

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**AREA 2 PLANNING COMMITTEE**

**Tuesday, 14th October, 2014**

**Present:** Cllr Mrs F A Kemp (Chairman), Cllr Mrs J A Anderson, Cllr M A C Balfour, Cllr C Brown, Cllr F R D Chartres, Cllr M A Coffin, Cllr S R J Jessel, Cllr B J Luker, Cllr Mrs S Murray, Cllr T J Robins, Cllr Miss J L Sergison and Cllr M Taylor

Apologies for absence were received from Councillors Mrs E M Holland (Vice-Chairman), Mrs S Luck, H S Rogers and A G Sayer

**PART 1 - PUBLIC**

**AP2 14/52 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

However, in the interest of transparency and openness Councillor Balfour reminded the Committee that he was a Member of Kent County Council but had no responsibility or influence regarding Kings Hill. This was not deemed a Disclosable Pecuniary Interest or an Other Significant Interest.

**DECISIONS TAKEN UNDER DELEGATED POWERS IN  
ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE  
CONSTITUTION**

**AP2 14/53 DEVELOPMENT CONTROL AND SUPPLEMENTARY REPORTS**

Decisions were taken on the following applications subject to the pre-requisites, informatives, conditions or reasons for refusal set out in the report of the Director of Planning, Housing and Environmental Health or in the variations indicated below. Any supplementary reports were tabled at the meeting.

Members of the public addressed the meeting where the required notice had been given and their comments were taken into account by the Committee when determining the application. Speakers are listed under the relevant planning application shown below.

**AP2 14/54 TM/13/01535/OAEA - KINGS HILL PHASE 3, KINGS HILL, WEST MALLING**

Outline Application (with all matters reserved except for means of access) for the demolition of existing buildings including the KCC

Supplies depot and removal of a section of Kings Hill Avenue; the erection of up to 635 residential dwellings; a two form entry primary school with associated playing fields and land safeguarded for an extension to create a three form entry primary school; a multi-functional extension to the community hall; a skate park; formalisation of car parking areas at the Community Centre and adjacent to Crispin Way; improvements to the highway network at Alexander Grove, Gibson Drive and Queen Street; and trim trails, woodland paths and green spaces at Kings Hill, Phase 3, Kings Hill.

It was reported that the application had been revised to address feedback received as part of the Borough Council's statutory consultation exercise. Details of the outline planning application were set out in the main report of the Director of Planning, Housing and Environmental Health, together with a wide range of policy and planning considerations.

The application was a material departure from the Development Plan and had the potential to prejudice the delivery or result in the loss of allocated employment land. There was also a high level of public interest.

A supplementary report, tabled at the meeting, provided a summary of additional information and representations received, included conditions to address contamination and drainage issues and informatives.

After listening to the views expressed by the public speakers, Members gave careful consideration to the issues surrounding the intensification of commercial land and the change from employment to residential use; the quality of the existing public transport network and the importance of improving both train and bus services for commuters and school travel; whether parking provision was sufficient; community facilities and the overall impact on services and infrastructure, not only for Kings Hill but neighbouring communities.

Members expressed serious concern about the highway infrastructure and whether it was able to deal with increased traffic movement, not only through King Hills but the surrounding road network with particular concern raised about the Kent Street junction, the A228 southbound towards Mereworth and Tonbridge and the B2016.

Finally, Members were pleased to note that discussions were ongoing between the applicant and relevant church bodies to identify a suitable site for a place of worship and that there were no planning impediments to the provision of housing for older people to retire into if such a developer came forward.

**RESOLVED:** That outline planning permission be GRANTED in accordance with the submitted details, conditions and reasons set out in

the main report of the Director of Planning, Housing and Environmental Health; subject to

- (1) The following amendments, conditions, reasons and informatives set out in the supplementary report, tabled at the meeting:
  - (a) An up to date plans list at the time of the decision being issued.
  - (b) Subject to S106 heads of terms and conditions 1-33, as set out in the main report, with additional conditions on contamination and drainage set out below. All suggested conditions to be subject to refinement of detailed wording broadly as described above to be delegated to the Director of Planning, Housing and Environmental Health in liaison with the Director of Central Services (and taking into account the submissions made by the applicant in respect of the draft conditions/Heads of Terms as set out in the main report and the further updates set out below):

### **Contamination**

34.No development of any phase other than the removal of hardstanding, ground investigations or site survey works shall be commenced until the following have been submitted to and approved by the Local Planning Authority for that phase:

- (a) a contaminated land desktop study, identifying all previous site uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors and any potentially unacceptable risks arising from contamination at the site;
- (b) proposals for a site investigation scheme that will provide information for an assessment of the risk to all receptors that may be affected including those off site;
- (c) the results of the investigation including any necessary intrusive investigations, and a risk assessment assessing the degree and nature of any contamination on site and the risks posed by contamination to human health, controlled waters and the wider environment;

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

Reason: In the interests of amenity, public safety and human health.

35. No development above pre-existing ground level shall take place until all required remediation works have been fully completed insofar as they relate to that part of the development and a validation report to verify these works has been submitted to, and approved in writing by, the Local Planning Authority unless specific authorisation for such works has been given by the Local Planning Authority.

Reason: In the interests of amenity, public safety and human health.

36. Prior to the first occupation of the development or any part of the development hereby permitted, a Certificate (final validation report) shall be provided to the Local Planning Authority by a responsible (competent) person stating that remediation has been completed and the site is suitable for the permitted end use.

Reason: In the interests of amenity, public safety and human health.

### **Drainage**

37. No dwelling shall be occupied until it has been demonstrated that surface water and foul drainage has been adopted by the appropriate drainage body.

No such details have been submitted.

### **Informatives:**

1. Any public right of way which crosses the application site should be retained on its existing line or on such other line as may be legally established and be kept free from physical obstruction.
2. The applicant is advised that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site must comply with the appropriate wildlife legislation. Failure to do so may result in fines and potentially a custodial sentence.
3. The Borough Council believes that there is an opportunity to create areas of native planting in this development. Plants for such areas should not only be of native species but also of local provenance. The use of plants of non-local provenance could harm the environment by introducing genetically alien material and reducing the variety and viability of other wildlife that the particular plant supports. No ash should be planted nor species susceptible to fireblight.

4. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to the Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or contact the Principal Legal Officer, on 01732 876039 or by e-mail to [legal.services@tmbc.gov.uk](mailto:legal.services@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.
5. The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
6. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:
  - excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
  - treated materials can be transferred between sites as part of a hub and cluster project
  - some naturally occurring clean material can be transferred directly between sites.
7. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. We recommend that developers should refer to:
  - Position statement on the Definition of Waste: Development Industry Code of Practice and website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for further guidance.
8. Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:
  - Duty of Care Regulations 1991

- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information

9. Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipe work should be protected from accidental damage. Below ground pipe work should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

(2) Addition of an Informative:

10. Reserved matters will be expected to create areas of high quality character and appearance.

**Speakers:**

Kings Hill Parish Council (Ms H Munroe), Mereworth Parish Council (Mrs J Thoroughgood and West Malling Parish Council (Mrs T Dean);

Members of the Public: Mr D Hughes speaking on behalf of Mrs K Jones; Ms S Barker; Mr Fisher; Mrs J Budd; Mr C Budd; Reverend D Green; Mrs G Bastin; Ms A Vincent; Mr D Cunningham; Ms Barker reading the written statement of Mr Felipe Baquero; Mr R Philpott; Reverend M Ross; Mr D Rush; Mrs C Cunningham; Ms S Barker reading the written statement of Mr David Gilman; Mr P Cosier; Mrs T Lowe; Reverend Ms P Dickin; Mr G Marsh; Ms R Mitchell speaking on behalf of Ms Helen Marsh;and

Mr J Suckley (agent) and Mr A Blevin (on behalf of the applicant)

**AP2 14/55 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 2.00 pm  
having started at 1000am