I suggest the applicant should consider a programme of intrusive archaeological test pitting, preferably informed by some more in-depth documentary research. The results of this test pitting could then be reviewed and suitable mitigation measures can be agreed prior to a detailed scheme being granted. This would ensure that the planning and development decisions for this scheme are well informed and evidence-based.

5.6 English Heritage: No comments.

5.7 Private Representations: 28/0X/0S/0R + Site and Press Notices: No responses.

6. Determining Issues:

6.1 The relevant planning policies are CP1, CP12, CP17 and CP24 of the TMBCS and policies CC1, NE4 and SQ1 of the MDE DPD. Policy CP1 relates to sustainable development, policy CP12 refers to development in rural service centres, CP17 relates to the need to provide affordable housing and CP24 is the general policy in relation to the design of new buildings. The MDE DPD policies refer to the sustainable design of new buildings and the protection and enhancement of townscapes and policy NE4 refers to trees. National policy in PPS3: Housing and PPS5: Planning and the Historic Environment is also relevant.

6.2 In principle a comprehensive mixed use redevelopment of the land to the rear of Swan Street and High Street is acceptable in planning policy terms and complies with policies CP1 and CP12 of the TMBCS. This is a brownfield site in the central area of West Malling, with good public transport links and therefore in terms of its location is very sustainable. This accords with most government guidance in respect of the location of new development and accords with PPS3: Housing. It is therefore a mixed use scheme that in principle should be supported in this location. However there are a number of detailed issues that need to be addressed in respect of this proposed development.

6.3 The design of the proposed development has evolved over a long period of time and has been designed to reflect the character of West Malling, the character of the Conservation Area and to respect the amenity and historic value of adjoining buildings and structures. It is of a scale, form and materials that are in keeping and appropriate for this form of development, although it has a contemporary appearance/edge to the fenestrations. It is considered that this proposal is therefore an example of good design on a very restricted site. Detailed aspects of the design will be discussed in more detail later in the report.

6.4 The application site is situated in West Malling Conservation Area, as identified above. It is considered that this design is appropriate for the context of the site and the Conservation Area. The key test in terms of the impact on a conservation area is whether it preserves or enhances the character and appearance of the Conservation Area. In my opinion this development will enhance the character of the Conservation Area as it is bringing largely underused land into use and enhancing the built form of the locality. Some concern has been raised over the loss of the trees along the south western side of the site. However a tree survey has identified that these trees are all of poor quality and have not been appropriately maintained over the last 15 years. Consequently the trees' quality and amenity value is limited. Therefore, although there will some loss of a green aspect to this part of the Conservation Area and the public car park, the overall

impact on amenity and value within the wider Conservation Area is limited. The proposed development therefore complies with guidance in PPS5: Planning and the Historic Environment.

- 6.5 There are a number of listed buildings adjoining and within close proximity to the application site, as well as the Scheduled Ancient Monument of The Abbey. The nearby buildings are both Grade I and Grade II listed. There is also a Grade I listed wall abutting the south east corner of the proposed development. The proposed development has been assessed in respect of its impact on these buildings.
- 6.6 In terms of the impact on the buildings in the High Street this is considered to be limited due to the distance between the existing and proposed buildings. Also most of the buildings on the High Street are commercial properties with commercial uses extending to the rear, consequently the impact is minimised. It is considered that the form of the proposed buildings is similar in scale to the properties in the High Street and therefore of a scale that is in keeping with those buildings. It is not therefore considered that there is a detrimental impact on these listed buildings.
- 6.7 The Conservation Officer has been involved in the design, siting and assessment of the proposed development throughout the application process and is satisfied that the proposed development will not affect the setting of the listed buildings due to the context of the site. In addition English Heritage has been consulted on the application and has not wished to comment on this scheme proposed. Consequently all measures have been taken to ensure any impact on listed buildings or structures and their setting has been fully assessed. I am therefore satisfied that the proposed development complies with national guidance within PPS5.
- 6.8 In terms of the impact on the Scheduled Ancient Monument of The Abbey, this is sited a significant distance away from the application site. The grounds and setting that contribute to its significance are unaffected by the proposed development and therefore the relationship with the proposed development is acceptable.
- 6.9 Some concern has been expressed in relation to views of the site from nearby roads and public spaces. There is no doubt that this development will change the appearance of the immediate locality, which will become more urban and will result in a higher density of built development and form within the locality. The proposed buildings will also be visible from Swan Street, although the ground and first floors would largely be screened from view by the existing buildings. However, the proposed development needs to be viewed within the context of the large properties along the High Street and the dense form of the central area of West Malling. Consequently I am of the opinion that the proposed development is appropriate for this site and will add and contribute to existing views, rather than

detract, as a result of the context of the proposed development. The development therefore complies with policies CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD.

- 6.10 The final street scene issue that will have an impact on the locality is the loss of trees along the southern boundary, adjoining the public car park. These trees are also covered by a Tree Preservation Order. The impact of their loss on the Conservation Area has already been discussed above. However, their condition has been fully and appropriately assessed and it is clear these trees have not been maintained appropriately and are therefore of poor quality. Consequently they do not contribute as much to the locality as mature native trees would and on balance their loss is considered acceptable in the circumstances of this particular site. Some minor landscaping adjoining the 24 hour public access point through the site is proposed to soften this boundary and will be discussed later. The loss of the trees however has been addressed as required under policy NE4 of the MDE DPD.
- 6.11 The significance of the site in archaeological terms has also been a key issue in the assessment of this application. The site is situated within an Area of Archaeological Potential and therefore there is the potential for significant archaeological remains. Extensive discussions have taken place with KCC Archaeology in respect of the most appropriate way forward in the assessment of the potential archaeological significance of this site. A desktop archaeological assessment has been submitted but this has been inconclusive, consequently further survey work is required. Normally such survey work would be undertaken prior to the determination of a planning application; however, on this occasion the applicants have requested if TMBC can determine the application prior to an investigative survey. The basis for this request is both financial and due to the restricted nature of the application site.
- 6.12 Following consideration of this request and discussions with KCC Archaeological Unit, it has been decided that it is possible to deal with the further required archaeological investigations by way of conditions and on the understanding that if any significant archaeological finds are discovered and potentially need to be retained then this may result in amendments to the proposed development. KCC Archaeological Unit are satisfied with this approach, although at the time of writing a formal response has not yet been received. I envisage that this response will be reported in a Supplementary Report. Consequently I am also satisfied that with the imposition of appropriate planning conditions the potential for any significant archaeological finds can be dealt appropriately and on this basis I am happy to recommend approval without a further investigative survey prior to determination.
- 6.13 Affordable Housing provision is also required under policy CP17 of the TMBCS. This policy requires the provision of 40% affordable housing on sites which, for this site, equates to the provision of 2 affordable units within the proposed development. The applicant has identified that two units are to be provided,

however at this stage a Registered Provider has yet to be identified. As two units are to be provided this complies with policy CP17 and is therefore acceptable in this regard. Clearly the applicants will need to enter into further discussions to secure a RSL at a later date. A condition has therefore been imposed to secure this provision.

- 6.14 In respect of residential amenity a daylight and sunlight assessment has been submitted with the application. This identifies that there will be a very limited impact on daylight and sunlight to adjoining properties as a result of the proposed development. The assessment identifies that only during late winter will there be any affect. In terms of potential overlooking or loss of privacy to neighbouring properties, most of which are residential, with residential gardens adjoining the application site, there is also considered to be a limited impact. This is because all elevations adjoining the existing residential properties will either have high level windows only or none at all. There are two light wells within the roof. This ensures there will be no overlooking or loss of privacy to the adjoining residential properties and their gardens. Moreover the catslide roof to the eastern building minimises the impact further. The northern eastern building also has no windows on the elevation facing towards Swan Street and the corner element is single storey to reduce the impact on those properties in Swan Street. It may however be possible for there to be some brief glimpses from the larger 3-4 storey element of the western building, over the roof of the smaller buildings, but there would be no direct view into gardens of residential properties and the distances involved would result in a minimal loss of privacy, if any. Notwithstanding, a condition is required to ensure no additional windows are inserted in the elevations or roofs adjoining residential properties. Therefore I find the relationships between the existing and proposed buildings acceptable and the development complies with polices CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD.
- 6.15 The final design issue is sustainable design and whether the development complies with the requirements of policy CC1 that requires sustainable design features, construction and the need to provide renewable energy. This has been raised with the applicants during the consideration of the application and some basic details have been submitted with the application. However, a comprehensive assessment of the ability to incorporate sustainable design and construction elements within the buildings is still required. Therefore a condition will be imposed to require these details to be submitted for approval.
- 6.16 Notwithstanding the requirement to provide renewal energy generation under policy CC1, the applicants have stated that the design and location of the buildings does not lend itself to the incorporation of such features. I agree with this view and consider that renewable energy generation measures are not appropriate for this development. Normally renewable energy is in the form of solar panels, a wind turbine or a ground source heat pump. In some cases biomass generators are proposed. However the design of the buildings does not lend itself to solar panels or a wind turbine, due to the sensitive location of the proposed

development and also the specific design of the proposed buildings. A ground source heat pump is not possible due to the potential archaeology and the development is not large enough for a biomass generator to be viable. For these reasons I am of the view that on this occasion it would not be appropriate to request the provision of renewable energy requirements within the scheme. I do however see no reason why all other sustainable construction and design measures cannot be incorporated and these can be dealt with by the planning condition. On this basis the development will comply with most of the requirements identified in policy CC1 of the MDE PD.

- 6.17 In terms of highway issues, a number of matters need to be considered that all interrelate with each other: these include access to the site, car parking provision, refuse and bin collection, servicing and also the matter of construction traffic. Clearly this is a restricted site in a busy location and adjacent to a heavily used public car park.
- 6.18 The site is currently accessed from Swan Street and there are a number of existing car parking spaces. It is proposed that access from Swan Street would still be the principal access to the site, serving most of the car parking provision and servicing for the proposed commercial units. This is acceptable in terms of additional traffic generation, as it would only result in a small increase in traffic movements to and from the site. The second area of car parking serving the site would be accessed from the car park, adjacent to the Tesco store. The proposal would result in an existing car parking area being reused and being laid out more appropriately for a car parking area. This part of the site is currently underused and unkempt. The use of the area would therefore improve the appearance of the locality and would result in limited changes in terms of current access arrangements. KCC Highways has assessed the traffic and car parking issues in relation to the proposed development and, due to the adjoining public car park and traffic control measures along surrounding streets, KHS is satisfied with the approach taken and considers it is acceptable in highway terms. The car parking provision proposed, although at the minimum, is also acceptable for this site. In addition, all the residential units have a cycle store area incorporated into the design of the buildings.
- 6.19 In terms of servicing, the current arrangements would be retained with most deliveries taking place during working hours due to the small size and limited occupation of the existing and proposed units. However, if Members feel this needs to be controlled a condition to control delivery hours could be imposed. But, for the reasons identified above and given the mixed use character of the locality, I am of the opinion that this is not necessarily required for this site.
- 6.20 Refuse collection has also been addressed with a proposed bin collection area sited in close proximity to the Swan Street entrance, that would serve all the residential and commercial units and this removes any need for a refuse vehicle to enter the site. Bin storage areas have also been incorporated into the design of

the proposed buildings. Consequently the issue of refuse and recycling bin storage and collection has been adequately addressed. Notwithstanding, a condition has been imposed to provide further details in respect of the bin collection area and its management, to ensure this matter is fully addressed in all respects.

- 6.21 In terms of pedestrian access to and across the site, this will be improved overall as a result of the proposed development. There is currently a footpath through the site linking Swan Street with the public car park. Although not formally a public footpath, this link is well used and needs to be retained. The proposed scheme will provide two footpaths across the site. The proposed public space and courtyard area will replace the current footpath; however it will be closed overnight. A second footpath is therefore also proposed adjoining the new car parking areas to the west of the site and to the rear of the High Street properties. This path will be open 24 hours, but includes steps to deal with the difference in ground levels and also a disabled access scissor lift. Details of this lift need to be dealt with by condition; however the proposal represents an improvement to pedestrian access to and across the site which should be encouraged.
- 6.22 The control of construction and construction traffic is also necessary due to the restricted nature of the site and access to and from the locality. Therefore, although not normally controlled by condition, it is considered that due to the sensitive nature of the site, the existing uses and the potential for serious disruption to be caused to the locality, a condition also needs to be imposed in this regard. Therefore a comprehensive condition is proposed that deals with all matters in relation to construction traffic and the management of the site whilst construction work and clearance of the site is taking place. Although informatives would normally be imposed in this regard, on this occasion I feel such a condition is appropriate to safeguard adjoining uses and access to and from the site.
- 6.23 In respect of the control of the different uses within the site and the protection of existing and proposed residential amenities, a number of conditions have been suggested to ensure the mix of uses is appropriately safeguarded. The commercial units can be controlled by the imposition of a condition to restrict their use to Use Classes A1 and A2. This is largely to ensure that cafes or office uses do not take over the proposed retail element of the development. For similar reasons a condition has been suggested to ensure the units are not amalgamated, subdivided or a new floor inserted. This is to maintain the character of the proposed development, as small specialised units. In respect of additional floors being created, the south eastern corner unit, adjoining the public car park has a double height retail unit, with no residential use at first floor. This arrangement has been designed due to the close proximity of the recycling centre and to ensure a residential unit is not provided immediately adjacent to this recycling centre, due to the potential for noise nuisance. Finally, an hours of use condition for the commercial units is also required to protect residential amenities. It is considered

that 08.30-18.00 Monday to Saturdays and no opening on Sundays and Bank Holidays would be sensible hours of opening within this location, however Members may wish to further consider the hours of opening.

6.24 A number of other conditions have also been suggested to further control the use and development of the site. In particular, a contamination condition is necessary as there is some potential for contamination to be present on the site and this needs to be adequately controlled. Tree and landscaping conditions have been imposed to ensure the protection of trees within close proximity to the site and to provide details of the small landscaping area proposed adjacent to the new pedestrian access point and the amenity areas that serve the residential units.

7. Recommendation:

7.1 **Grant Planning Permission** in accordance with the following submitted details:

Archaeological Assessment DESK BASED ASSESSMENT dated 14.12.2010, Letter dated 14.12.2010, Arboricultural Assessment dated 16.04.2010, Letter dated 17.08.2010, Certificate B dated 17.08.2010, Design and Access Statement dated 14.12.2010, Design and Access Statement APPENDICES dated 14.12.2010, Section 12397E/85 dated 14.12.2010, Site Layout 12397E/50 D dated 14.12.2010, Parking Layout 12397E/20 dated 14.12.2010, Section 12397E/86 dated 14.12.2010, Letter dated 15.06.2010, Certificate B dated 16.04.2010, Notice dated 16.04.2010, Site Plan 12397E/01 dated 16.04.2010, Planning Statement dated 15.06.2010, Elevations 12397E/104 dated 16.04.2010, Elevations 12397E/103 dated 16.04.2010, Elevations 12397E/102 dated 16.04.2010, Elevations 12397E/101 dated 16.04.2010, Floor Plan 12397E/53 dated 16.04.2010, Floor Plan 12397E/52 dated 16.04.2010, Elevations 12397E/105 dated 16.04.2010, Elevations 12397E/106 dated 16.04.2010, Elevations 12397E/107 dated 16.04.2010, Elevations 12397E/108 dated 16.04.2010, Floor Plan 12397E/51 A dated 16.04.2010, Roof Plan 12397E/54 dated 15.06.2010, Letter dated 20.04.2011, subject to 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 development shall take place until details and samples of materials to be used externally have been submitted to and approved in writing 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 character and appearance of the existing building or the visual amenity of the locality.

- 3 No development shall take place until details of any joinery to be used have been submitted to and approved in writing 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 character and appearance of the existing building or visual amenity of the locality.

- 4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the north and eastern elevations of the eastern buildings or the roof slopes of any of the buildings other than as hereby approved, without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining property.

- 5 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping and boundary treatment. 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.

- 6 No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (including a timetable for such investigation) which has been submitted by the applicant and approved by the Local Planning Authority.

Reason: In the interests of archaeological research.

- 7 No development shall take place until details of the access gate to the public space and the disabled access lift to include details of the management and maintenance of the lift have been submitted to and approved in writing 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.

- 8 No development shall take place until details of the bin collection area to include its designation and if necessary screening have been submitted to and approved in writing 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.

- 9 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 and to protect the appearance and character of the site and locality.

- 10 All work shall be carried out to the standards set in BS 3998 (or EU equivalent).

Reason: In the interests of good forestry practice and the amenity of the locality.

- 11 Development shall not begin until a scheme for protecting the proposed buildings from noise, that includes noise attenuation measures to protect the residential properties from noise from the public car park and recycling centre, has been submitted to and approved in writing by the Local District Planning Authority, and all works which form part of the scheme shall be completed before any of the permitted buildings are occupied and shall not be altered without the prior written approval of the Local Planning Authority.

Reason: In the interests of the residential amenity of the new development.

- 12 The businesses shall not be carried on outside the hours of 08.30 to 18.00 hours Mondays to Saturdays with no working on Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby and adjoining residential properties.

- 13 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space 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 or 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.

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

- 14 No building shall be occupied until the area shown on the submitted plan as turning area 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.

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

- 15 The proposed retail units shall be used for purposes within Use Class A1 and A2 and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument amending, revoking and re-enacting that Order).

Reason: The protection of the retail core of the proposed development.

- 16 (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted for approval by the Local Planning Authority relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development prior to first occupation of the building hereby approved.

Reason: In the interests of amenity and public safety.

- 17 No development shall take place until details of foundations designs and any other proposals involving below ground excavation have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation *in situ* of important archaeological remains.

- 18 No development (including demolition of the existing building) shall take place until details of a management plan to address the physical practicalities of carrying out the demolition and construction work on this tightly constrained site have been submitted to and approved in writing by the Local Planning Authority. The plan shall specify access routes into the site for construction traffic and contractors' vehicles, areas to be set aside for materials storage and maximise vehicle parking within the site and measures to protect adjoining properties whilst the development is under way. In addition, the plan shall specify pedestrian safety measures across and adjoining the site. The development shall be carried out in strict accordance with the details approved.

Reason: In the interests of residential amenity.

- 19 Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or the Town and Country (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), the layout of the development shall not be varied by means of sub-division or amalgamation of any units, nor by the insertion of additional floors, without the prior permission in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to assess the impact of such variation in the interests of the safe and free flow of traffic and the protection of residential amenities.

- 20 Prior to the commencement of the development, a scheme shall be submitted to the Local Planning Authority for approval to demonstrate that the development hereby approved will adopt and incorporate practicable and appropriate sustainable construction standards and techniques. The scheme shall take account of the need to minimise: waste generation; water and energy consumption; and the depletion of non-renewable resources. The approved scheme shall be implemented prior to the first occupation of the building hereby approved, and retained thereafter.

Reason: To comply with the sustainable design and construction requirements identified under policy CC1 of the Managing Development and the Environment Development Plan Document.

- 21 No development shall be commenced until a scheme has been submitted to and approved in writing by the Local Planning Authority which details the implementation and delivery of the provision of 2 affordable residential units within

the development hereby approved. Such a scheme shall comply with the requirements of Policy CP17 of the Tonbridge and Malling Borough Core Strategy and the Affordable Housing Supplementary Planning Document.

Reason: The proposed development is required to provide affordable housing in line with Policy CP17 of the Tonbridge and Malling Borough Core Strategy.

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 the Legal Services Partnership Manager, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or contact Trevor Bowen, Principal Legal Officer, on 01732 876039 or by e-mail to trevor.bowen@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. Tonbridge and Malling Borough Council operates a wheeled bin, kerbside refuse collection service. In addition the Council also operates a fortnightly recycling box/bin service. This would require an area approximately twice the size of a wheeled bin per property. On the day of collection, the wheeled bin from each property should be placed on the shared entrance at the bin collection area adjacent to the adopted KCC highway. The Council reserves the right to designate the type of bin/container. The design of the development must have regard to the type of bin/container needed and the collection method.
3. The applicant must liaise with KCC Highways prior to and during the construction phase to ensure that safety of all users of the public highway is maintained at all times.

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