

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

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**NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.**

Contact: Committee Services  
[committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)

19 October 2016

To: MEMBERS OF THE AREA 1 PLANNING COMMITTEE  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 1 Planning Committee to be held in the Riverside Lounge, Angel Centre, Tonbridge on Thursday, 27th October, 2016 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

## A G E N D A

### PART 1 - PUBLIC

1. Apologies for Absence
2. Declarations of Interest

3. Minutes 5 - 6

To confirm as a correct record the Minutes of the meeting of Area 1 Planning Committee held on 30 June 2016

**Decisions to be taken by the Committee**

4. Development Control 7 - 10  
Introduction and Glossary
5. TM/16/01169/FL - Cafe 1809, 152-154 Tonbridge Road, Hildenborough 11 - 26
6. (A) TM/16/00819/FL; (B) TM/16/00821/FL; (C) TM/16/00822/FL; (D) TM/16/00820/FL and (E) TM/16/00818/FL - B&Q, Cannon Lane, Tonbridge 27 - 50
7. TM/16/02521/FL - 36-36A Dry Hill Park Road, Tonbridge 51 - 60
8. Alleged Unauthorised Development 16/00151/WORKM - 44C Dry Hill Park Road, Tonbridge 61 - 64
9. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

**Matters for consideration in Private**

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The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**PART 2 - PRIVATE**

11. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

## **MEMBERSHIP**

Cllr R D Lancaster (Chairman)  
Cllr V M C Branson (Vice-Chairman)

Cllr Mrs J A Anderson  
Cllr O C Baldock  
Cllr Mrs P A Bates  
Cllr P F Bolt  
Cllr J L Botten  
Cllr D J Cure  
Cllr M O Davis  
Cllr T Edmondston-Low  
Cllr B T M Elks

Cllr Mrs M F Heslop  
Cllr N J Heslop  
Cllr M R Rhodes  
Cllr H S Rogers  
Cllr Miss J L Sergison  
Cllr C P Smith  
Cllr Ms S V Spence  
Cllr F G Tombolis

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 1 PLANNING COMMITTEE

Thursday, 30th June, 2016

**Present:** Cllr R D Lancaster (Chairman), Cllr V M C Branson (Vice-Chairman), Cllr Mrs J A Anderson, Cllr O C Baldock, Cllr Mrs P A Bates, Cllr P F Bolt, Cllr J L Botten, Cllr D J Cure, Cllr M O Davis, Cllr T Edmondston-Low, Cllr Mrs M F Heslop, Cllr N J Heslop, Cllr H S Rogers, Cllr Miss J L Sergison, Cllr C P Smith and Cllr F G Tombolis

Apologies for absence were received from Councillors Ms J A Atkinson, B T M Elks, M R Rhodes and Ms S V Spence

### PART 1 - PUBLIC

#### **AP1 16/14 DECLARATIONS OF INTEREST**

Councillor T Edmondston-Low declared an Other Significant Interest in Application TM/16/00957/FL as he knew the architect for the scheme in a personal capacity. He withdrew from the meeting during consideration of this application.

#### **AP1 16/15 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 1 Planning Committee held on 7 April 2016 be approved as a correct record and signed by the Chairman.

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

#### **AP1 16/16 DEVELOPMENT CONTROL**

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.

**AP1 16/17 TM/16/01498/FL - 16 ROYAL AVENUE, TONBRIDGE**

Extension and change of use from single dwelling house to 7 bed HMO at 16 Royal Avenue, Tonbridge.

**RESOLVED:** That planning permission be REFUSED for the reasons stated in the report of the Director of Planning, Housing and Environmental Health.

[Speakers: Mr A Khlemanov, Mr R Whitelock, Mr C Churchman, Mrs J Hewitt, Mr S Jenkins, Mr L Cooper and Mr E Warren – members of the public; and Mr C Anderson – Agent to the Applicant]

**AP1 16/18 TM/16/00957/FL - 1 RODNEY AVENUE, TONBRIDGE**

Proposed two storey chalet style detached dwelling with associated parking and garden areas at 1 Rodney Avenue, Tonbridge.

**RESOLVED:** That planning permission be REFUSED for the following reason

1. The proposed new dwellinghouse, by virtue of its overall size and specific siting combined with the constrained nature of the plot, would result in a dominant and obtrusive form of development which would be out of character with and harmful to the street scene and surrounding locality. The proposed development is therefore contrary to policy CP24 of the Tonbridge and Malling Core Strategy 2007, policy SQ1 of the Managing Development and the Environment Development Plan Document 2010 and the core principles of the National Planning Policy Framework (paragraphs 17, 58 and 64).

[Speakers: Mr R Gray, Mr Brett, Mr C Fretwell, Mrs K Fretwell and Mrs G Featherstone – members of the public]

**AP1 16/19 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 9.05 pm

## TONBRIDGE & MALLING BOROUGH COUNCIL

### AREA PLANNING COMMITTEES

#### Report of the Director of Planning, Housing & Environmental Health

#### Part I – Public

#### Section A – For Decision

#### DEVELOPMENT CONTROL

In accordance with the Local Government Access to Information Act 1985 and the Local Government Act 1972 (as amended), copies of background papers, including representations in respect of applications to be determined at the meeting, are available for inspection at Planning Services, Gibson Building, Gibson Drive, Kings Hill from 08.30 hrs until 17.00 hrs on the five working days which precede the date of this meeting.

Members are invited to inspect the full text of representations received prior to the commencement of the meeting.

Local residents' consultations and responses are set out in an abbreviated format meaning: *(number of letters despatched/number raising no objection (X)/raising objection (R)/in support (S))*.

All applications may be determined by this Committee unless (a) the decision would be in fundamental conflict with the plans and strategies which together comprise the Development Plan; or (b) in order to comply with Rule 15.24 of the Council and Committee Procedure Rules.

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#### GLOSSARY of Abbreviations and Application types

#### used in reports to Area Planning Committees as at 23 September 2015

AAP	Area of Archaeological Potential
AODN	Above Ordnance Datum, Newlyn
AONB	Area of Outstanding Natural Beauty
APC1	Area 1 Planning Committee
APC2	Area 2 Planning Committee
APC3	Area 3 Planning Committee
ASC	Area of Special Character
BPN	Building Preservation Notice
BRE	Building Research Establishment
CA	Conservation Area
CPRE	Council for the Protection of Rural England
DEFRA	Department for the Environment, Food and Rural Affairs

DETR	Department of the Environment, Transport & the Regions
DCLG	Department for Communities and Local Government
DCMS	Department for Culture, the Media and Sport
DLADPD	Development Land Allocations Development Plan Document
DMPO	Development Management Procedure Order
DPD	Development Plan Document
DPHEH	Director of Planning, Housing & Environmental Health
DSSL	Director of Street Scene & Leisure
EA	Environment Agency
EH	English Heritage
EMCG	East Malling Conservation Group
FRA	Flood Risk Assessment
GDPO	Town & Country Planning (General Development Procedure) Order 2015
GPDO	Town & Country Planning (General Permitted Development) Order 2015
HA	Highways Agency
HSE	Health and Safety Executive
HMU	Highways Management Unit
KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards
KDD	Kent Design (KCC) (a document dealing with housing/road design)
KWT	Kent Wildlife Trust
LB	Listed Building (Grade I, II* or II)
LDF	Local Development Framework
LLFA	Lead Local Flood Authority
LMIDB	Lower Medway Internal Drainage Board
LPA	Local Planning Authority
LWS	Local Wildlife Site
MAFF	Ministry of Agriculture, Fisheries and Food
MBC	Maidstone Borough Council
MC	Medway Council (Medway Towns Unitary Authority)
MCA	Mineral Consultation Area
MDEDPD	Managing Development and the Environment Development Plan Document
MGB	Metropolitan Green Belt
MKWC	Mid Kent Water Company
MWLP	Minerals & Waste Local Plan
NE	Natural England
NPPF	National Planning Policy Framework
PC	Parish Council
PD	Permitted Development
POS	Public Open Space
PPG	Planning Policy Guidance
PROW	Public Right Of Way



SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (prepared as background to the LDF)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document (a statutory policy document supplementary to the LDF)
SPN	Form of Statutory Public Notice
SSSI	Site of Special Scientific Interest
SWS	Southern Water Services
TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan
TCS	Tonbridge Civic Society
TMBC	Tonbridge & Malling Borough Council
TMBCS	Tonbridge & Malling Borough Core Strategy (part of the Local Development Framework)
TMBLP	Tonbridge & Malling Borough Local Plan
TWBC	Tunbridge Wells Borough Council
UCO	Town and Country Planning Use Classes Order 1987 (as amended)
UMIDB	Upper Medway Internal Drainage Board
WLP	Waste Local Plan (KCC)
AGPN/AGN	Prior Notification: Agriculture
AT	Advertisement
CA	Conservation Area Consent (determined by Secretary of State if made by KCC or TMBC)
CAX	Conservation Area Consent: Extension of Time
CNA	Consultation by Neighbouring Authority
CR3	County Regulation 3 (KCC determined)
CR4	County Regulation 4
DEPN	Prior Notification: Demolition
DR3	District Regulation 3
DR4	District Regulation 4
EL	Electricity
ELB	Ecclesiastical Exemption Consultation (Listed Building)
ELEX	Overhead Lines (Exemptions)
FC	Felling Licence
FL	Full Application
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Assessment
FOPN	Prior Notification: Forestry
GOV	Consultation on Government Development
HN	Hedgerow Removal Notice
HSC	Hazardous Substances Consent

LB	Listed Building Consent (determined by Secretary of State if made by KCC or TMBC)
LBX	Listed Building Consent: Extension of Time
LCA	Land Compensation Act - Certificate of Appropriate Alternative Development
LDE	Lawful Development Certificate: Existing Use or Development
LDP	Lawful Development Certificate: Proposed Use or Development
LRD	Listed Building Consent Reserved Details
MIN	Mineral Planning Application (KCC determined)
NMA	Non Material Amendment
OA	Outline Application
OAEA	Outline Application with Environment Assessment
OAX	Outline Application: Extension of Time
RD	Reserved Details
RM	Reserved Matters (redefined by Regulation from August 2006)
TEPN56/TEN	Prior Notification: Telecoms
TNCA	Notification: Trees in Conservation Areas
TPOC	Trees subject to TPO
TRD	Tree Consent Reserved Details
TWA	Transport & Works Act 1992 (determined by Secretary of State)
WAS	Waste Disposal Planning Application (KCC determined)
WG	Woodland Grant Scheme Application

**Hildenborough**  
Hildenborough

**18 May 2016**

**TM/16/01169/FL**

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Proposal: Variation of conditions 6 and 7 of planning permission TM/13/02727/FL to allow the cafe to be open between the hours of 07:30 to 20:00 Monday-Saturday, to allow for the use of outside space by customers between the hours of 07:30 to 20:00 Monday-Saturday between the months of May-September; (inclusive), and to allow for the use of the premises for private functions all year round (up to a maximum of 5 events per month) on Tuesday-Saturday up until 23:30 hours.

Location: Cafe 1809 152 -154 Tonbridge Road Hildenborough Tonbridge Kent

Applicant: Double Gold Enterprise Ltd

Go to: [Recommendation](#)

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## 1. Description:

- 1.1 This application seeks a variation to the hours of operation which is controlled by conditions 6 and 7 of permission TM/13/02727/FL (*Change of use of 152 – 154 Tonbridge Road to a restaurant and café on the ground floor and beauticians and meeting area at first floor*).
- 1.2 Condition 6 currently restricts opening hours for customers to between 08:00 to 18:00 Monday to Saturday, and between 10:00 and 16:00 on Sunday.
- 1.3 Condition 7 currently requires that the use of the external seating area (which is limited to the ground floor garden area) and first floor rear roof terrace cease by 18:00 Monday to Saturday and by 16:00 on Sunday.
- 1.4 This application seeks to extend permitted opening times to include the following:
  - to allow the premises to be open for customers between 07:30 to 20:00 hours Monday to Saturday;
  - to allow the use of the outside seating area and first floor roof terrace between 07:30 to 20:00 Monday to Saturday, and only between the months of May to September (inclusive); and
  - to allow for the use of the premises for private functions all year round, up to a maximum of 5 events per month on a Tuesday to Saturday, and up until 23:30 hours [*Note that since the original application was submitted, the number of private events to be held per month has been reduced from 8 to 5*].
- 1.5 Since submitting the original application, the applicant has provided the following information in support of the application:

- *Strongly considers that private events will add a new and positive dimension and services to our immediate community, enhancing the current offerings within the area to a wide, local community who wish to partake, socially, educationally, charitably, in events at a local venue;*
- *Due to calendar months being unequal to 4 weeks per month, requests a maximum of 5 events per month and that this be averaged out over the course of the year. As in the case this summer of sporting events, e.g. the Olympics held four yearly, there can be events within a single month that we would like to host an event and other months that may have little of note going on;*
- *Agree to a restriction to prevent private functions events being held on consecutive nights (to overcome the potential use of the premises for private functions on Friday and Saturday nights), with an exception to this in the event of a major or significant national or local event;*
- *Confirmation that no waste will be emptied from the premises into external bins after 21:00 hours;*
- *Confirmation of agreement to a 12 month ‘trial period’; and*
- *Further information has also been provided on the nature/type of private function events that the applicant would like to hold at the premises – broadly this includes events, including, cheese and wine tasting events; pop-up events (similar to those currently held at The Old Fire Station in Tonbridge); events to celebrate opening/closing ceremonies/events of significant interest (i.e. major sporting events); business networking events; events for organisation and societies who would like to host meetings; charity events and wakes/memorial receptions.*

**2. Reason for reporting to Committee:**

- 2.1 At the request of Councillor Christopher Smith, due to the high level of public interest.

**3. The Site:**

- 3.1 Café 1809 lies within the rural settlement confines of Hildenborough, within the Hildenborough Conservation Area. It lies on the northern side of the Tonbridge Road (B245). The buildings form part of a row of Victorian dwellings that have been converted, renovated and extended over the past years.

**4. Planning History (relevant):**

TM/13/02727/FL

Approved

18 December 2013

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

TM/15/00842/FL      Application Withdrawn      9 April 2015

Variation of conditions 6 and 7 of planning permission TM/13/02727/FL to allow for the cafe to be open until 8pm Wednesdays- Saturdays between the months of June- September, to allow for the use of the outside space by customers until 8pm Wednesdays- Saturdays between the months of June- September and to allow for use of the premises for private functions all year round (up to a maximum of 8 per month) on Tuesdays-Saturdays up until 11pm

**5. Consultees:**

5.1 PC: If the Borough Council is minded to approve this application, the PC would like to see the following conditions imposed:

- Private functions should only take place on two evenings a week, one of which should be on a Friday OR Saturday;
- The café should be closed to other users during private functions;
- There should be a maximum of 100 persons on the premises, including staff;
- The placing of refuse in the outside bins should not take place after 23:30 hours so as to minimise noise nuisance to the immediate neighbours;
- At no time should the outside space be used after 18:00 hours;
- Sunday opening hours should continue to be restricted to between 10:00 to 16:00 hours; and
- In the interest of safety signage should be fixed to the side gate precluding access to the rear entrance.

5.1.2 Furthermore, the PC considers that any permission should be temporary (for a 1 year period) in the first instance.

5.1.3 KCC (H+T): Similar to my responses to the original application proposing this café, it is not considered that these proposals will cause a discernible detriment to road safety or could be described as constituting a severe impact in transport terms. I acknowledge that some local inconvenience may be expected and with regard to Hildenborough Parish Council's suggested conditions, I consider that the introduction of a maximum number of patrons and staff may be useful if this is not

already covered by a building or fire regulation. I have no objection to these proposals and do not consider that there are grounds to sustain a highway objection.

5.2 Private Reps: (85/0X/28R/7S): Objections are raised on the following grounds:

- The café is situated in a residential area with gardens and houses very close to the site;
- Significant parking problems exist in the locality already, this will only worsen as a result of these proposals;
- Hildenborough is a quiet village and we already have 2 pubs and Mountains event marquee – do we require another evening venue possibly creating more noise at nights;
- The extended facility would be better suited to a town environment;
- Similar facilities may be allowed to stay open longer, but these have established off-road parking available for visitors – something not the case at this site;
- The Council turned down the previous application for extended hours and I would hope that sense will prevail again [*it is noted that the previous application was in fact withdrawn by the applicant ahead of formal determination by the Planning Authority*];
- Local residents are entitled to some peace and quiet at the weekends and evenings – neither the café, nor the area generally is equipped to cater for a surge in clients from afield which would be the case if this application is granted;
- Planning permission was given for a café, not a night club;
- Considers that the fact that the applicant has obtained a list of signatures from random people who use the café to endorse these changes is very manipulative and should hold no basis or weight in the decision-making process;
- Although at first glance the applicant's request to hold 8 private events per month may seem reasonable, this could result in a private late-night event every single Friday and Saturday night a month. The late night departure of guests from these events will cause disturbance to residents, particularly as many patrons of the café park on Mount Pleasant/Tonbridge Road; and
- Notes that bins are currently emptied into the receptacles situated next to our house after closing which can be heard within our house. Whilst closing

remains during working hours, this is acceptable – but, if after this was after the proposed changes to opening times this noise would be much later into the evening/night and would cause us a great deal of disturbance;

5.2.2 Letters expressing support for the proposals raised the following points:

- The café has been a very positive addition to the village;
- Agree with the opening times as stated – I visit this café numerous times a week and it is nearly always full. I have lived in the village all my life and I must say it is a good environment to have along with the Farmers market; and
- The café provides a much needed community resource and meeting space and the village is enriched by its presence. The extension of the opening hours into the early evening would allow people who work during the day to visit the café, or organise a local private function. This local business should be supported.

5.2.3 Following the submission of additional supporting information, and the applicant reducing the number of proposed private function events, additional notifications have been undertaken and the following further responses have been received:

- The proposals represent the “thin edge of the wedge” – since planning consent was originally granted, the applicant has frequently gone back to planning for the easing of the original restrictions;
- Concerns over the enforceability of the suggested controls (i.e. number of events per month unless there is an exceptional circumstance and how the range of suggested events can be controlled);
- Questions what controls will exist for the outside space;
- There is a lack of parking for private functions – where will visitors to the premises park;
- Whether there are 8 events or 5 events per month the premises was permitted as a café, not a private function space;
- Parking could be addressed by establishing a residents parking zone and directing café users, with clear signage, to the existing free public car parks in Riding Lane; and
- This is a community venture – a place for people to meet. When St. Johns Church is closed, the café has been providing an outreach café for Hildenborough as well as providing much needed community meeting spaces.

**6. Determining Issues:**

- 6.1 The NPPF seeks to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This includes supporting the growth and expansion of all types of business and enterprise in rural areas and seeks to promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship. Additionally, Policy CP12 of the TMBCS states that (amongst others) employment development will be permitted within the confines of the defined rural settlements, which includes Hildenborough. With these policies in mind, there is no objection to the overarching principle of expanding the way in which this business operates.
- 6.2 A key cause for concern in the consideration of the original planning application for the change of use of these premises to a café was how the amenities of the surrounding residential properties might be affected. Members will recall that careful consideration was given to the approved opening hours in order to allow the applicant to commence the business in a way that would not be to the detriment of those residential amenities which closely surround the premises. It is understood that the current café business has become a success and that has led the applicant to consider developing it further and providing a wider service offering. It is therefore necessary to consider how the expansion of the business in the way proposed, particularly in respect of later opening times and the hosting of private events, would affect the amenities of the surrounding residents.
- 6.3 In this respect, paragraph 123 of the NPPF states that planning decisions should aim to:
- “Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.*
- Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions”.*
- 6.4 The proposal seeks to extend the permitted opening time for general café customers from the currently permitted 08:00 to 18:00 hours to between 07:30 to 20:00 hours on Monday to Saturday. It further seeks to extend the hours of use of the outside seating area (which is limited to ground floor garden seating and up to 15 covers) and first floor roof terrace from the permitted cut-off time of 18:00 hours to 20:00 hours Monday to Saturday, but only during the period of May to September (inclusive). This would effectively allow for use of both the indoor and outdoor space by customers until 20:00 hours, although the outside space is only intended to be used during the finer weather periods (i.e. May to September) and not on a year-round basis.



- 6.5 The applicant also requests that the premises be available for hire for private functions throughout the year, on Tuesday to Saturdays, and up to a maximum of 5 events per month. This would effectively leave Sundays and Mondays to operate under the terms of the original planning permission. Furthermore, it is proposed that private functions could be held up until 23:30 hours. It is noted that since the original application was first submitted, the applicant has reduced the number of private function events it intends to hold at the premises per month from 8 down to 5. It has also agreed to a restriction preventing private functions being held on consecutive nights (i.e. a Friday and then Saturday night), with an exception of a major or significant national or local event.
- 6.6 The applicant has stated that private function events would offer greater flexibility and extend the services the café can offer to the existing customer base, along with attracting new customers and business to the premises. The applicant has stated that, as is the case for existing daily operations, all functions would be fully managed by Café 1809's senior management team and the venue would not be hired out to a third party to control the premises. In terms of good operating procedures, it is expected that guests sign and adhere to terms and conditions covering what is allowable for an event, and the café management team would ensure that guest comply with those requirements during all such function events.
- 6.7 The applicant has offered greater clarification on the type and nature of private function events which it intends to offer from the premises – these include events such as food/drink tasting events (e.g. cheese and wine evenings), pop-up events/exhibitions, celebrations for major events (e.g. Olympics opening/closing ceremonies), business networking events, charitable events and wakes/memorial receptions. Whilst this clarification on the range and type of events is helpful to understand the applicants' aspirations here, these would be technically difficult to restrict by way of enforceable planning condition(s). It is therefore reasonable in this instance to assess these proposals on the basis of any type of private function being held in the premises, between Tuesday and Saturday, and up until the closing hours of 23:30 hours as submitted within the application.
- 6.8 The applicant has stressed that the existing café does not have a designated smoking area on the site, and does not intend on providing one as part of these proposals. It has also been stressed that no extensions are sought to current Sunday operational hours and that the facility operates vigilantly a 'Challenge 21' policy when serving alcohol to customers.
- 6.9 Since the café opened in December 2014 and up until August 2016, the Council has not received any complaints with regards to noise or disturbance, which in my view indicates that the premises are, to a great extent, being properly and sensitively managed. It must be stressed however that this is on the basis of the currently permitted customer operational hours, which include a latest café closing time of 18:00 Mondays to Fridays and 16:00 on Sundays.

6.10 Several complaints have been received since August 2016 alleging that existing noise controls imposed by the original planning permission are being breached through the playing of amplified music at the premises. The existing noise controls (as imposed by condition 13 of permission TM/13/02727/FL) state that:

*“No amplified music/speech shall be played within the garden or on the terrace and any music played within the building shall be inaudible outside of the building”*

6.11 A planning enforcement investigation into the alleged breach of condition 13 of TM/13/02727/FL is currently ongoing. I am however mindful that there have been no statutory nuisance complaints made in this respect of this premises to the Council’s Environmental Protection Team.

6.12 The level of activity resulting from the extended hours, both for the use of outside areas and also the use of the premises for private functions, must be considered in terms of the potential impact on residential amenity. Undoubtedly, the extended hours of opening, specifically those later into the evening, together with the use of the premises for private functions, is likely to result in more frequent comings and goings and markedly different patterns of behaviour than the existing café function. The resulting potential for noise and disturbance to neighbouring residential occupiers is therefore increased by the later night use of the premises, especially in relating to the function use of the premises which as proposed could be up to 5 events per month running until 23:30 hours on a Tuesday to Saturday evening.

6.13 In an attempt to alleviate some of the concerns expressed throughout the course of this application, the applicant has agreed to a further restriction to prevent private events being held at the premises on consecutive nights, thereby preventing the potential use of the premises on Friday and Saturday nights. Whilst the applicant has expressed a desire to include an exception for ‘a major or significant national or local event’, I consider it necessary in this instance to impose a suitably worded planning condition to prevent the use of the premises for private functions on consecutive nights, without an exception for significant events, should Members be minded to grant planning permission. This seems an entirely reasonable approach to take, noting that any exception is likely to be problematic in terms of its enforceability.

6.14 When considering the difference between the permitted operational requirements and those now proposed, it is important to consider the particular tight-knit residential environment that surrounds the café premises. Members will be aware of this particular site context, including the proximity to private residential gardens, following the Member Site Inspection which took place at the premises on Friday 7<sup>th</sup> October 2016.

6.15 In terms of the extended café opening hours and use of outside space in connection with the café from 07:30 until 20:00 hours this would, in my view, not be wholly unreasonable for this type of business. Moreover, these extended café opening hours (to 7:30am from 8:00am in the morning and to 20:00 from 18:00 in

the evening) are intended to capture breakfast and early evening trade, something not currently available from the café premises. In my view these extended morning and evening hours of the existing cafe would not cause such harm to surrounding residential amenity to justify a refusal of planning permission in this instance. Crucially, it should be noted that there is no change proposed to the Sunday café operating hours which would remain between the hours of 10:00 and 16:00.

- 6.16 Turning to the use of the premises for private functions until 23:30 hours on a Tuesday to Saturday, and up to a maximum of 5 events per month, this is a more finely balanced matter of planning judgement. Consideration must also be given to the use of outside space (i.e. the garden and first floor terrace) up until the 20:00 hours cut off time proposed in connection with café use. Whilst I note that since the original proposals were submitted, the applicant has introduced further safeguards to reduce the impact on residential properties (including reducing down the number of private functions from 8 events per month to 5, and by preventing functions on consecutive nights) private functions would nonetheless result in a markedly different type of customer base. This is *likely* to result in a group of private function customers turning up and leaving at generally set times (i.e. for designated start and finish times of a scheduled event) which would be markedly different from the more general and dispersed comings and goings of customers associated with the current café operations. The actual impact on residential dwellings from increased noise and disturbance is also *likely* to be further exacerbated by the premises lack of dedicated parking facilities, with patron's vehicles dispersed across the wider neighbourhood of Hildenborough.
- 6.17 In this case, unlike more generally dispersed trade associated with the café use, I am mindful that the use of outside space by private function patrons up until 20:00 hours is likely to result in more intensive patterns of noise and disturbance to surrounding local residents. On this basis, I consider that the use of the premises for pre-booked private functions should be limited, by condition, to the internal spaces only and not the garden or first floor terrace area.
- 6.18 Notwithstanding these concerns, I am mindful that in instances such as this, the NPPF advocates the use of a temporary planning permission where a 'trial run' is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. Moreover, I am mindful that, notwithstanding the most recent complaints received in August this year relating to noise which at this stage seem to suggest a more isolated instance of noise emanating from the premises during hot weather when the windows/doors were open, the Council has received no substantive complaints with regards to noise or disturbance. In my view this indicates that the premises are, to a great extent, being properly and sensitively managed.
- 6.19 When considering the policy aims and the need to support a growing business alongside the need to protect the amenities of neighbouring properties, I consider

that, on balance, the extended café hours sought are reasonable. I am also of the view that the request to allow private functions to take place up to 5 times a month may be acceptable if appropriately controlled by way of responsible management, acceptable opening hours, a limitation on events only being held within the building and not within the garden and terrace areas, a restriction against private functions being held on consecutive nights and only on the basis of a 12 month 'trial period'.

- 6.20 With these factors in mind, I consider that it is reasonable in these circumstances to grant permission for the variation of the conditions on a temporary basis for 12 months. This would allow for the monitoring of the extended use and hours in terms of its impact on the locality, whilst also allowing the applicant to establish what the real level of demand for such extended facilities might be. In order to monitor the pre-booked functions, I suggest that a planning condition be imposed requiring the applicant to notify the Planning Authority in advance of an event of the nature, type, date and duration of the intended pre-booked event function – this will allow the number of events to be monitored and would also help to assist with identifying specific type of complaints should they arise. Furthermore, this will also be an important tool in reassessing any further application for permanent permission following the 12 month 'trial' period.
- 6.21 In cases such as this, where there would appear to have been no substantive statutory nuisance noise/disturbance complaints received since the premises has been operating, it can be difficult to evidence material harm to surrounding residential property arising from proposals. It is therefore reasonable in this particular instance to allow a 12 month 'trial' period, during which the private function event use can be tested in the local area, ahead of any potential permanent decision being made on the use of the premises for private functions. This approach wholly accords with best practice guidance set out in the NPPG.
- 6.22 Whilst there is still a current enforcement case ongoing relating to an alleged breach of condition 13 of the main planning permission (TM/13/02727/FL), there is no reason to suggest that the same condition no longer meets the relevant best practice tests in terms of protecting surrounding residential property from unreasonable noise disturbance. This condition will also adequately cover the intended private function events. I therefore conclude that the same condition should be re-imposed on any new planning permission which requires any music played within the building to be inaudible outside of the building.
- 6.23 I recognise that the other key concern at the time of the original planning application for the change of use centred on the lack of parking available on site and the potential impact upon the local highway network. Indeed, many of the representations now received relate to a lack of parking in the locality and the inappropriate nature of the intended function use of the premises at a site which benefits from no dedicated parking. I understand that the applicant currently advises its customers to park within nearby publically available car parks; however

it would not be possible to *require* the use of the nearby car parks as part of the intended function use given that this land is outside of the applicant's control.

- 6.24 In terms of the private functions potentially increasing traffic movements to the site, beyond that already established by the café use, I would suggest that a further condition be imposed requiring a Travel Plan to be submitted detailing how patrons will be specifically advised on the circumstances of the site and any constraints on the surrounding local highway network. Although at this time I am only recommending permission be granted on a temporary basis, I do not consider the requirement for a Travel Plan to be unreasonable in the specific circumstances and, given the information already provided by the applicant, this would not be an onerous requirement.
- 6.25 In terms of the number of customers at the premises at any one time, in this instance it is again considered reasonable to limit the number of customers on site at any time during any working day to 100 – this approach wholly accords with the original planning permission, TM/13/02727/FL.
- 6.26 It is noted that the premises currently benefits from a premises licence which covers the following licensable activities - the sale of alcohol; films; and recorded music. In all cases, the licence covers activities taking place up until 21:00 hours Monday-Friday and 16:00 hours on Sunday. It is *likely* that the applicant would seek to vary the terms of their existing licence, should they be successful in obtaining planning permission for the use of the premises for private functions until 23:30 hours. It is worth noting that Planning and Licencing activities operate entirely separately under their own respective legislation, and the applicant would need to accord with each respective legislative requirement in operating their business – in other words, the applicant would not be able to breach their planning conditions covering the timings of use of the premises on basis of having a later night licence, for example.
- 6.27 In light of the above considerations, the following recommendation is put forward:

**7. Recommendation:**

- 7.1 **Grant Temporary Planning Permission** in accordance with the following submitted details: Email CLARIFICATION received 17.08.2016, Letter received 07.04.2016, Other ANNEXE 1 received 07.04.2016, Location Plan received 07.04.2016, subject to the following conditions:

**Conditions / Reasons**

1. The development hereby permitted shall cease on or before 31 October 2017.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 and in the interests of neighbouring residential amenity.

2. The uses hereby approved shall be operated fully in accordance with plan number 13/1779/100 C and the Supporting Statement prepared by MKA Architects received on 08 November 2013 approved under planning reference TM/13/02727/FL unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and highway safety.

3. The uses at ground and first floor level hereby permitted shall be limited only to that applied for and specified in the Supporting Statement prepared by MKA Architects received on 08 November 2013 approved under planning reference TM/13/02727/FL, with the ground floor café only serving the items specified within that Supporting Statement unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

4. There shall be no more than a total of 100 café customers or private event attendees on site at any time during any working day.

Reason: In the interests of residential amenity.

5. The business shall not be carried on, and the premises shall not be open to customers, outside the hours of 07:30 to 20:00 Monday to Saturday and 10:00 to 16:00 on Sunday unless otherwise agreed by the Local Planning Authority.

Reason: In the interest of residential amenity.

6. External seating in connection with the café operation shall be limited only to the areas identified on plan number 13/1779/100 C approved under planning reference TM/13/02727/FL. The use of these areas in connection with the café operation shall cease by 18:00 hours Monday to Saturday (extended until 20:00 Monday to Saturday and only between the months of May to September inclusive) and 16:00 hours on Sundays with all customers vacating these areas by the relevant time on each day. The tables and chairs in the external seating areas shall be rendered unavailable for use in these areas from the above times on each day.

Reason: In the interests of residential amenity.

7. No external lighting shall be installed in connection with the building until such details have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and visual amenity of this rural locality.

8. The privacy screen enclosing the first floor terrace, as approved under TM/14/02828/RD dated 25 September 2014, shall be retained at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and privacy of adjoining property.

9. The use of the premises for private events shall not commence until a Travel Plan covering all staff and attendees has been submitted and approved in writing by the Local Planning Authority. Thereafter, the Travel Plan shall be implemented and monitored to ensure strict compliance with the approved scheme.

Reason: In the interests of highway safety.

10. The cycle storage area approved under planning reference TM/13/02727/FL shall be kept available for the storage of cycles at all times.

Reason: In the interests of highway safety.

11. The designated bin storage area approved under planning reference TM/13/02727/FL shall be kept available for the storage of refuse bins and recycling boxes at all times.

Reason: In the interests of visual and residential amenity.

12. No waste shall be emptied from the premises into external bins after 21:00 hours on any day.

Reason: To protect the aural environment of nearby dwellings and in the interests of residential amenity.

13. No amplified music/speech shall be played within the garden or on the terrace and any music played within the building shall be inaudible outside of the building.

Reason: To protect the aural environment of nearby dwellings and in the interests of residential amenity.

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

Reason: In the interests of residential amenity.

15. No children's play equipment of any type, whether or not requiring planning permission, shall be installed or placed at any point within the rear garden, at any time, without the formal written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

16. The premises shall be used for no more than 5 pre-booked events and functions within any one calendar month. The use of the premises for pre-booked events

shall only take place within the building and functions shall not operate outside the hours of 07:30 to 23:30 Tuesday to Saturday (inclusive) and pre-booked events and functions shall not operate on consecutive days unless otherwise agreed by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

17. The applicant shall notify the Local Planning Authority in writing 5 calendar days prior to a pre-booked event taking place, as to the nature, type, date and duration of any pre-booked private function event, unless otherwise agreed by the Local Planning Authority.

Reason: To allow the monitoring of pre-booked events and functions in order to safeguard the amenities of neighbouring occupiers.

### **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 Tonbridge Road how the space between the two buildings is best managed to ensure that the private right of way is maintained.
2. When taking bookings for private function events, the applicant is asked to provide parking information to booking customers, detailing local parking facilities nearby, including the public car parks located in Riding Lane – this should accord with the Travel Plan details to be approved under condition (9).

Contact: Julian Moat

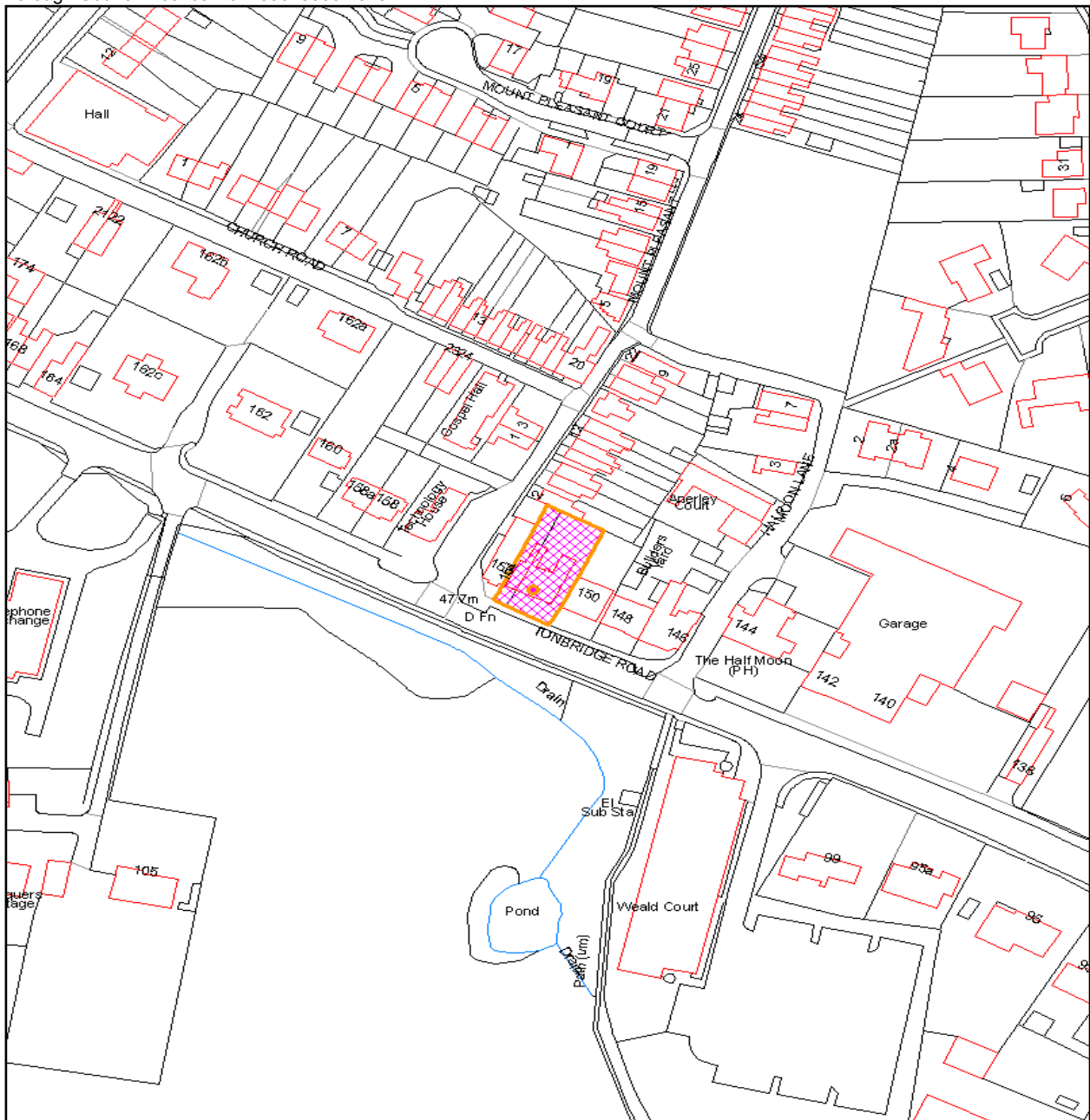


**TM/16/01169/FL**

Cafe 1809 152 -154 Tonbridge Road Hildenborough Tonbridge Kent

Variation of conditions 6 and 7 of planning permission TM/13/02727/FL to allow the cafe to be open between the hours of 07:30 to 20:00 Monday-Saturday, to allow for the use of outside space by customers between the hours of 07:30 to 20:00 Monday-Saturday between the months of May- September; (inclusive), and to allow for the use of the premises for private functions all year round (up to a maximum of 5 events per month) on Tuesday-Saturday up until 23:30 hours.

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**Tonbridge**  
Medway

**10 March 2016**

**(A) TM/16/00819/FL**  
**(B) TM/16/00821/FL**  
**(C) TM/16/00822/FL**  
**(D) TM/16/00820/FL**  
**(E) TM/16/00818/FL**

Proposal: (A) External alterations and alterations to forecourt to provide pedestrian route to Cannon Lane  
(B) Extension to rear of building  
(C) Insertion of Mezzanine Floors  
(D) New unit to accommodate an A3 occupier  
(E) Variation of condition 1 of planning permission TM/98/01517/FL to extend the range of the goods that can be sold from the unit

Location: B And Q Cannon Lane Tonbridge Kent TN9 1PN  
Applicant: LondonMetric Saturn Limited  
Go to: [Recommendation](#)

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## 1. Description:

- 1.1 This suite of planning applications seek permission to create four separate retail units within the former B&Q building and allow two of the new units (1C and 1D) to sell a greater range of retail goods to members of the public than currently occurs. As part of the overall scheme, a new, self-contained unit (1E) would be created at the west end of the existing building to be used as a coffee shop. A rear extension to the existing building is also proposed, which will include its own mezzanine to provide additional floor space for Unit 1D. It is also proposed to install mezzanine floors within the existing building to serve the three other shop units (1A-1C).
- 1.2 The mezzanine floors to be installed within the existing building would provide a further 1,488 sqm of floorspace and the proposed rear extension would add a total of 620 sqm of floorspace. The proposed café pod would measure 160sqm in floor area (measured externally).
- 1.3 As the intention of the overall suite of applications is to provide a range of smaller retail units within the existing building, it is proposed to alter the building's external appearance accordingly. The south elevation would receive a facelift to provide 4 separate entrances to each of the new units, consisting mainly of glazing, with new sections of grey cladding. The proposed rear extension and the separate café building would be finished externally with brickwork, glazing and cladding to match the materials to be used on the existing building.
- 1.4 Car parking serving the site is located to the south of the building which also serves the adjacent Halfords unit (and the approved Marks and Spencer unit as well). The proposed site plan indicates that revisions to the parking area will be undertaken that will provide 234 car parking spaces in total. As part of this

proposal a new footpath link would be formed from the building's forecourt through a landscape strip to the public footpath flanking Cannon Lane.

- 1.5 As part of this application and in response to some of the concerns expressed originally by local residents, the applicant has agreed to install an acoustic fence along the northern boundary of the site and to limit delivery times to between 07.00 and 21.00 Monday to Saturdays and 09.00 and 17.00 on Sundays, Bank and public holidays.

**2. Reason for reporting to Committee:**

- 2.1 At the request of Cllr Lancaster in response to the level of interest created by these proposals.

**3. The Site:**

- 3.1 The site is located within the urban confines of Tonbridge, on the west side of Cannon Lane. The site forms part of a wider retail complex historically occupied by B&Q and Halfords. More recently, the neighbouring Halfords building has been granted permission to be divided into two smaller units with one half now occupied by Halfords. The other half has permission to be used by Marks and Spencer as a "Simply Food" unit; this permission is currently being implemented and it is understood that the M&S premises will be operational by the end of the year.

**4. Planning History (relevant):**

TM/86/353	Refuse Appeal allowed	6 June 1986 11 December 1986
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Outline application for erection of two non-food retail warehouses, use Class I including a garden centre and associated car parking.

TM/87/01572/FL	Grant with conditions	9 December 1987
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Extension to proposed garden centre.

TM/98/01517/FL	Grant with conditions	25 November 1998
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Variation of condition (v) of consent TM/86/0353 to extend the range of goods that can be sold from the site

TM/02/01643/FL	Section 73 Approved	7 August 2002
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Application under Section 73 remove condition (i) (Limited period of development) attached to TM/87/01572 (extension to garden centre) to enable continued use of extension as garden centre for retail sale of garden and associated products

**5. Consultees:**

5.1 KCC (H+T): (*Applications B, C, D & E*):

**Parking:**

5.1.1 The proposed parking provision at the site is for 208 customer spaces and 26 staff spaces.

5.1.2 When assessing this provision it must be considered alongside the approved application for the M&S Foodhall within the site. Having taken this into account when analysing the provision against our 'Kent Vehicle Parking Standards' document SPG4 the provision falls within our maximum car parking standards for both retail and non retail developments (A1). It should be noted that there are existing parking restrictions along Cannon Lane and in the local area.

**Connectivity:**

5.1.3 I take note of the consented McDonalds Restaurant on the opposite side of Cannon Lane, adjacent to the site. This restaurant is likely to create an increase in pedestrian footfall between the two sites. I propose that a 2 metre footway link is provided connecting the frontage of Unit 1D to the existing footway along Cannon Lane. This is to link in to the existing traffic island on Cannon Lane as this would be the likely pedestrian desire line. The cycle parking spaces should be reconfigured to accommodate this.

**Access:**

5.1.4 The access into the site is an existing priority junction with a wide radius, good visibility and no history of vehicle injury crashes associated with the access in the last 5 years.

**Servicing:**

5.1.5 The tracking (swept path) diagrams submitted show that delivery vehicles have sufficient space to enter, turn and therefore egress the site in a forward gear. Deliveries to this proposal are likely to be infrequent due to the proposed units being occupied by non-food stores. Unit 1E is likely to have the highest amount of deliveries as an A3 'Restaurant and cafe' occupier however due to the size of the building this could not be viewed as extensive.

**Trip Generation:**

5.1.6 With regards to trip generation TRICS has been used to assess and formulate the predicted arrivals and departures associated with the site. The Transport Assessment considered the current flows of 379 vehicle trips in the peak hour (Saturday) and predicts as a result of this development there to be 575 two way

trips in the peak hour (Saturday). I acknowledge that the proposals will entail a high element of link or shared trips within this peak hour especially with the already consented M&S Foodhall at the site. I therefore feel that this application will increase trip generation at the site above that of the existing use however I do not feel the associated impact of the development could be regarded as severe in the context of the NPPF.

5.1.7 Subject to a pedestrian link being provided as indicated above I wish to raise no objection to the application on behalf of the local highway authority.

*Additional Comments regarding application (D):*

5.1.8 No objection to the reduction in size of the Café unit. It would not unduly restrict servicing arrangements.

5.2 Environment Agency: (*Applications B and D*): No objection. The site is a redevelopment of an existing building with only limited extensions to the rear and side of the main building. Therefore based on the FRA there is no significant increase in flood risk or vulnerability as a result of the development, as finished floor levels will remain unchanged. However this site is within Flood Zone 3 and is likely to experience internal flooding during the lifetime of the development. Therefore the LPA should be satisfied that the development has an appropriate emergency plan and flood resilience measures to minimise the impact of internal flooding in the future.

5.3 Private representations: (All applications): 76/0X/2S/30R. It should be noted that of the 30 responses objecting to the applications, 11 are duplicate letters referencing all of the applications. Many also point out that they are not opposed to the continued commercial operation of the B&Q site. The following reasons are cited for objecting to these proposals:

- Under the use of the building by B&Q, deliveries were only made to the west side of the building. Only forklift trucks operated in the yard to the north of the building. Under the proposed arrangements, lorries will use the area to the rear of the building for deliveries, harming the amenity of the Mill Crescent residents in terms of noise from delivery vehicles;
- An acoustic fence is required to provide sound proofing to the rear service area;
- A curfew on night time deliveries should be imposed after 10pm;
- The increased activity will result in light pollution to the adjacent properties in Mill Crescent;
- Existing vegetation located within the application is not accurately depicted;

- Any reduction in the height of the fencing to the rear of the site or the existing canopy will increase the risk of theft from the site;
- The development when combined with other developments in the locality (Homebase, McDonalds, Blossom Bank) will increase traffic through the area to the detriment of pedestrian safety. A new crossing should be provided;
- The traffic created by this proposal will be harmful to highway safety. A roundabout is needed;
- The opening hours should not be longer than those of the existing tenant;
- The use of a public address system to the rear of the building should be prohibited; and
- The conditions currently restrict the range of goods to be sold within the site. Relaxing the condition as proposed would create a shopping centre which would be harmful to the High Street shops.

5.4 A further round of consultation is being undertaken with local residents and other interested parties at the time of writing this report. This is in response to the planning and retail assessment report being amended and revised plans submitted relating to the layout of the building and wider site. Any responses received in respect of this re-consultation process will be reported to Members in a Supplementary Report.

## **6. Determining Issues:**

6.1 Members will, of course, be aware that the Local Planning Authority (LPA) is required by statute to determine each application in accordance with the development plan in force at that time unless material considerations dictate otherwise. This means that whilst all of these applications interrelate with one another, each has to be assessed on its individual merits. This report will therefore consider the merits of each case, before going on to consider the impacts of the proposed applications taken as a whole.

6.2 Relevant to all of the applications is current Government guidance contained within the NPPF. This states at paragraph 14 that at its heart is the presumption in favour of sustainable development. For decision taking this means:

- Approving development proposals that accord with the development plan; and
- Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework;

or

- specific policies in this Framework indicate development should be restricted.

6.3 The NPPF also places a great importance on economic growth. It states at paragraphs 18 and 19:

*“18. The Government is committed to securing economic growth in order to create jobs and prosperity...”*

*19. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”*

**Application A (the external alterations to the building and alterations to the forecourt)**

- 6.4 Policy CP 24 of the TMBCS needs to be considered. This requires all development to be well designed and of a high quality in terms of detailing and use of materials. Proposals must be designed to respect the site and its surroundings in terms of their scale, siting, layout, character and appearance.
- 6.5 The proposed external alterations to the existing building would not fail to respect its character. Indeed they would improve the appearance of the building as a whole and would create a series of retail frontages that would be in keeping with that of the adjacent Halfords and currently under construction M&S Simply Food buildings. The use of suitable external materials can be controlled by condition.
- 6.6 The proposed alterations to the forecourt of the building would provide a pedestrian link from the site to the footpath adjoining Cannon Lane, following a request from Kent Highways to better link the site to the existing footpath network. The submitted plans also show that the car park within the site would be reconfigured to increase the amount of overall parking spaces from 228 spaces (as consented under the recent Halfords proposals) to 234 spaces. These additional spaces would be located to the west of the existing building (adjacent to the proposed building the subject of application (D)). The provision of six additional parking bays would not cause a demonstrable harm to highway safety.
- 6.7 The external alterations by themselves do not raise any residential amenity or retail impact issues.



**Application B (*Extension to the rear of the building*)**

- 6.8 The proposed extension would have a footprint of 420 sqm and contain a mezzanine containing a further 200 sqm of floor space. Bearing in mind that this application has to be considered on its individual merits in the context of the existing permitted use of the building, it has to be assessed on the basis that it would initially at least be subject to the same range of goods limitation as that which applies to the existing building.
- 6.9 Policy CP 22 of the TMBCS relates specifically to retail development and applies to this site. The policy states in point one that new retail development will be permitted if it maintains or enhances the vitality and viability of the existing retail centres and properly respects their role in the retail hierarchy.
- 6.10 Point two of this policy states that proposals which *might harm* the vitality or viability of an existing centre in terms of retail impact will not be permitted (my emphasis added). In the case of retail impacts, paragraph 27 of the NPPF states that where an application is likely to have a *significant adverse* impact upon a town centre's viability or vitality, it should be refused. Clearly, the NPPF requires a much higher threshold of harm to be demonstrated in order to refuse permission on retail impact grounds than that contained within TMBCS policy CP 22. In applying paragraph 14 of the NPPF as referred to in paragraph 6.2 of this report, I have to advise Members that as the NPPF post-dates policy CP 22, it is a significant material consideration that should take precedent over this development plan policy (in terms of measuring retail impact).
- 6.11 Paragraph 26 of the NPPF further states that a retail impact assessment should be required for developments that have a floor space of over 2,500 sqm. This should include assessment of the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal and the impact of the proposal on town centre vitality and viability. It is clearly the intention of Government that the retail impact of developments of less than 2,500 sqm does not need to be considered in the same context. In this particular case, the proposed extension would provide 620 sqm of additional floorspace, significantly less than the Government's specified threshold. In light of this and given that this application must be considered on the basis that the extension will take the same use as that which currently applies to the site (i.e. bulky goods retailing), it is not considered to result (by itself) in a significant adverse retail impact upon Tonbridge town centre.
- 6.12 Furthermore, as this application is for an extension to an existing bulky goods retail building, it follows that as there are no bulky goods retail buildings located within the defined town centre of Tonbridge, the proposed addition cannot be located in a more sequentially preferable location.

- 6.13 Of course, as I have stated earlier, the cumulative impacts of the proposed extension, when considered alongside the impacts of all of the other applications relating to this site, will be considered later on in this report.
- 6.14 The proposed rear extension will not project into the existing car parking spaces or delivery areas within the application site. The Highway Authority has not objected to the impacts of the proposed extension upon highway safety or unacceptable levels of traffic generation. Members will be aware that the NPPF advises in paragraph 32 that applications should only be refused on Transport grounds if the impacts would be severe. The local Highway Authority clearly does not consider that this application, by itself, would cause such an impact upon highway matters..
- 6.15 The addition would be located in the area previously occupied by the garden centre associated with the former use by B&Q. The addition would be located far enough away from the neighbouring residential properties to the north (within Mill Crescent) not to cause them a loss of light or privacy. Furthermore, considering that this application has to be considered on its individual merits in the context of the existing use of the site, it would not, by itself, result in more noise disturbance to neighbouring residential properties than could occur under the existing, lawful use of the site. Again the cumulative impacts of all the applications upon residential amenity will be considered later in this report.
- 6.16 The site of the proposed extension lies within Flood Zone 2. The extension is characterised as less vulnerable development in terms of flood risk within the NPPF, which is acceptable for this flood zone. The site of the extension would lie on land already laid with a hard surface and so the proposal would not increase the developed portion of the site. The floor level of the extension would be the same as that of the existing building (21.88m AOD), which is below the level of a predicted 1 in 100 flood event (22.22m AOD). However, this flood event does not take into account the effect of the Leigh Barrier or the embankment that runs along the northern side of the site adjacent to the Mill Stream, both of which would (to a degree) defend the site from a flood event. The applicant's modelling shows that during an extreme event both the River Medway and the Mill Stream could be overtopped and the site subject to flooding. However, the Medway catchment is slow to respond and sufficient time will be had to evacuate the building should the need arise. The applicant will encourage tenants to register with the EA's Floodline advanced warning service. As this is an extension to an existing building, this is an appropriate and proportionate means of dealing with the issue of flood risk. An informative can also be used to advise the applicant to incorporate flood resilience measures within the extension, should permission be granted.

**Application C (*Insertion of mezzanine floors*)**

- 6.17 The starting point for assessing the retail impacts of this application is similar to that for application (B), as it also entails creating additional retail floorspace within

the site. However, as with application (B) the application must first be assessed on the basis that the mezzanines would initially be limited to the same bulky goods condition that currently applies to the existing building.

- 6.18 The proposed mezzanines would provide 1,488 sqm of new floor space. Policy CP 22 and current Government guidance contained within paragraphs 24-27 has to apply in the same manner in which they applied to application (B). Of course this application seeks to provide more than twice the amount of additional floorspace to that proposed in the application for the rear extension. In terms of the sequential approach, there are no other bulky goods retail sites in the town centre where the proposed mezzanine could be located, and there are no existing retail premises large enough within the town centre to locate the proposed amount of additional floorspace. As with application (B), whilst there are other sites outlined in the development plan (TCAAP) for redevelopment within the town centre, none of these are in the control of the applicant and are unlikely to come forward in the short to medium term (such as the Botany). Moreover, it is unlikely that a bulky goods retail unit would form part of a development for the Botany site, bearing in mind the requirements of policy TCA 11(a). Consequently, from a sequential approach, the proposed mezzanine floors are considered to be acceptable in this location.
- 6.19 With regard to retail impact, this application would introduce a significant amount of additional floor space within the existing building. However, it would still fall well below the threshold set down by the Government in paragraph 26 of the NPPF where retail impact assessment is considered necessary. Accordingly, the use of such additional floorspace for bulky goods retailing is not considered to cause a significant adverse impact upon the vitality or viability of Tonbridge town centre, or indeed planned investment within it.
- 6.20 With regard to highway safety impacts, whilst the mezzanines would significantly increase the amount of floorspace within the existing building and the site more generally, the local Highway Authority is satisfied that sufficient car parking would remain available to serve it. It is also satisfied that the trip generation and access arrangements for the site, remain acceptable for the nature of the proposed development. Consequently, this application, by itself is also not considered to cause a severe impact upon highway safety.

**Application D (*The proposed A3 unit*)**

- 6.21 Whilst this would be a separate unit to the existing building, it would be physically attached to it. The submitted plans show the building to have a modest scale in comparison to the existing building and it would have a form and design that would not be harmful to the character of the area or wider street scene. Consequently, the physical impact of the proposed unit is considered to be acceptable in terms of TMBCS policy CP 24.

- 6.22 In terms of retail policy there are, sequentially speaking, more appropriate sites to locate a new coffee shop in the defined town centre to the one proposed. A vacant High Street unit could, of course, be utilised for this proposal. However, the proposed new A3 unit would be located within an existing retail centre (albeit primarily limited to the sale of bulky goods at the moment) and would, primarily, serve those people using the adjacent shops. The unit itself is relatively small (approximately 160 sqm) and using it as a coffee shop is unlikely to cause a severe adverse impact upon the viability or vitality of Tonbridge town centre by itself. Of course, it must be recognised the proposed café unit forms part of a wider plan to create a retail centre within this site and if all the applications are approved, it would be seen as serving a new market that would be created by this suite of applications. The impacts of this will be considered in further detail later in this report.
- 6.23 As with the previous applications, the creation of a small café unit in this location would not, by itself, create such a large amount of trip movements that would result in a severe impact upon highway safety. Furthermore, its location within an existing retail site is such that it would not cause demonstrable harm to residential amenity. However conditions would be necessary to control delivery times to the unit and to require details of any mechanical plant to be submitted to and approved by the LPA prior to its installation (such as refrigeration and a/c plant, for example).
- 6.24 The site of the proposed A3 unit lies within Flood Zone 2. The extension is characterised as less vulnerable development in terms of flood risk within the NPPF, which is acceptable for this flood zone. The site of the extension would lie on land already laid with a hard surface and so the proposal would not increase the developed portion of the site. The floor level of the addition would be the same as that of the existing building (21.88m AOD), which is below the level of a predicted 1 in 100 flood event (22.22m AOD). However, this flood event does not take into account the effect of the Leigh Barrier or the embankment that runs along the northern side of the site adjacent to the Mill Stream, both of which would (to a degree) defend the site from a flood event. The applicant's modelling shows that during an extreme event both the River Medway and the Mill Stream could be overtopped and the site subject to some flooding. However, the Medway catchment is slow to respond to heavy rainfall and sufficient time will be had to evacuate the building should the need arise. The applicant will encourage tenants to register with the EA's Floodline advanced warning service. As the proposed A3 unit would be a new, stand alone, café. it would be reasonable to require the applicant to submit details, as requested by the EA, of an emergency plan and flood resilience measures to be designed into the building. Such details can be required by condition should permission be granted.

**Application E (Variation of condition 1 of planning permission  
TM/98/01517/FL)**

6.25 The condition currently states:

*“The use of the retail warehousing hereby approved shall be limited to the retail sale of DIY home and garden products, hardware, self-assembly or pre-assembled furniture, household furnishings, floor coverings, electrical goods, motor accessories and motor vehicles and any other bulk goods as may be agreed in writing with the Local Planning Authority, and for no other purposes, including any other purpose within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987.*

*Reason: The site is located outside an area where general retailing would be permitted.”*

6.26 It is proposed to change this condition to allow additional goods to be sold from the building as a whole. The applicant has suggested the following alternative condition:

*“The use of the retail warehousing hereby approved shall be limited to the retail sales of DIY home and garden products, hardware, self-assembly or pre-assembled furniture, household furnishings, floor coverings, electrical goods, motor accessories and motor vehicles, office equipment and supplies, bicycles, pets, pet food and drink and pet products, camping equipment and computer equipment.*

*Unit 1C shown edged purple on plan P9843 P023 Rev B shall additionally be permitted to be used for the sale of tents, camping and caravanning equipment and accessories, outdoor pursuit equipment and accessories (including walking, climbing, skiing, cycling, fishing, running and horse riding) and associated protective/insulative clothing and footwear related to the sale of these items where it does not equate to more than 20% of the net retail floorspace. The sale of clothing and footwear shall only take place when the principal use of the unit is for the sale and display of tents, camping and outdoor pursuit equipment and accessories.*

*Unit 1D shown edged green on plan P9843 P023 Rev B shall additionally be permitted to be used for the retail sale of food and drink goods from an area not exceeding 30% of the net retail floorspace, and otherwise shall be used for the sale of non-food comparison goods.”*

6.27 The first part of the condition seeks permission to expand the range of ‘bulky goods’ to be the same as those recently allowed for the Homebase site located on the opposite side of Cannon Lane to the application site. In addition to that, it is also proposed to specifically allow further goods to be sold within two of the new

four shop units (Units 1C and 1D) to be created within the existing B&Q building. The applicant has advised the LPA that two specific tenants have now been identified for these two units (Go Outdoors and Home Bargains). Allowing the range of goods to be sold from these two units as requested would introduce more generalised comparison retailing (and an element of convenience goods retailing) to take place within the site than has hitherto been able to take place to date.

- 6.28 It is this particular application that, perhaps, has the greater potential to raise the issue of impact upon the vitality and viability of the existing town centre than the other applications to create additional floor space and the new café unit within this site because of the wider range of goods that would be sold.
- 6.29 Independent retail planning advice has been sought from our specialist retail consultant regarding this and all of the other applications. The initial feedback from the consultant was that further information and analysis was required before a full and robust assessment could be made regarding the likely impact of the development upon Tonbridge town centre. In its amended form our consultant now considers that the retail impact assessment (RIA) is robust in terms of its scope, methodology and terms of reference.
- 6.30 When looking at retail impact different factors have to be considered. One concerns the location of the development and whether the proposed development can be located within more preferable town centre locations. This is known as the sequential test. Another is the actual predicted impact in terms of trade diversion from the existing town centre. It also has to be considered whether the proposed development would prejudice future planned investment within the town centre (such as sites allocated within the development plan for retail development).
- 6.31 In this case the applicant has considered whether any of the existing retail units within the defined Tonbridge town centre could accommodate the proposed retail units. It is not surprising to note that there are no units of a sufficient size to accommodate the proposed retail units, all of which would have a floorspace of over 500 sqm. Consideration also has to be given to whether the development could be located on sites within the town centre (or closer to it than the application site) which are allocated within the development plan for retail development. The most likely site is the Botany site which is defined within the TCAAP under policy TCA 11(a). This policy seeks a mixed use development for this site which would include retail uses. However, the policy dates from 2008 and it is unlikely, given the present economic climate and the current practical constraints around availability, that a scheme would come forward to develop this allocated site within the plan period. The Sovereign Way site has now been redeveloped. Whilst this includes commercial units, they are too small to accommodate the proposed retail units. The Network Rail car park site has also since been developed with a new deck of car parking added above the existing one at ground level. Consequently, there are no available sites within specifically allocated town centre sites that can accommodate the proposed development. Therefore, I am satisfied that there are

no sequentially preferable sites in the town centre available to accommodate the type of retail use for which permission is being sought. In this case, the NPPF presumption for refusal (if there were a failure to meet the sequential approach to site selection) should not apply.

- 6.32 Concerning the potential impact of the proposed development upon the town centre, the applicant considers that the trade draw away from Tonbridge town centre would be £1.9 million per year compared to the annual turnover of the town centre of £154 million in the 2021 design year. This equates to a 1.2% trade draw away from the town centre in 2021. The 2021 'design year' is used as the NPPF states at paragraph 26 that the impact of retail development such as this upon the vitality and viability of a town centre should be assessed for a period of up to 5 years from when the application is submitted. In this case, the existing committed schemes in the locality must also be factored in as well (i.e. the consented new M&S unit and the subdivision and expansion of the range of goods to be sold from the former Homebase unit). These developments are considered by the applicant to draw a further £10.9 million of trade from the town centre in the 2021 design year. Cumulatively speaking, the proposed and committed out of centre schemes in Tonbridge would result in a £12.8 million, or 8.2% trade drawn from the town centre.
- 6.33 When considering the overall impact of retail development on the vitality and viability of an established town centre as a whole, a balancing exercise must be undertaken and a judgement made regarding the weighting to be given to positive and negative impacts. In this instance, the proposed range of goods sold from the site would draw *some* trade from the existing town. However, it is noted by the Council's retail consultant that Tonbridge residents typically gravitate to larger centres and regional shopping destinations where they are looking to purchase comparison goods. That existing 'leakage' from the town is a concern and the application seeks to sell a greater range of comparison goods than can currently be sold from the site. The development would provide a different retail offer within the town that may reduce the amount of leakage to other town and shopping centres. In this context the level benefit that the investment proposal brings to the town as a whole is a material consideration.
- 6.34 In considering the planning balancing exercise, it is relevant to note that the former B&Q building lies vacant at this point in time. The proposed development would create additional employment (in this case 72 fulltime equivalent jobs). Whilst the loss of jobs that occurred when the B&Q store closed has to be taken into consideration, together with any potential job losses in town centre shops, the proposed variation of condition would, non-the-less result in a net gain of employment.
- 6.35 A health check has been undertaken of Tonbridge town centre by the applicant, which has been analysed by the Council's retail consultant. It has concluded that Tonbridge, whilst being a lower order centre than its neighbours at Tunbridge

Wells and Maidstone, is performing reasonably well and there are no obvious signs of vulnerability or decline.

- 6.36 Taking all of the above factors into consideration, the proposed development, taken together with the cumulative impact of other committed out of town centre schemes (i.e. the consented schemes at M&S and at the former Homebase site), is not considered to represent a *significant adverse impact* upon the vitality and viability of Tonbridge town centre.

### **Cumulative Retail Impacts**

- 6.37 The proposal would, effectively, create a retail park outside Tonbridge town centre, increasing the amount of floorspace, and the range of goods that can be sold from within the site. The development as a whole would provide some competition with the existing shops and cafes within the established Tonbridge town centre. Whilst the development as a whole would draw some trade away from the existing town centre, the expected trade diversion would not be so great that it would result in a *significant adverse* impact that the NPPF advises it should be refused permission. The town centre, whilst not a high order centre, is considered to be in a healthy condition and the proposed development would increase the range of comparison goods on offer in the town more generally. Employment would be created and, as the site is currently vacant, the scheme would bring a large amount of retail floorspace back into use.
- 6.38 With regard the potential impact upon planned investment for the town centre, the proposed development is for a particular retail offer, despite containing a significant element of comparison goods retailing (particularly Unit 1D). The retail offer is unlikely to be one that would come forward in a scheme to redevelop the Botany site, which itself has not come forward with a development scheme since the TCAAP was adopted in 2008.
- 6.39 Current Government guidance makes clear that significant weight should be afforded to economic development. In this instance, the applications, when taken cumulatively, represent potential job creation which weighs in favour of the proposals. Taking all of these factors into account, I am led to the conclusion that the developments as a whole should not be refused on retail impact grounds. This conclusion is reached on the model of retailing proposed in these applications. On this basis, a new condition will be required to limit the range of goods to be sold from the premises since an unfettered retail permission is likely to have a *materially* different impact upon the vitality and viability of Tonbridge town centre.

### **Cumulative (other) impacts**

- 6.40 The 4 smaller retail units and the café unit will require servicing and deliveries made to them, which will take place to the rear of the buildings. This has caused concern amongst local residents living to the north of the site in Mill Crescent. I



understand that when the site was operated by B&Q, delivery vehicles stopped at the east end of the building and goods were unloaded by forklift trucks to the rear of the building. Whilst the proposed development will change the delivery arrangements that have taken place within this site, it must be recognised that activity took place to the rear of the building concerning deliveries and there would have been a degree of noise associated with that activity.

- 6.41 The applicant has considered the objections raised by local residents and has confirmed that an acoustic fence is to be erected along the north boundary of the service yard to mitigate against noise arising from the delivery and servicing arrangements associated with the proposed development. The applicant has also agreed to limit delivery times to be the same as those approved at the adjacent Halfords and M&S units (07.00-21.00 Monday to Saturday and 09.00 to 17.00 on Sundays, Bank and public holidays). The proposed extension to the rear of the building would reduce the service yard available to the retail units, as would the outdoor display area to the rear of the Go Outdoors unit. Delivery vehicles will need to turn around in the rear service area demarked on the submitted plans (to the rear of the café unit (1E)) and reverse back to the relevant unit. This will, of course, mean that reversing alarms will sound whilst deliveries are being made. However, I am satisfied that the use of an acoustic fence and limiting delivery times would be sufficient to safeguard residential amenity of the neighbouring properties to an acceptable level.
- 6.42 With regard to highway safety, the response from Kent Highways to the individual applications encompasses all of the proposals. The analysis from Kent Highways as set out in paragraph 5.1 above considers that the development as a whole, in terms of car parking provision, trip generation, access and servicing arrangements, would not result in a severe impact upon highway safety. This is, of course, the relevant test for assessing the cumulative impacts of a development upon highway safety as set out in paragraph 32 of the NPPF.
- 6.43 The suite of applications would, as has been referred to above, create a retail park with multiple occupiers. The use of conditions regarding the delivery times and the provision of an acoustic fence will help to mitigate harm to residential amenity. However, because five units would be created where there is one at present, the site will need to be well managed to ensure that such matters as deliveries and waste removal are co-ordinated. The site also has an entrance barrier to prevent access to the car park when the shops are closed to members of the public. The matter of when the barrier is opened in the morning and closed at night will be dependent upon the individual delivery and waste removal arrangements to be agreed between the applicant and the various tenants. I would, therefore, recommend the use of a condition to require details of a site management plan to be submitted for approval by the LPA regarding how these matters are to be dealt with by the applicant.

6.44 Taking all of the above considerations into account, I have reached the conclusion that the proposed applications (both individually and cumulatively) would not result in a significant adverse impact upon the viability and vitality of Tonbridge town centre. Moreover there are positive aspects of the proposal that have been outlined (such as bringing a vacant retail site back into use that will create jobs). The impacts upon highway safety are not considered to be severe and any impact upon the residential amenity of neighbouring properties can be ameliorated by the use of suitable conditions. Overall, I consider that the balance lies in favour of supporting these applications and accordingly, I recommend that permission be granted.

**7. Recommendation:**

**Application (A) TM/16/00819/FL (*External alterations and alterations to forecourt*)**

7.1 **Grant planning permission** as detailed in the following submitted documents: Letter received 29.06.2016, Location Plan 9843-P011 A received 29.06.2016, Existing Site Plan 9843-P012 A received 29.06.2016, Existing Site Layout 9843-P013 A received 29.06.2016, Site Plan 9843-P014 B received 29.06.2016, Proposed Elevations 9843-P019 A received 29.06.2016, Email received 26.09.2016, Statement planning and retail received 26.09.2016, Letter received 09.03.2016, Existing Elevations 9843-P018 received 09.03.2016, /subject to the following:

**Conditions/Reasons**

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 of all materials to be used externally have been approved by the Local Planning Authority. In order to seek such approval, written details and photographs of the materials (preferably in digital format) shall be submitted to the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. 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 All hard landscaping materials shall match those used within the site unless otherwise agreed in writing by the Local Planning Authority.

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

- 4 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 2015 (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.

5. The footpath link to the public footpath along Cannon lane shown on plan reference P014B shall be completed prior to the first occupation of the building.

Reason: In the interests of pedestrian safety.

#### **Application (B) TM/16/00821/FL (*Extension to existing building*)**

- 7.2 **Grant planning permission** as detailed in the following submitted documents: Letter dated 29.06.2016, Location Plan 9843-P011 A dated 29.06.2016, Existing Site Plan 9843-P012 A dated 29.06.2016, Site Layout 9843-P013 A dated 29.06.2016, dated 29.06.2016, Proposed Elevations 9843-P021 A dated 29.06.2016, Email dated 26.09.2016, Statement PLANNING AND RETAIL dated 26.09.2016, Letter dated 09.03.2016, Existing Elevations 9843-P018 dated 09.03.2016, Design and Access Statement dated 09.03.2016, Flood Risk Assessment dated 09.03.2016, Transport Assessment dated 09.03.2016, Travel Plan dated 09.03.2016, Site Plan 9843 P016 C dated 12.10.2016, subject to the following:

#### **Conditions / Reasons**

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 of all materials to be used externally have been approved by the Local Planning Authority. In order to seek such approval, written details and photographs of the materials (preferably in digital format) shall be submitted to the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. 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. The extension shall only be used for the sale of the goods permitted to be sold from within the existing building either as set out in condition 1 of planning permission TM/98/01517/FL, or, alternatively, if planning permission granted under ref TM/16/00818/FL is implemented, the range of goods specified within condition 1 of that permission.

Reason: The site is located outside an area where general retailing would normally be permitted.

4. No delivery or despatch of goods shall be carried out outside the hours of 07.00 to 21.00 Mondays to Saturdays or 09.00 to 17.00 on Sundays, Bank and Public holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

5. No development shall take place until details of the position, height and type of acoustic fence to be installed along the north and east boundary of the service yard have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details prior to the first occupation of the extension hereby permitted.

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

**Informative:**

- 1 The applicant is advised to incorporate flood resilience measures within the construction of the addition hereby approved, This can include the provision of services above the predicted 1 in 100 (plus climate change) flood level and incorporating temporary flood barriers within ground floor openings. Further advice regarding this matter can be obtained from the Environment Agency.

**Application (C) TM/16/00822/FL (*Mezzanine Floors*)**

- 7.3 **Grant planning permission** as detailed in the following submitted documents: Location Plan 9843 P 011 A dated 29.06.2016, Existing Site Plan 9843 P 012 A dated 29.06.2016, Site Layout 9843 P 013 A dated 29.06.2016, , Email dated 26.09.2016, Statement planning and retail dated 26.09.2016, Letter dated 09.03.2016, Flood Risk Assessment dated 09.03.2016, Design and Access Statement dated 09.03.2016, Statement planning and retail dated 09.03.2016, Transport Statement ASSESSMENT dated 09.03.2016, Travel Plan dated 09.03.2016, Letter dated 29.06.2016, Site Plan 9843 P017 C dated 12.10.2016, subject to the following:

**Conditions / Reasons**

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. The mezzanine floors hereby approved shall only be used for the sale of the goods permitted to be sold from within the existing building either as set out in condition 1 of planning permission TM/98/01517/FL, or, alternatively, if planning permission granted under ref TM/16/00818/FL is implemented, the range of goods specified within condition 1 of that permission.

Reason: The site is located outside an area where general retailing would normally be permitted.

**Application (D) TM/16/00820/FL (A3 pod)**

- 7.4 **Grant planning permission** as detailed in the following submitted documents  
This was approved in accordance with the following submitted details: Letter dated 29.06.2016, Location Plan 9843-P011 A dated 29.06.2016, Existing Site Plan 9843-P012 A dated 29.06.2016, Site Layout 9843-P013 A dated 29.06.2016, Site Plan 9843-P015 A dated 29.06.2016, Proposed Elevations 9843-P020 A dated 29.06.2016, Email dated 26.09.2016, Statement Planning and Retail dated 26.09.2016, Letter dated 09.03.2016, Existing Elevations 9843-P018 dated 09.03.2016, Design and Access Statement dated 09.03.2016, Flood Risk Assessment dated 09.03.2016, Transport Statement dated 09.03.2016, Travel Plan dated 09.03.2016,

**Conditions / Reasons**

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 of all materials to be used externally have been approved by the Local Planning Authority. In order to seek such approval, written details and photographs of the materials (preferably in digital format) shall be submitted to the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. 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. Notwithstanding the provisions of Schedule 2, Part 3, Classes A and C of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) unit 1E shall be used only for purposes falling class A3 of the Town and Country Planning (Use Classes) Order 1987 (as amended), (or in any provision equivalent to that Class in any statutory instrument amending, revoking and re-enacting that Order).

Reason: The site is located outside an area where general retailing would be permitted.

4. No delivery or despatch of goods shall be carried out outside the hours of 07.00 to 21.00 Mondays to Saturdays or 09.00 to 17.00 on Sundays, Bank and Public holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

5. No development shall take place until details of the position, height and type of acoustic fence to be installed along the north and east boundary of the service yard have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details prior to the first occupation of the premises hereby permitted.

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

6. No external plant (including air-conditioning or refrigeration plant) shall be installed on the building until details of such plant and any noise mitigation measures have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: In the interests of residential amenity

7. No development shall take place until details of an Emergency Plan (in the event of the site flooding) and flood resilience measures to be incorporated into the building have been submitted to and approved by the Local Planning Authority, and the physical works shall be carried out in strict accordance with those details prior to the first occupation of the building.

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

**Application (E) TM/16/00818/FL (Section 73 Application)**

- 7.5 **Grant planning permission** as detailed in the following submitted documents: Letter dated 29.06.2016, Location Plan 9843 P 011 A dated 29.06.2016, Email dated 26.09.2016, Statement updated planning/retail dated 26.09.2016, Travel Plan dated 09.03.2016, Transport Assessment dated 09.03.2016, Letter dated 09.03.2016,

### Conditions / Reasons

1. The use of the retail warehousing hereby approved shall be limited to the retail sales of DIY home and garden products, hardware, self-assembly or pre-assembled furniture, household furnishings, floor coverings, electrical goods, motor accessories and motor vehicles office equipment and supplies, bicycles, pets, pet food and drink and pet products, camping equipment and computer equipment.

Unit 1C shown edged purple on plan 9843 P023 B shall additionally be permitted to be used for the sale of tents, camping and caravanning equipment and accessories, outdoor pursuit equipment and accessories and an associated ancillary outdoor clothing and footwear range equating to more than 20 % of the net retail floorspace of Unit 1C.

Unit 1D shown edged green on plan 9843 P023 B shall additionally be permitted to be used for variety retailing (including the retail sale of food and drink goods from an area not exceeding 30% of the net retail floorspace of Unit 1D), and otherwise shall be used for the sale of non-food comparison goods. It shall not be used for the principal purpose of the sale and display of clothing and footwear.

Reason: The site is located outside an area where general retailing would normally be permitted.

2. No delivery or despatch of goods shall be carried out outside the hours of 07.00 to 21.00 Mondays to Saturdays or 09.00 to 17.00 on Sundays, Bank and Public holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- 3 The building shall not be occupied until details of the position, height and type of acoustic fence to be installed along the north and east boundary of the service yard have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details prior to the first occupation of the building.

Reason: In the interests of residential amenity.

- 4 No development shall take place until details of a site management plan to co-ordinate deliveries to and the removal of waste from all of the new retail units have been submitted to and approved by the Local Planning Authority, and the approved plan shall be adhered to by all occupiers of the building in perpetuity. The management plan shall include specific details of which party(s) is/are responsible for opening and closing the barrier at the entrance of the site and what times of the day it is to be opened and closed in order to facilitate the effective management of deliveries and waste removal.

Reason: In the interest of residential amenity and highway safety.

- 5 No external plant (including air-conditioning or refrigeration plant) shall be installed on the building until details of such plant and any noise mitigation measures have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: In the interests of residential amenity.

Contact: Matthew Broome

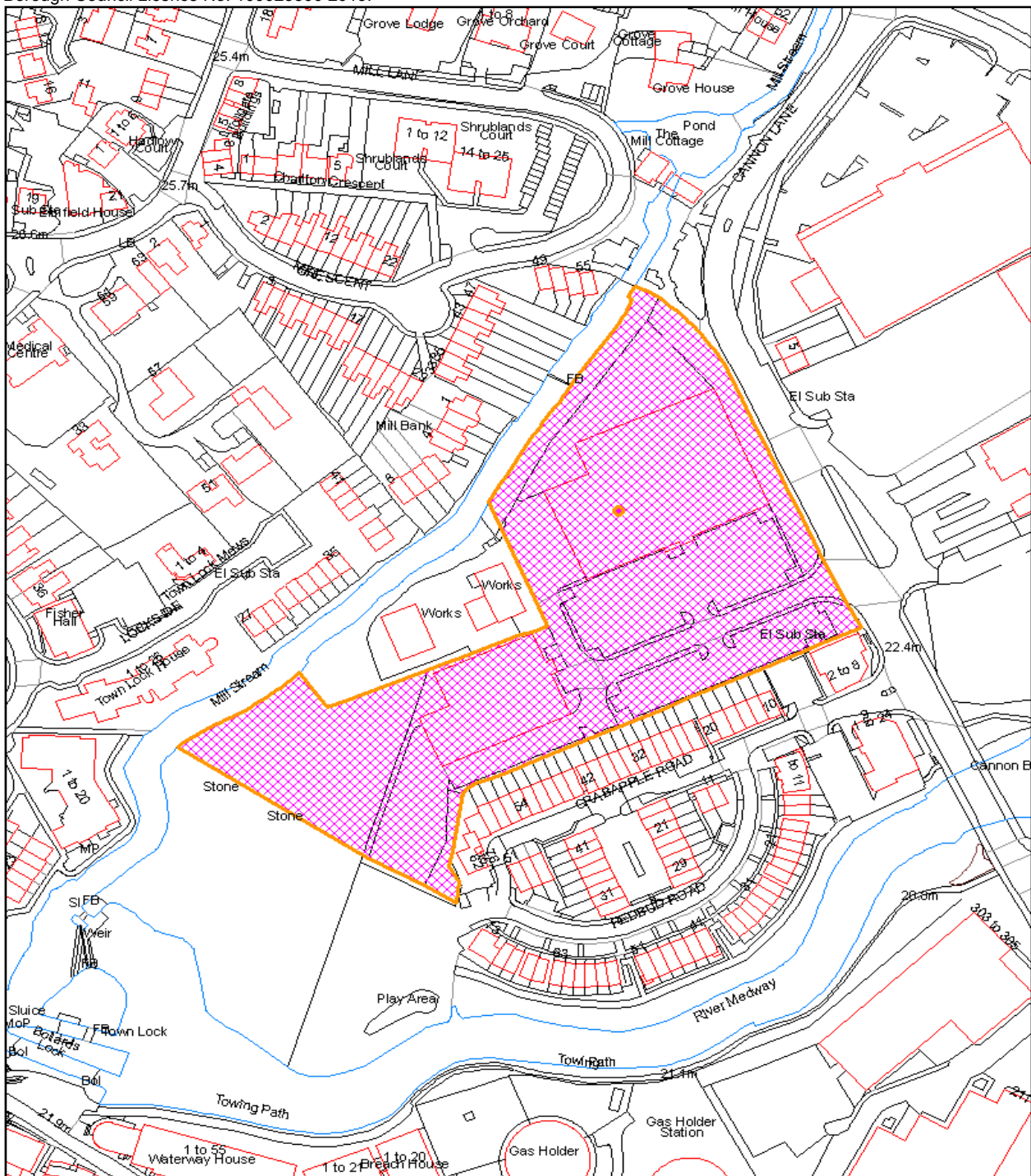


**(A)TM/16/00819/FL, (B)TM/16/00821/FL, (C)TM/16/00822/FL, (D)TM/16/00820/FL  
(E)TM/16/00818/FL**

**B And Q Cannon Lane Tonbridge Kent TN9 1PN**

**Variation of condition 1 of planning permission TM/98/01517/FL to extend the range of the goods that can be sold from the unit**

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**Tonbridge  
Castle**

**19 August 2016**

**TM/16/02521/FL**

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Proposal: Change of use from C3 to D1 to provide classrooms and new staff facilities  
Location: 36 - 36A Dry Hill Park Road Tonbridge Kent TN10 3BU  
Applicant: The Trustees of Hilden Oaks School  
Go to: [Recommendation](#)

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## **1. Description:**

- 1.1 This application seeks planning permission to change the use of an existing pair of semi-detached dwellings and their associated residential curtilages for use as part of the adjoining Hilden Oaks School. It is not proposed to alter the exterior of the existing buildings or extend them under this scheme. It is also not proposed to alter the access arrangements serving the application site (or those serving the existing school site) as part of this application.
- 1.2 The applicant has confirmed that it is not proposed to increase the number of pupils or teachers within the existing school (or those attending the associated nursery and pre-school). Rather, it is proposed to provide more room for the existing pupils and teachers. The applicant considers that the development is required to meet a number of challenges that the school currently faces, which include:
- Lost class room space (through the necessary amalgamation of class rooms into larger ones);
  - Loss of library;
  - Lack of music and music practice rooms;
  - No dedicated space for Art, which has to currently share space with science;
  - Lack of one to one learning;
  - Lack of staff changing rooms ;
  - Cramped staff rooms; and
  - Lack of a dedicated medical room.
- 1.3 The floor plans submitted as part of this application show the buildings to be used for the following purposes:
- 5 no. class rooms;

- Library;
- Staff room;
- Head's study;
- PPA;
- Meeting room;
- PE office; and
- Cloakroom and a W.C.

**2. Reason for reporting to Committee:**

2.1 At the request of Cllr Branson due to the amount of local interest the application has received.

**3. The Site:**

3.1 The site is located within the urban confines of Tonbridge, on the north side of Dry Hill Park Road. The site is currently occupied by a pair of semi-detached dwellings and their residential curtilages which share a driveway with access from Dry Hill Park Road. The existing school site adjoins the site to the west and north. Residential properties in Dry Bank Road adjoin the site to the east. The site lies within the Tonbridge Conservation Area.

**4. Planning History (relevant): None relevant**

**5. Consultees:**

5.1 Private representations (including responses to site and press notices): 22\2X\12S\43R. A petition has also been submitted objecting to the proposed development which has been signed by 30 people. The reasons for objecting to the application are:

- Loss of residential properties;
- Pupil numbers will expand causing further congestion in the street at picking up and dropping off times;
- Harm to the Conservation Area in terms of noise generation, the continued parking of minibuses and placing of bins outside the front of the existing school building;
- Harm to residential amenity due to increase in noise from use of the property and its rear garden in particular;

- Do not wish to see further screening/buildings placed on the boundary with neighbouring dwellings;
- Loss of privacy to neighbouring residential properties;
- 36 and 36a Dry Hill Park Road should be added to the locally listed buildings register;
- There is an intention to convert the existing rear gardens to a playground; and
- Previous experience shows that once change of use is granted, several further applications will be made for further works to the site.

5.2 The letters supporting the application do so for the following reasons:

- The school is current cramped and working conditions for staff are currently challenging;
- The additional facilities would enable the school to provide additional teaching and support services that are common in other schools;
- The expansion of the school will not be a burden on the area as it is not the intention to take in a greater number of pupils; and
- Incorporating the site into the school will provide a more discreet location to store bins.

## **6. Determining Issues:**

6.1 Current Government guidance contained within the NPPF states at paragraph 14 that at its heart is the presumption in favour of sustainable development. For decision taking this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework; or
  - specific policies in this Framework indicate development should be restricted.

6.2 Paragraph 72 of the NPPF states that: *The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a*

*proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools, and work with schools promoters to identify and resolve key planning issues before applications are submitted.*

- 6.3 The site is located within the urban confines of Tonbridge where the principle of development is acceptable under policy CP 11 of the TMBCS. The site is not the subject of a specific designation/allocation that safeguards its use as residential properties. Consequently, the principle of changing the use of this site from residential to educational use as part of the adjoining Hilden Oaks school is acceptable *in principle*.
- 6.4 The main issues with this change of use application relate to residential amenity and highway safety. Consideration must also be given to how the current proposal would impact upon the character and appearance of the Tonbridge Conservation Area as well.
- 6.5 Policy CP 1 of the TMBCS states at paragraph 3 that when considering development proposals residential amenity will be preserved and, wherever possible, enhanced. Much concern has been expressed by local residents that the use of the site by the Hilden Oaks School would be detrimental to their amenity in terms of loss of privacy and additional noise disturbance. Several key factors have to be considered when assessing the potential harm in this particular case:
- The development does not seek to create additional buildings within the site, but make use of existing ones instead.
  - Pupil numbers would not be increased as part of this proposal.
  - It is not proposed to create additional hard standings within the gardens of 36 and 36A as part of this application (for use as an additional playground, for example).
- 6.6 A significant level of concern has been expressed by local residents as to the future use of the site and a lack of confidence in the school's intention not to increase pupil numbers as part of this proposal. They also consider that further applications will be submitted in due course to further develop the site should permission be granted for the proposed change of use. As Members will be aware, each application has to be considered on its own merits, against the planning policies in force at the time. The Local Planning Authority simply cannot consider what may or may not happen in the future. In this particular case the applicant has agreed, should planning permission be granted, to have conditions imposed relating to the use of the site as part of the wider Hilden Oaks School. One would be a condition to prevent an increase in the pupil roll without first agreeing this with the Local Planning Authority. Another would be that the garden of 36 and 36A Dry Hill Park Road will only be used during school hours and term

times. This would prevent the use of the gardens by the school in the evenings, weekends and school holidays.

- 6.7 The change of use would extend the school's boundary to two additional residential properties located at 32 Dry Hill Park Road and 3 Dry Bank Close. Whilst the use of the garden by children attending the school will be noticeable to local residents, this would be confined to times of the day during term times when noise would be least detrimental to residents' amenity. Any additional noise arising from the external use of this site also has to be considered in the context of the existing Hilden Oaks site that adjoins the application site. Noise is readily discernible in the neighbouring residential properties from the playground within the existing school site.
- 6.8 Furthermore the garden of the application site will not be turned into a new playground under the current proposal. The submitted landscaping scheme shows that the layout and topography of the site would remain very much in its current condition. The site slopes down from the back of the buildings to the north. This results in a 4m drop from the southern end of the rear garden to the northern end. To create a level playground in this site would require significant land levelling which itself would require planning permission. A condition can also be used to remove permitted development rights relating to the creation of hard standings within this site.
- 6.9 The use of conditions referred to above and the need for planning permission to reform the rear garden to provide a level base for further hard-standings would enable the Local Planning Authority to control the further use/development of the site. Such conditions would ameliorate further detriment being caused to the amenity of local residents in terms of noise disturbance arising from the use of the gardens and general comings and goings to and from the site. A condition can also be used to prevent external lighting being installed without first being approved by the Local Planning Authority, again to ensure that it would not cause unacceptable detriment to the amenity of neighbouring properties.
- 6.10 Concerns have been expressed regarding overlooking of neighbouring properties from the rear gardens of the site. There is a level change between the eastern boundary of the application site and the neighbouring properties at 3 Dry Bank Road and 32 Dry Hill Park Road. It will be possible for pupils and teachers to look towards the rear elevation and garden of 3 Dry Bank Road and across the driveway of 32 Dry Hill Park Road, but these inter-actions currently occur at the moment with the residential use of the application site. It is acknowledged that the site's use as part of a school could result in more people using the rear garden than at present. The applicant is proposing, within the submitted landscaping strategy, to reinforce the existing planting along this part of the boundary. This will include evergreen shrubs, small trees (including Holly, Viburnum, Magnolia and Pittosporum) and climbing plants to be grown up trellis to be attached to the boundary wall adjacent to 32 Dry Hill Park Road. This additional boundary

treatment will help to provide a greater degree of privacy to both the neighbouring residential properties and the school, without causing an unacceptable loss of light to them.

- 6.11 Turning now to matters of highway safety, many local residents have stated that the existing school causes significant congestion during school dropping off and pick up times and they fear that the situation would be made worse by the expansion of the school site. The relevant test for assessing highway safety impacts is set out in paragraph 32 of the NPPF. This states that development should only be refused on transport grounds if the impacts are *severe*. Policy SQ 8 of the MDE DPD requires developments to comply with the adopted car parking standards.
- 6.12 As has been stated above, pupil numbers will not increase as part of this proposal and it is also not proposed to change the access or parking arrangements serving the site or the existing school. As there are no plans to increase pupil or teacher numbers as part of this proposal, no additional car parking is required to serve the site under the adopted car parking standards. It must, therefore, follow that the development will not result in a *severe* impact upon highway safety in the locality. On this basis, there are no justifiable grounds to refuse these proposals on highway or parking grounds. There is also no opportunity to require the applicant to undertake additional traffic survey or mitigation work that has been suggested by some residents, on the basis of these proposals.
- 6.13 With regard to the Conservation Area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that when exercising powers within Conservation Areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
- 6.14 The development itself does not propose to alter the form or external appearance of the existing buildings or the boundary features fronting onto Dry Hill Park Road. Many local residents consider the placing of the refuse bins at the front of the existing school site to be unsightly and detract from the Conservation Area's character and appearance. The school has amended the proposed site layout drawing to show the provision of an area between the existing and proposed school buildings to be used to store the bins. Taking them away from the site's frontage where they are prominent features in the Conservation Area will lead to a positive enhancement to the character and appearance in my opinion. Whilst a condition cannot be used to insist that the bins are stored in the proposed storage area, a condition can be used to ensure this area is kept free of obstruction. As the development itself does not entail any physical building works or hard landscaping features, and would not entail the removal of the existing trees within the site, the site's use for education purposes will not, itself, fail to preserve the character and appearance of the Conservation Area.



- 6.15 In light of the above and subject to the use of conditions that will manage how the site would be used, I am satisfied that these proposals would not cause demonstrable harm to surrounding residential amenity or highway safety such that planning permission could justifiably be refused on these grounds. The proposals would also not fail to preserve the character and appearance of the Conservation Area. Moreover, I am mindful of the strong policy support afforded by paragraph 27 of the NPPF that supports new school proposals which meets the needs of existing communities.
- 6.16 On this basis, I therefore recommend that planning permission be granted, subject to those conditions outlined below:

**7. Recommendation:**

- 7.1 Grant planning permission as detailed in following submitted details:

Email dated 19.09.2016, Section 2013-155 A And Proposed Site Plan dated 20.09.2016, Landscape Layout dated 20.09.2016, Email dated 20.09.2016, Location Plan 2013-01 dated 19.08.2016, Design and Access Statement dated 22.08.2016,

**Conditions / Reasons**

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 of the position, length and height of trellis fencing to be erected along the east boundary of the site have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.  
  
Reason: To ensure that the development does not harm the or visual amenity of the locality or the residential amenity of the neighbouring properties.
  
3. The scheme of soft landscaping shown on the approved plans shall be carried out in the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.  
  
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.

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.

4. The development hereby approved shall be used as a primary school, pre-school and children's nursery in association with the existing facilities available at Hilden Oaks School and shall not be used as a separate educational facility and for no other purpose (including any other purpose in Class D2 of the Schedule of 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: In the interest of residential amenity and highway safety.

5. The number of pupils attending the Hilden Oaks School and the associated pre-school and nursery school at any time shall not exceed those numbers set out in email dated 19 September 2016, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of residential amenity and highway safety.

6. No external lighting shall be installed within the application site until such details have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and or visual amenity of the locality and in the interests of residential amenity.

7. The rear garden of the application site shall be only be used during school term time and then only between the hours of 08.30 and 16.30 Monday to Friday unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of residential amenity.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class N of Part 7 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to regulate and control the use of such development in the interests of residential amenity.

9. The locations marked on plan no. 2013/155/A for the storage of refuse bins shall be kept available for such use at all times.

Reason: In order to preserve the character and appearance of the Conservation Area.

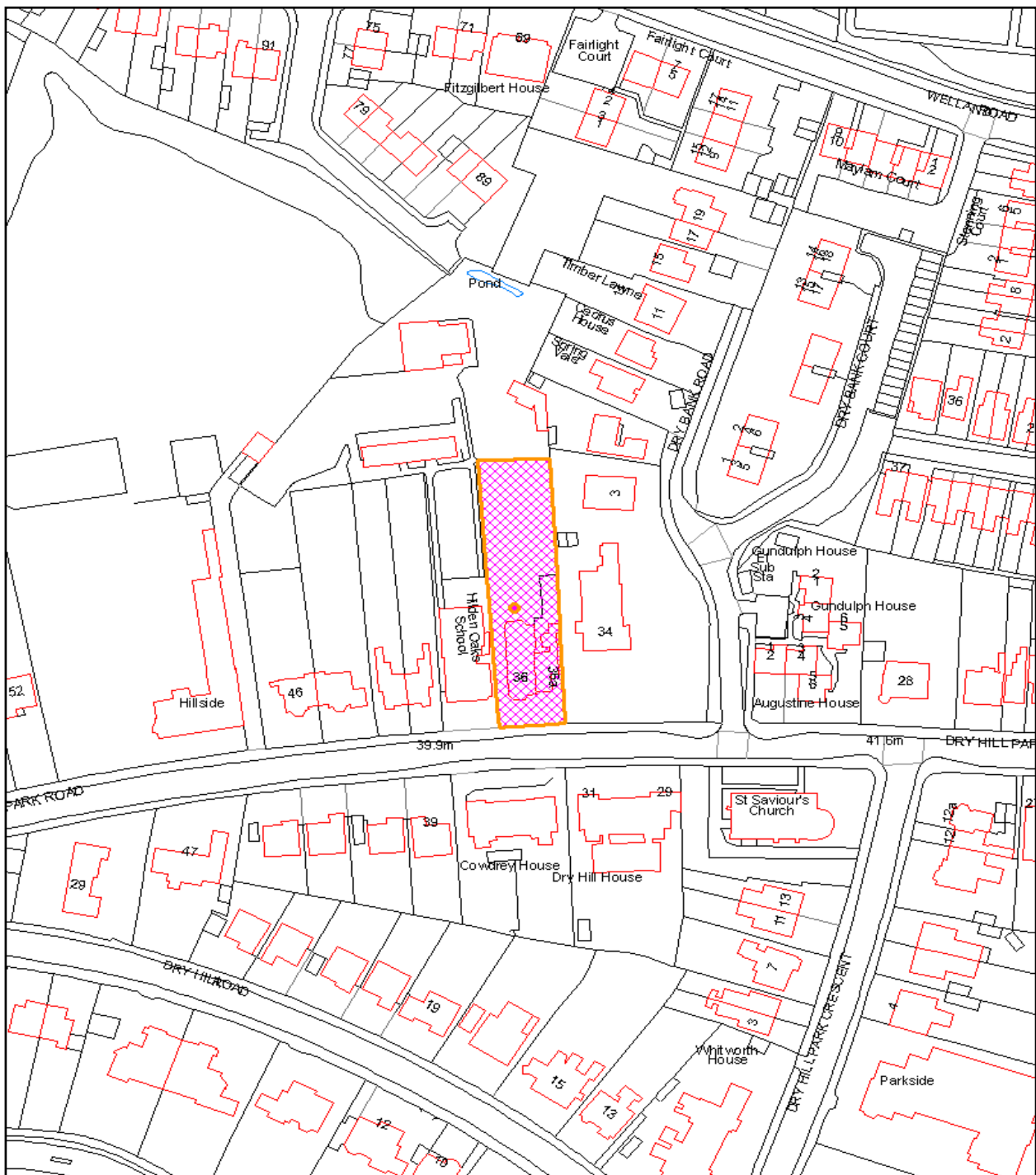
Contact: Matthew Broome

**TM/16/02521/FL**

36 - 36A Dry Hill Park Road Tonbridge Kent TN10 3BU

Change of use from C3 to D1 to provide classrooms and new staff facilities

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**Alleged Unauthorised Development**  
**Tonbridge**                      **16/00151/WORKM**  
Castle

Location:                      44C Dry Hill Park Road Tonbridge Kent TN10 3BU

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**1. Purpose of Report:**

1.1 To report the unauthorised siting of a large metal storage container situated to the front of 44 Dry Hill Park Road. The container is within the ownership of the occupier of 44C Dry Hill Park Road.

**2. The Site:**

2.1 The property is a large semi-detached building that lies on the northern side of Dry Hill Park Road. The property has been converted into three flats (44A, 44B and 44C) following the grant of permission in 1989 (TM/88/2159).

**3. History:**

3.1 No relevant planning history.

**4. Alleged Unauthorised Development:**

4.1 Without the benefit of planning permission, the siting of a large metal storage container to the front of 44 Dry Hill Park Road, Tonbridge.

**5. Determining Issues:**

5.1 The property is situated within the Tonbridge Conservation Area. Officers received concerns with regard to a large metal container that had been placed within the frontage of this site. Upon communication with the occupier of 44C Dry Hill Park Road, officers were informed that the container was being used in connection with motorcycle storage. Furthermore, the occupier advised officers that the structure is a moveable shed (with no bottom or attachment to the surface).

5.2 Planning permission is required for this structure as no permitted development rights exist for such structures as this property is a flat. The occupier has been informed on several occasions that no planning permission exists for this structure and has been requested to remove the container. To date the storage container remains in situ.

5.3 The large metal container is neither of an appropriate design nor of appropriate materials given the site's location within the Tonbridge Conservation Area. It is considered to be detrimental to the character and appearance of the locality, including the surrounding Conservation Area, and is therefore contrary to Policy CP24 of the TMBCS and Policy SQ1 of the MDE DPD.

5.4 With this in mind, I recommend that it is necessary to seek authorisation from Members for the service of an Enforcement Notice requiring the removal of the unauthorised development.

**6. Recommendation:**

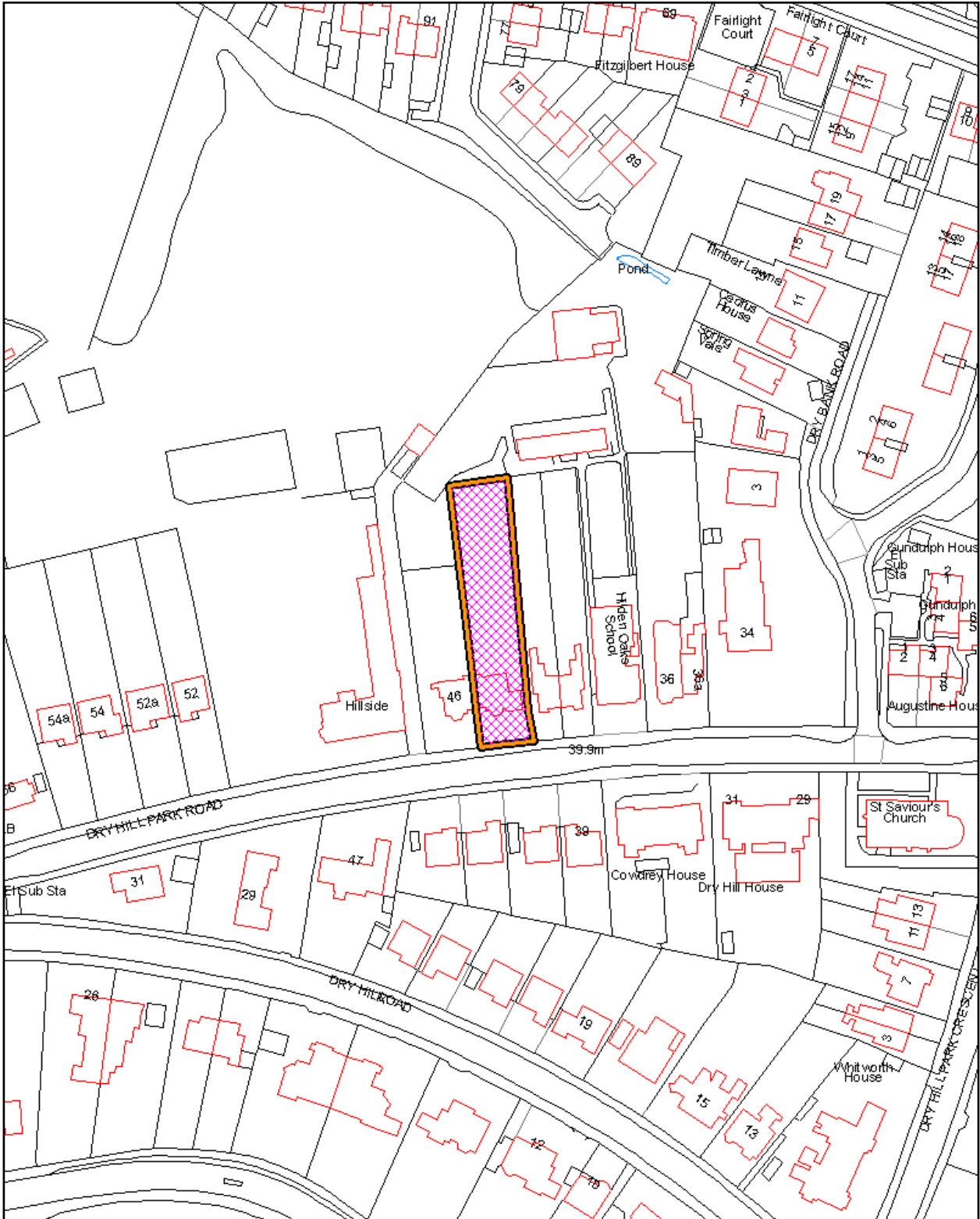
6.1 An Enforcement Notice **BE ISSUED** to seek the removal of the unauthorised storage container, the detailed wording of which to be agreed with the Director of Central Services.

Contact: Sam Chalmers-Stevens

**16/00151/WORKM**

44 Dry Hill Park Road Tonbridge Kent TN10 3BU

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# Agenda Item 10

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT  
INFORMATION**

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