

- Applicant should arrange for truck to visit site to demonstrate swept paths accurate
- Query tree report accuracy and object to damage to neighbouring trees outside of ownership of applicants
- In difficult times Lidl would be great asset to the community
- Many business have not been able to reopen due to Covid-19, Lidl will bring new jobs and affordable pricing

DPHEH:

For the avoidance of any doubt, policy H4 of the DLA DPD identifies the site as potentially suitable for housing, but notes that it is a constrained housing site. It is not a formal housing allocation however, and should not be considered as such, nor as a policy that would preclude other policy compliant uses from coming forward. As already noted within the committee report, the proposed development must be considered rather than theoretical alternative uses that are not before the Council.

In terms of trees, on site specimens are not considered to be of sufficient merit to warrant retention. However, close to the site frontage within the neighbouring properties boundary is a group of Scott's Pines, subject to a Tree Preservation Order. The applicants have submitted an Arboricultural Impact Assessment (AIA) that considers the impact on off-site trees and provides a series of recommendations to limit any potential damage to the trees or root protection zones (RPZ). This includes excavating by hand during the possible RPZ to minimise potential root damage. Given that some retaining structures are already present on site on the boundary with these trees, and with the tree protection measures identified within the AIA, that subject to an additional condition securing the implementation of these measures, damage to these trees will be minimised.

The applicants have also sought to clarify the point regarding staff parking. They have confirmed that whilst "dedicated" parking for staff is not provided (as in specifically reserved spaces only for staff), staff are able to park within the car park. They have further stated that all the supporting TRICS data includes staff parking and associated movements, and therefore the capacity of the car park including at peak times has already considered staff use.

Finally, Members will be aware that the Government has recently announced changes to the Use Classes Order, which take effect from 01 September 2020. After this date retail development would fall under use Class E, rather than A1, meaning that a change to other uses falling within that class would not require planning permission. This would include nurseries, cafes and restaurants, offices and medical centres. Given that these uses may result in different requirements for parking and would be accessed at different peak times, it is considered reasonable and necessary to ensure that if a change of use was proposed in future, the Council could consider any potential highways implications in full. Accordingly, an additional condition is recommended to retain the premises in A1 use and

to preclude any other uses without planning permission being obtained from the Local Planning Authority.

AMENDED RECOMMENDATION

Additional Conditions 24 and 25

24. The development shall be carried out in accordance with the recommendations in the submitted Tree Survey and Arboricultural Impact Assessment JSL3386_770 dated 08 November 2019.

Reason: To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan.

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

Reason: To ensure the use of the site remains acceptable in terms of highways impact and traffic generation.

Additional Informative 2:

2. The applicant is strongly encouraged to enter into early discussions with the operator of the neighbouring restaurant to establish whether any opportunities exist to make use of their car park for staff parking if at all possible.

**East Malling & Larkfield TM/20/00483/FL
East Malling**

**Development of 2no. detached houses with associated gardens and parking at
Land Between 166 And 194 The Rocks Road East Malling West Malling**

DPHEH:

Officers are aware that Members of the committee have been contacted by one of the neighbours to the application site reiterating their objections to the application on highway safety grounds. This email has been treated as a further representation on the application and raises no issues beyond those already addressed in the main papers.

Additionally, it is noted that there is no express condition contained within the main papers controlling the levels at which the development should be constructed in the event that planning permission is granted. This is addressed as follows:

AMENDED RECOMMENDATION

Additional Condition 9:

9. No development shall take place until a plan showing the proposed finished floor levels, eaves and ridge levels of the buildings hereby approved and finished ground levels in relation to the existing ground levels of the site and adjoining land has been submitted to and approved by the local planning authority. The works shall be carried out in strict accordance with the approved details.

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

East Malling & Larkfield TM/19/01814/OA East Malling

Outline Application: Erection of up to 250 new homes (40% affordable), new community building, provision of a new country park and other areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping at Development Site Land West Of Winterfield Lane East Malling West Malling

Procedural Matter: Question has been raised as to the minutes published in respect of this item when heard by APC3 in July. As such, it is proposed to amend the wording of the minutes as follows:

“The Committee was minded to refuse the application and therefore, in accordance with Committee Procedure Rule 15.25, Part 4 (Rules) of the Council’s Constitution it was

RESOLVED: *That consideration of the application be DEFERRED for a report from Legal Services on the risks arising from a decision contrary to the recommendation of the Director of Planning, Housing and Environmental Health.”*

Private Reps: Since publication of the main report a total of 55 further representations have been received, objecting to the application. These include representations from Leybourne PC, the East Malling Conservation Group and on behalf of the Save West Malling Action Group. These are all available to view on the public record and the officer advice in all respects remains as set out in the main reports in relation to the material planning considerations raised.

Additional Information: The agent for the developer has provided additional information setting out their position that not all of the application site would form part of the developable area and therefore that some of the application site could still be incorporated into a new Green Belt (if confirmed through the Local Plan Examination). A plan has been provided to that effect which is to be uploaded onto the planning record.

DPHEH:

Since publication of the main report, the Council has received notification from the Planning Inspectorate that the Public Inquiry will commence on 01 December 2020 and will sit for a total of 8 days.

Officers understand that the recommendation set out at paragraph 4.2 of the agenda papers has caused some confusion and objection. It should be noted that a duplicate application has now been submitted by the developer. For the avoidance of any doubt, the recommendation set out here would only come into effect in the event that the committee resolves to accept the recommendation at paragraph 4.1 i.e. it determines that had an appeal not been lodged, planning permission would have been granted.

In the event that recommendation is not accepted and putative grounds of refusal are put forward and resolved upon, the recommendation at 4.2 falls away and the duplicate application will be dealt with accordingly; either via formal withdrawal by the applicant or a refusal based on the same grounds determined by the Committee if such a withdrawal is not forthcoming.

In the event that future applications proposing development on this site are received, they will be brought to the Area 3 Planning Committee for determination in the normal way.

RECOMMENDATION REMAINS UNCHANGED

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