

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

Julie Beilby BSc (Hons) MBA

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West Malling (01732) 844522

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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: Democratic Services  
committee.services@tmbc.gov.uk

19 May 2021

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 at Tonbridge School, High Street, Tonbridge on Thursday, 27th May, 2021 commencing at 7.30 pm.

Members of the Committee are reminded that social distancing measures will be in place for this meeting. Other Members are required to participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website. Deposited plans can be viewed online by using [Public Access](#).

Yours faithfully

JULIE BEILBY

Chief Executive

## AGENDA

1. Guidance for the Conduct of Meetings - Coronavirus 5 - 6 Regulations

## **PART 1 - PUBLIC**

2. Apologies for Absence

3. Declarations of Interest

*Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting*

4. Minutes 7 - 10

To confirm as a correct record the Minutes of the meeting of Area 1 Planning Committee held on 25 March 2021

5. Glossary and Supplementary Matters 11 - 18

*Glossary of abbreviations used in reports to the Area Planning Committee (attached for information)*

*Any supplementary matters will be circulated via report in advance of the meeting and published to the website.*

### **Decisions to be taken by the Committee**

6. TM/20/02334/FL - Former B and Q, Cannon Lane, Tonbridge 19 - 50

*Variation of condition 1 of planning permission TM/16/00818/FL: to allow the sale of convenience goods from Units 1B and 1C*

7. 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**

8. Exclusion of Press and Public

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**

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.

## **MEMBERSHIP**

Cllr M D Boughton (Chairman)

Cllr D W King (Vice-Chairman)

Cllr Mrs J A Anderson

Cllr Mrs P A Bates

Cllr J L Botten

Cllr V M C Branson

Cllr G C Bridge

Cllr A E Clark

Cllr M O Davis

Cllr N Foyle

Cllr N J Heslop

Cllr M A J Hood

Cllr F A Hoskins

Cllr K King

Cllr J R S Lark

Cllr M R Rhodes

Cllr H S Rogers

Cllr J L Sergison

Cllr Miss G E Thomas

Cllr F G Tombolis

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# Agenda Item 1

**Measures under which all meetings of the Council will be conducted after 7 May 2021 to comply with coronavirus regulations and/or guidance in place at the time.**

As it is necessary to maintain social distancing to limit the spread of infection the way meetings are conducted will change. This page summarises the process. If you have any questions, please contact Democratic Services via the contact details provided on the agenda.

## **Attending Meetings**

- All meetings of the Council will be held in the Council Chamber, Gibson Drive, Kings Hill until social distancing requirements are no longer necessary.
- (Note: the meeting of Area 1 Planning Committee on 27 May will meet at Tonbridge School).
- To help contain the virus, Members of the public (including anyone exercising a right to speak e.g. at an Area Planning Committee) are encouraged to participate remotely via MS Teams if possible.
- Meetings will also be live streamed via our [YouTube channel](#) to minimise the need for the public to attend in person.
- Any members of the public wishing to attend in person at the Gibson Building can view proceedings via video link in the Committee Room (maximum capacity of 10).
- Prior notification on a “first come first served” basis for entry to the Committee Room will be adopted. Anyone wishing to ‘reserve’ a place in the Committee Room should contact [committee.service@tmbc.gov.uk](mailto:committee.service@tmbc.gov.uk)
- Public speakers for planning committees will be hosted in a separate area and escorted into the Council Chamber for their allocated time. There will be a limit on the number of public speakers at planning committees due to capacity issues arising from social distancing guidelines.
- Public speakers are asked to remain standing to address the Committee to avoid having to clean or change seats between speakers.
- Staff will be available to escort public speakers into the meeting room and to manage any crowd control issues.
- Doors and windows will remain open throughout all meetings to ensure circulation of fresh air. Attendees are advised to dress appropriately.
- All participants are required to wear face coverings when not speaking at meetings.
- Hand sanitiser will be available at entrances.
- All attendees must have the NHS Test and Trace app and scan the QR code at the entrance to the building/meeting room if they wish to participate. Contact details will be requested on arrival for those who do not have the app.
- The toilet facilities at Gibson Building will be open but may be used by only one person at a time.
- Car parking: Attendees are asked to leave a parking space free between vehicles.
- Refreshments will not be available, and all participants are advised to bring their own water or other refreshments.

**Anyone with covid symptoms should not come to the Council offices.**

**Thank you for your assistance.**

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 1 PLANNING COMMITTEE

Thursday, 25th March, 2021

**Present:** Cllr V M C Branson (Chairman), Cllr M D Boughton (Vice-Chairman), Cllr Mrs J A Anderson, Cllr J L Botten, Cllr G C Bridge, Cllr A E Clark, Cllr M O Davis, Cllr N Foyle, Cllr N J Heslop, Cllr M A J Hood, Cllr F A Hoskins, Cllr D W King, Cllr K King, Cllr J R S Lark, Cllr M R Rhodes, Cllr H S Rogers, Cllr J L Sergison, Cllr Miss G E Thomas and Cllr F G Tombolis

Councillors D A S Davis, D Lettington, P J Montague and Mrs A S Oakley were also present pursuant to Council Procedure Rule No 15.21.

An apology for absence was received from Councillor Mrs P A Bates

### PART 1 - PUBLIC

#### **AP1 21/1 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct. In the interest of transparency, Councillor G Bridge advised that he had worked at Oakhill House as an employee of Fidelity.

#### **AP1 21/2 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 1 Planning Committee held on 29 October 2020 be approved as a correct record and signed by the Chairman.

#### **AP1 21/3 GLOSSARY AND SUPPLEMENTARY MATTERS**

Decisions were taken on the following applications subject to the prerequisites, 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 circulated in advance of the meeting and published to the website.

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.

**DECISIONS TAKEN UNDER DELEGATED POWERS IN  
ACCORDANCE WITH PART 3 OF THE CONSTITUTION  
(RESPONSIBILITY FOR COUNCIL FUNCTIONS)**

**AP1 21/4 TM/20/02245/FL AND TM/20/02246/LB - OAKHILL HOUSE,  
130 TONBRIDGE ROAD, HILDENBOROUGH**

- (A) Redevelopment of site to include conversion, extension and alteration of existing office buildings and conversion and alteration of Grade II listed office building to create 138 apartments and shared residents' facilities, together with 27 houses within the grounds, including access, parking, hard and soft landscaping and areas of open space at Oakhill House, 130 Tonbridge Road, Hildenborough.

**RESOLVED:** That planning permission be GRANTED in accordance with the submitted details, conditions, reasons and informatives set out in the report and supplementary report of the Director of Planning, Housing and Environment Health subject to

(1) Amendments to Conditions

14. No development other than ground investigations or site survey works, shall be commenced until arrangements for the management of any and all demolition and/or construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the construction works will be limited to and measured to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
- Procedures for notifying properties identified as likely to be affected as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.



- The controls on noise and dust arising from the site with reference to current guidance.
- Measures and facilities to be put in place for wheel washing throughout the construction phase

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of general amenity and highway safety

22. The development shall be carried out in accordance with the recommendations of the BSG Ecology Appraisal received 07 October 2020; in particular the implementation of mitigation and enhancement measures and be retained and maintained thereafter. In addition to those measures, no development other than ground investigations or site survey works, shall be commenced until additional strategies for the mitigation and enhancement measures for all protected species on the site, including hedgehogs and dormice, shall be submitted to the Local Planning Authority for approval. The details shall be implemented in accordance with the approved strategies before the completion of the development on the site and shall be retained and maintained thereafter.

Reason: To ensure the protection of wildlife species.

(2) Additional Informatives

10. The developer is strongly encouraged to undertake an exercise of recording and archiving the layout and condition of the grounds prior to the development commencing and to liaise with the Parish Council and relevant local interest groups regarding this work and with a view to making the records publicly available in perpetuity.

11. The developer is strongly encouraged to further investigate all opportunities for retaining the Atlas Blue Cedar (Tree Number 1463, identified on the Arboricultural Implications Plan ref HBA-833-104 Rev C.

12. The developer is asked to retain the existing four illuminated columns at the entrance to the site and on the site boundary to Tonbridge Road.

(B) Listed Building Application: Redevelopment of site to include conversion, extension and alteration of existing office buildings and conversion and alteration of Grade II listed office building to create 138 apartments and shared residents' facilities at Oakhill House, 130 Tonbridge Road, Hildenborough.

**RESOLVED:** That Listed Building Consent be GRANTED as set out in the report and supplementary report of the Director of Planning, Housing and Environmental Health.

[Speakers: Verbal statements were made by Mrs M Coles (on behalf of Hildenborough Parish Council), Mr D Phillips (on behalf of Hildenborough Gardeners Society) and Mr S Ellis (applicant)]

**AP1 21/5 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 9.21 pm

## **GLOSSARY of Abbreviations used in reports to Area Planning Committees**

### **A**

AAP	Area of Archaeological Potential
AGA	Prior Approval: Agriculture (application suffix)
AGN	Prior Notification: Agriculture (application suffix)
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
AT	Advertisement consent (application suffix)

### **B**

BALI	British Association of Landscape Industries
BPN	Building Preservation Notice
BRE	Building Research Establishment

### **C**

CA	Conservation Area (designated area)
CCEASC	KCC Screening Opinion (application suffix)
CCEASP	KCC Scoping Opinion (application suffix)
CCG	NHS Kent and Medway Group
CNA	Consultation by Neighbouring Authority (application suffix)
CPRE	Council for the Protection of Rural England
CR3	County Regulation 3 (application suffix – determined by KCC)
CR4	County Regulation 4 (application suffix – determined by KCC)
CTRL	Channel Tunnel Rail Link (application suffix)

## **D**

DCLG	Department for Communities and Local Government
DCMS	Department for Culture, Media and Sport
DEEM	Deemed application (application suffix)
DEFRA	Department for the Environment, Food and Rural Affairs
DEPN	Prior Notification: Demolition (application suffix)
DfT	Department for Transport
DLADPD	Development Land Allocations Development Plan Document
DMPO	Development Management Procedure Order
DPD	Development Plan Document
DPHEH	Director of Planning, Housing & Environmental Health
DR3	District Regulation 3
DR4	District Regulation 4
DSSLT	Director of Street Scene, Leisure & Technical Services

## **E**

EA	Environment Agency
EIA	Environmental Impact Assessment
EASC	Environmental Impact Assessment Screening request (application suffix)
EASP	Environmental Impact Assessment Scoping request (application suffix)
EH	English Heritage
EL	Electricity (application suffix)
ELB	Ecclesiastical Exemption Consultation (Listed Building)
EEO	Ecclesiastical Exemption Order
ELEX	Overhead Lines (Exemptions)
EMCG	East Malling Conservation Group
ES	Environmental Statement
EP	Environmental Protection

**F**

FRA	Flood Risk Assessment
FC	Felling Licence
FL	Full Application (planning application suffix)
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Impact Assessment

**G**

GDPO	Town & Country Planning (General Development Procedure) Order 2015
GOV	Consultation on Government Development
GPDO	Town & Country Planning (General Permitted Development) Order 2015 (as amended)

**H**

HE	Highways England
HSE	Health and Safety Executive
HN	Hedgerow Removal Notice (application suffix)
HWRC	Household Waste Recycling Centre

**I**

IDD	Internal Drainage District
IDB	Upper Medway Internal Drainage Board
IGN3	Kent Design Guide Review: Interim Guidance Note 3 Residential Parking

**K**

KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards: Supplementary Planning Guidance SPG 4
KDD	KCC Kent Design document

KFRS Kent Fire and Rescue Service  
KGT Kent Garden Trust  
KWT Kent Wildlife Trust

## **L**

LB Listed Building Consent (application suffix)  
LBX Listed Building Consent: Extension of Time  
LDF Local Development Framework  
LDLBP Lawful Development Proposed Listed Building (application suffix)  
LEMP Landscape and Ecology Management Plan  
LLFA Lead Local Flood Authority  
LMIDB Lower Medway Internal Drainage Board  
LPA Local Planning Authority  
LWS Local Wildlife Site  
LDE Lawful Development Certificate: Existing Use or Development (application suffix)  
LDP Lawful Development Certificate: Proposed Use or Development (application suffix)  
LP Local Plan  
LRD Listed Building Consent Reserved Details (application suffix)

## **M**

MBC Maidstone Borough Council  
MC Medway Council (Medway Towns Unitary Authority)  
MCA Mineral Consultation Area  
MDE DPD Managing Development and the Environment Development Plan Document  
MGB Metropolitan Green Belt  
MHCL Ministry of Housing, Communities and Local Government  
MIN Mineral Planning Application (application suffix, KCC determined)  
MSI Member Site Inspection

MWLP Minerals & Waste Local Plan

## **N**

NE Natural England

NMA Non Material Amendment (application suffix)

NPPF National Planning Policy Framework

## **O**

OA Outline Application (application suffix)

OAEA Outline Application with Environment Impact Assessment (application suffix)

OAX Outline Application: Extension of Time

OB106D Details pursuant to S106 obligation (application suffix)

OB106M Modify S106 obligation by agreement (application suffix)

OB106V Vary S106 obligation (application suffix)

OB106X Discharge S106 obligation (application suffix)

## **P**

PC Parish Council

PD Permitted Development

PD4D Permitted development - change of use flexible 2 year

PDL Previously Developed Land

PDRA Permitted development – change of use agricultural building to flexible use (application suffix)

PDV14J Permitted development - solar equipment on non-domestic premises (application suffix)

PDV18 Permitted development - miscellaneous development (application suffix)

PDVAF Permitted development – agricultural building to flexible use (application suffix)

PDVAR Permitted development - agricultural building to residential (application suffix)

PLVLR	Permitted development - larger residential extension (application suffix)
PDVOR	Permitted development - office to residential (application suffix)
PDVPRO	Permitted development - pub to retail and/or office (application suffix)
PDVSDR	Permitted development storage/distribution to residential (application suffix)
PDVSFR	Permitted development PD – shops and financial to restaurant (application suffix)
PDVSR	Permitted development PD – shop and sui generis to residential (application suffix)
POS	Public Open Space
PPG	Planning Practice Guidance
PWC	Prior Written Consent
PROW	Public Right Of Way

## **R**

RD	Reserved Details (application suffix)
RM	Reserved Matters (application suffix)

## **S**

SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (background for the emerging Local Plan)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
SW	Southern Water

## **T**

TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan



TCS Tonbridge Civic Society  
TEPN56/TEN Prior Notification: Telecoms (application suffix)  
TMBC Tonbridge & Malling Borough Council  
TMBCS Tonbridge & Malling Borough Core Strategy 2007  
TMBLP Tonbridge & Malling Borough Local Plan 1998  
TNCA Notification: Trees in Conservation Areas (application suffix)  
TPOC Trees subject to TPO (application suffix)  
TRD Tree Consent Reserved Details (application suffix)  
TRICS Trip Rate Information Computer System  
TWBC Tunbridge Wells Borough Council

## **U**

UCO Town and Country Planning Use Classes Order 1987 (as amended)  
UMIDB Upper Medway Internal Drainage Board

## **W**

WAS Waste Disposal Planning Application (KCC determined)  
WTS Waste Transfer Station

(Version 2/2021)

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**Tonbridge**  
Medway

**19 October 2020**

**TM/20/02334/FL**

Proposal: Variation of condition 1 of planning permission  
TM/16/00818/FL: to allow the sale of convenience goods from  
Units 1B and 1C  
Location: Former B And Q Cannon Lane Tonbridge Kent TN9 1PN  
Go to: [Recommendation](#)

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## 1. Description:

1.1 Planning permission is sought for the variation of condition 1 of planning permission TM/16/00818/FL (provided for by section 73 of the Town and Country Planning Act). The variation proposed would have the effect of allowing the sale of food and convenience goods, from units 1B and 1C, which are proposed to be combined to form one larger store.

1.2 Condition 1 as currently imposed by planning permission TM/16/00818/FL sets out as follows:

*“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 green on plan 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 not more than 20 % of the net retail floorspace of Unit 1C.*

*Unit 1D shown edged purple on plan 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.”*

1.3 The proposed wording sought by the applicant through this application is as follows:

*“The use of the retail warehousing 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.*

*Up to 1,900 sq.m (GIA) within Units 1B and 1C shall additionally be permitted to be used for the sale of convenience goods and associated comparison goods.*

*Unit 1D 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.”*

The key sections of the amended wording is this part “Up to 1,900 sq.m (GIA) within Units 1B and 1C shall additionally be permitted to be used for the sale of convenience goods and associated comparison goods” which would have the effect of allowing food retail sales within units 1B and 1C of up to 1,9000 sqm. The rest of the wording of the condition would remain the same and continue to restrict sales from the other units to the originally agreed parameters.

- 1.4 Otherwise, no operational development is proposed, and the parking provision and external appearance of the store would remain the same. Internally the units would be amalgamated with the removal of the internal partition wall, but this would not require consent as there are no conditions precluding amalgamation on the original permission.
- 1.5 Any advertisements would be dealt with under separate consent. It is not yet known who the intended operator of the store would be, but the wording is flexible enough that any supermarket operator could potentially occupy the units. In any event, this is not a material planning consideration.

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

- 2.1 At the request of Councillor Matt Boughton in order for the committee to assess the impact of the proposed development on residential amenity for neighbours including, but not limited to, the impact of the merger of the units on noise, odours, environmental health and traffic and transport to it. In addition, for the committee to scrutinise the merits or otherwise of an altered retail development in this part of the town.

## **3. The Site:**

- 3.1 The site is currently formed of two retail units within the Cannon Lane retail park development, currently occupied by Carpet Right and Go Outdoors. The park falls outside of the Tonbridge High Street primary and secondary shopping areas and is also more than 300m away from these areas and is therefore an “out of town” retail development for the purposes of retail planning policy, but does fall within the wider Tonbridge Central Area defined by the TCAAP.

3.2 The general character of the area reflects this, with a predominance of retail and commercial uses nearby, but also some residential elements including flats and houses adjacent to the site on Crabapple Road and Redbud Road.

3.3 The site is also within a Flood Zone 2 and 3.

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

TM/16/03605/RD Approved 2 February 2017

Details of condition 2 (materials) and 7 (emergency plan) pursuant to planning permission TM/16/00820/FL (New unit to accommodate an A3 occupier)

TM/16/03606/RD Approved 18 January 2017

Details of conditions 2 (materials) submitted pursuant to planning permission TM/16/00821/FL (Extension to rear of building)

TM/16/03607/RD Approved 24 February 2017

Details of acoustic fence submitted pursuant to condition 3 of planning permission TM/16/00818/FL, condition 5 of planning permission TM/16/00820/FL and condition 5 of TM16/00821/FL

TM/16/03608/RD Approved 18 January 2017

Details of condition 2 (materials) submitted pursuant to planning permission TM/16/00819/FL (External alterations and alterations to forecourt to provide pedestrian route to Cannon Lane)

TM/16/03767/RD Approved 23 February 2017

Details of condition 4 (site management plan) submitted pursuant to planning permission TM/16/00818/FL (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)

TM/17/00841/AT Approved 22 May 2017

Free standing totem sign with individual internally illuminated signs to advertise tenants on the retail park

TM/17/00854/NMA Approved 26 April 2017

Non material amendment to planning permission TM/16/00819/FL: Refuse area has been relocated and staff spaces added, sub-station has been turned through 90 degrees with staff parking space added, the car parking layout has been adjusted to the south and west of Unit 1E and a trolley bay has been added

TM/17/01465/NMA Approved 6 July 2017



5.2.3 In addition, noise from all plant and equipment on site including temporary units shall not exceed NR35 at the nearest site boundary.

5.3 Private Reps: 14 + site notice/0X/14R/0S on the following summarised grounds:

- Do not need another convenience good store
- Parking areas are crowded
- Do not want increased frequency of deliveries
- A lot of noise in this area
- Disturbance to conservation area
- Traffic data out of date
- Car parks are 80% full
- Noise and pollution
- 3 – 4 deliveries a week, does this include weekends
- Should be conditioned to opening hours only
- No outdoor area should be permitted
- Store and security lights should only be on during opening hours
- Noise and light pollution should be conditioned
- Should make a contribution towards a roundabout to improve traffic flow
- Concern over servicing arrangements
- Increased deliveries
- Dispute no minimal change in servicing
- Strongly object
- Borders Conservation area and ancient Mill Stream
- Question if requires extension of opening hours
- Detrimental to environment
- Must be no change in deliveries
- Should not interfere with existing gate locking
- Interior lighting should be turned off
- Alarms going off
- Concern over increased traffic
- Up to date traffic data should be provided (*Officer note: this has now been provided*)
- Should place permanent bollards to prevent damage to fences
- More details should be provided on noise and air pollution
- Hours should be restricted
- Wording confusing
- No argument for another supermarket
- Nobody cycles to Cannon Lane
- Additional noise
- Site congested
- Insufficient parking
- More road infrastructure should be provided
- Need for another convenience store should be scrutinised
- Should be a mix of uses
- Rear gardens impacted by noise
- Should be considered by planning committee

- Redevelopment of the old B&Q store increased traffic
- Not well served by public transport
- Better locations elsewhere
- Should be more small – medium shops instead
- Noise coming from warehouses at 7am
- Disturbing residents
- Should be consultation with neighbours on appropriate caveats
- Not needed
- Car horns on the exit
- Question accuracy of accident reporting
- Increased accidents
- Poor design
- Negative impact on high street trade
- No proof of need

## **6. Determining Issues:**

6.1 As noted, no operational development is proposed. The key issues are therefore restricted to the effect of varying the condition on the vitality and viability of the Tonbridge High Street (in consideration of adopted and national retail policy), parking and highways, and the amenity of neighbouring properties.

### *Matters of principle and retail impact – policy context:*

6.2 As the proposed variation would result in the introduction of a food/convenience unit at this location, it is necessary to consider and apply local and national policy on retail developments.

6.3 The site lies in the defined Tonbridge Central Area (TCA) but away from the primary and secondary shopping areas defined in the TCAAP. It is therefore not considered to fall within a “town centre” location. Furthermore, as it is more than 300m from the defined primary and secondary shopping, it would also fail to meet the definition of an “edge of centre” location as defined by the NPPF. It is therefore an “out of centre” location for the purposes of applying national policy; this also reflects the previous permission in 2016 for an expansion of the limited assortment of good sales from the units, to avoid the introduction of town centre uses on this out of centre location.

6.4 The Council’s development plan policy on new retail development is set out in policy CP22 of the TMBCS. It explains 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 in accordance with a sequentially preferable locational assessment. The policy sets out a sequential test for the preferred location for retail development. Firstly, it should be accommodated on sites located within the defined limits of the town, district or local centres. If this is not possible, then on edge-of-centre sites, but only if there is



sufficient capacity and a retail need is demonstrated that cannot be accommodated within a town, district or local centre.

- 6.5 Thirdly, if an edge of centre site cannot be found, then on out-of-centre sites, but only if there is sufficient capacity and a retail need is demonstrated that cannot be accommodated within or on the edge of a town, district or local centre. Sites that are well related to an existing retail area will be preferred to ones that have no such relationship. Finally, policy CP22 is clear that proposals which might harm the vitality or viability of an existing centre either in terms of retail impact or, in the case of smaller centres, undermining the balance of uses or harming their amenity, will not be permitted.
- 6.6 Policy R1 of the DLADPD expands on policy CP22 but does not apply to the TCA, which is instead covered by the TCAAP policy TCA8. This policy explains that proposals for new retail floor space outside the defined shopping areas will be resisted. A sequential approach will be applied in accordance with Core Policy CP22 to ensure retail activity remains the dominant use within the defined shopping areas.
- 6.7 The prioritisation of new retail development to the primary shopping areas in TCA8 is broadly consistent with retail policy set out in the NPPF, as follows.
- 6.8 Retail policy in the NPPF is set out under chapter 7, “*Ensuring the vitality of town centres*”. Under paragraphs 85 – 87, the NPPF explains that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Among other things, paragraph 85 states that planning policies should:
- a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;
  - b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;
  - e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre
- 6.9 Paragraph 86 explains that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if

suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

- 6.10 Finally, paragraph 87 explains that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
- 6.11 An edge of centre location is defined in the glossary to the NPPF as *“For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary. For office development, this includes locations outside the town centre but within 500 metres of a public transport interchange. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances”*.
- 6.12 The requirements of paragraph 85 and 86 for retail centres to be defined, to be established in a retail hierarchy, and the need to consider sequentially preferable locations starting with main town centre areas, then edge of centre, then out of town locations, are generally consistent with the aims of policy CP22 and TCA8. Paragraph 87 builds on this and gives preference to well-connected edge of centre locations that are readily accessible.
- 6.13 Additionally, paragraphs 89 and 90 of the NPPF explain further requirements for retail development outside of town centres (this includes edge of centre locations). The requirements of paragraph 89 set out that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold. If there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floor space. This should include assessment of:
- a) 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
  - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
- 6.14 Paragraph 90 makes it clear that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.
- 6.15 Before considering sites not within the defined limits of the retail centre, policy CP22 also requires an assessment as to whether *“there is sufficient capacity and*

*a retail need is demonstrated that cannot be accommodated within a town, district or local centre”*

- 6.16 However, national policy in the NPPF does not require a specific retail need to be identified as part of the sequential test when considering edge of centre or out of centre sites when determining planning applications. The fact that the development is being proposed is sufficient grounds to then consider the sequential tests and if the development is satisfactory in this regard and all other matters, then it can be approved irrespective of whether a defined or specific “need” for the development is identified. This is also consistent with the National Planning Policy Guidance (NPPG) on Town Centres and Retail. The NPPG is a material consideration and aides in the interpretation of NPPF policy.
- 6.17 Within the NPPG there is a clear distinction between the requirements for a sequential test in plan making (i.e. production of a local plan) and when making decisions on planning applications. In relation to plan making, paragraph 010 of the NPPG section “Town centres and retail” says a need for main town centre uses must be assessed as part of the sequential test before allocating sites for retail development in a new local plan, but at paragraph 011 in relation to sequential tests for determining planning applications, there is no such requirement to assess a defined need for the development.
- 6.18 Therefore policy CP22 is considered to be unduly restrictive in this regard. Because this test is not fully consistent with the NPPF, only limited weight can be afforded to this aspect of the policy. Therefore, whilst acknowledging the primacy of the adopted development plan as set out in legislation, it is considered that material considerations in the form of the more up to date NPPF justify not rigidly applying the terms of policy CP22 (b), insofar as a specific retail need has to first be identified. This interpretation has been confirmed by case law in *Warners Retail (Moreton) Ltd v Cotswold District Council & Ors [2016]* in which Lindblom LJ stated:
- “The NPPF was published as planning policy for England in March 2012. It superseded much of the then extant national planning policy, including Planning Policy Statement 4 – “Planning for sustainable economic growth”, published in December 2009 (“PPS4”), which had replaced Planning Policy Statement 6 – “Planning for Town Centres”, published in March 2005 (“PPS6”). PPS6 had contained a policy requiring additional retail development outside a town centre to be justified by a demonstration of the need for the development, the two main elements of need being “quantitative need” and “qualitative need” (paragraphs 2.32 to 2.40). This component of national policy was not carried forward into PPS4, or subsequently into the NPPF. But the “sequential approach” was.”* [Para 8 of his judgment]
- 6.19 The requirements for an identification of need in limb (b) to policy CP22 likely reflected the PPS guidance in place at the time the core strategy was adopted in

2007, long before the NPPF came into effect. This further demonstrates that an assessment of specific need should not be insisted upon.

- 6.20 Furthermore, the threshold for a refusal in terms of retail impact under policy CP22 is also significantly lower than the equivalent test set out under the more up to date NPPF. Paragraph 2 of policy CP22 sets out that “Proposals which might harm the vitality or viability of an existing centre either in terms of retail impact or, in the case of smaller centres, undermining the balance of uses or harming their amenity, will not be permitted”. However, the test under the NPPF for a refusal on retail impact on the vitality and viability of town centres is only where there is a “significant adverse impact”, as set out previously in this report under paragraph 90. “Significant adverse impact” is a much higher threshold than policy CP22’s “Proposals which might harm the vitality or viability of an existing centre”. “Might harm” is a particularly low threshold in comparison and suggests even when there is a vague prospect of a minor reduction in sales or footfall then planning permission should be automatically refused.
- 6.21 It is apparent from the framing of the wording in policy CP22 that its tests are not consistent with the requirements of the more up to date NPPF. As a result of this policy CP22 is again considered to be unduly restrictive in this regard. Because this test is not fully consistent with the NPPF, only limited weight can be afforded to this aspect of the policy. Therefore, whilst once more acknowledging the primacy of the adopted development plan as set out in legislation, it is considered that material considerations in the form of the more up to date NPPF justify not rigidly applying the terms of paragraph 2 of policy CP22, insofar as any retail development must be refused where it might harm the vitality and viability of retail centres.
- 6.22 Nonetheless, the overarching aim of CP22, TCA8 and the relevant sections of the NPPF and NPPG is to prioritise the placement of retail development within town centre locations, in order to encourage investment, footfall and purchasing in these places, and increase the likelihood of “linked trips” whereby consumers visit multiple town centre businesses and help to support their vitality. Where retail development is located on edge of centre locations, the chances for this type of linked activity may decrease (although well connected sites may still enable this, hence their preference under paragraph 87 and CP22). With completely out of town locations the risk is that retail development will draw trade away from the town centre to the detriment of its vitality. For example, a very large out of town supermarket that can meet all the day to day needs of local people in a single trip, with no need to visit the town centre.
- 6.23 The application will therefore need to satisfy the locational requirements of policy CP22, TCA8 and paragraphs 85 – 87, have due regard to the established retail hierarchy set out in the TCAAP, and consider the policy requirements for retail impact highlighted under paragraphs 89 and 90, in order for this location for convenience goods development to be considered acceptable. Given that a

number of third-party comments refer to there being no “need” for an additional supermarket in this location, it is also considered necessary to clarify this point.

*Retail Impact – Whether there is a “need” for the proposed development:*

6.24 As noted above, there is no policy requirement in the NPPF to consider if there is a particular identified need for an additional retail development. The fact that it is being proposed is sufficient grounds to apply the relevant policy tests. Whilst third party comments referring to the proximity of other supermarkets are noted, this does not preclude the applicants seeking permission for the proposed development. It is a matter for the applicants to satisfy themselves as to whether a further convenience store is viable in this location but this is not a material planning consideration. The planning merits of the proposed use must be considered rather than theoretical alternative uses or locations that are not before the Council.

*Retail Impact – Location:*

6.25 The applicants have provided a planning and retail assessment to consider whether there are any sequential preferable sites, as required by policy CP22, TCA8 and the NPPF.

6.26 The assessment sets out the following findings to determine whether a sequential preferable site exists for this this convenience store (as in, whether an available site exists within the primary or secondary shopping areas of the town). This is explained as follows:

*“The Tonbridge Central Area Action Plan (April 2008) identified a number of development sites within Tonbridge, and their indicative capacity. The table below summarises the sites that have retail identified as a proposed use. In all cases, retail is identified as part of a mixed use development, none of the sites is solely allocated for retail development.*

*Of these seven sites, five sites (Tonbridge Station, River Lawn, Quarry Hill Road/Waterloo Road, Sovereign House and Waitrose/Iceland car park) either show no change in the amount of retail floorspace proposed, a reduction in retail floorspace, or only a small increase in retail floorspace that would not be able to accommodate the proposed food store, even when applying flexibility. These sites are therefore not considered suitable to accommodate the proposed development, and are not assessed further. In addition, the Sovereign House site has been redeveloped for residential use, and the Tonbridge Station site has also been developed to provide decked car parking for station use. These sites are also no longer available. The remaining two sites (Botany and Tonbridge Library) are considered below.*

6.27 In respect of the Botany site (including Beales department store now closed), the assessment explains that the store is much larger than the Cannon Lane unit,

being some 4,343sqm, and as the site is owned on a long lease by Sainsbury's, it was therefore unclear whether it is actually being marketed, such that it is "available" for the proposed development. Further information was sought from the applicants in this respect, and their agent approached Sainsbury's to inquire if the unit was available, potentially though sub-division.

6.28 The response from Sainsbury's is detailed in the letter from the agent dated 9<sup>th</sup> February 2021, who explains that:

*"In respect of the former Beales unit I undertook a search of the local land registry which identified that the freehold is owned by Tonbridge & Malling Council and Sainsbury's have a 125 year lease from them. Beales had a further lease from Sainsbury's, but they are now in Administration. After extensive searches, I have not been able to find any marketing details, letting boards or particulars for the unit, so it is clear that the space is not currently being marketed for future occupation. Indeed, it has not been marketed since it became vacant in Spring 2020.*

*Notwithstanding the above, I spoke with Sainsbury's to understand the current position and was advised that the unit is not being marketed as Sainsbury's are currently reviewing its options for the space. It was suggested that at least part of the space could be incorporated into a reconfiguration of the existing Sainsbury's unit, but it was not known how much space this would involve. This is consistent with my understanding of Sainsbury's long held aspiration for the existing store.*

*My understanding is that even if there is some space available post a Sainsbury's extension, they would not let this to a competing food store operator."*

6.29 Based on the information provided, it therefore appears that the site is not available since it likely to be incorporated into an enlarged Sainsbury's store, and any remaining space following this expansion (if there was any) would further be unlikely to be offered to a competing convenience goods operator, regardless of who the end company was.

6.30 Accordingly, it is considered that this site is not available for the broad type of development being proposed, even with some flexibility on size and footprint.

6.31 The assessment goes on to consider the Tonbridge Library site (owned by KCC and not currently available); the former Woolworth store (too small at 836sqm, even with some flexibility on the part of the operator, it is less than half that sought at the Cannon Lane site). All other vacant units are even smaller.

6.32 Beyond the shopping areas, the assessment has also considered edge of centre sites, including the following:

*"Key public car park sites have been considered in this assessment. All, however, are considered important facilities for Tonbridge, in terms of catering for both local*

*residents and visitors, and all of these car parks have therefore been assessed as unavailable for development.*

*Public open space and recreation land has also been considered including identified important amenity areas. None of these sites is currently vacant or under-utilised and all perform an important local function, therefore none of these sites is considered suitable or available on the basis that the Council generally seeks to retain such facilities in the interests of preserving their use for residents and visitors to an area.”*

- 6.33 Overall, it is considered that the applicant has carried out a thorough assessment of all potentially available sites in the primary shopping areas, and edge of centre sites and none are suitable or available for the type of development being proposed.
- 6.34 There is no evidence before the Council that the sequential assessment is flawed or has omitted a site that would be preferable. As there are no sequentially preferable suitable or available sites within the primary and secondary shopping areas, or the edges of these centres, in accordance with policy CP22 and paragraphs 85 – 87 of the NPPF, out of town locations may be acceptable.
- 6.35 The Cannon Lane site falls within the wider Tonbridge central area, and there is a reasonable degree of connectivity via footpaths and adjacent roads, as well as public transport, to the primary shopping areas. Nonetheless, it is an “out of centre” location as it does not fall within the 300m distance of the shopping areas, which is the definition for an edge of centre site defined in the NPPF.
- 6.36 However, as the retail assessment has failed to identify any sequentially preferable suitable or available sites for the broad type of development being proposed, it is therefore considered that the out-of-town location of the proposed new retail store has passed the sequential tests set out under policy CP22, TCA8 and paragraphs 85, 86 and 87 of the NPPF. As such there are no policy objections on the principle of a new convenience store at this location.

*Retail Impact – whether an assessment is required:*

- 6.37 The final consideration on matters of retail policy is whether the introduction of a convenience store here would necessitate a retail impact assessment (RIA) to determine the impact on the vitality of the high street primary shopping areas.
- 6.38 Paragraphs 89 and 90 of the NPPF set out the circumstances in which a retail impact assessment (RIA) is required on retail development outside of a town centre location.
- 6.39 The NPPF is clear that where no local floor space threshold is set (CP22 is silent in this regard) then the default threshold is 2,500sqm. The proposed store is just 1,900sqm, falling very far below the default threshold set out in the NPPF. In

choosing this threshold, it is apparent that in most circumstances the Government does not consider retail stores with a floor space below this level to warrant a RIA, or the wording of this paragraph would plainly have reflected this. It is clear that developments below this threshold, particularly in the absence of a locally defined threshold, are highly unlikely to have an impact on the main town centre that would be significant enough to warrant consideration through a full RIA. There is no evidence that a significant adverse impact would arise with a development so far below the default floor space threshold.

6.40 Policy CP22 is clear that proposals which might harm the vitality or viability of an existing centre in terms of retail impact will not be permitted, although as noted previously this test is inconsistent with the requirements of the NPPF and should not be used as a basis to justify refusal. However, given the comparatively low floor space against the threshold for assessment under an RIA set out in national policy, and the reasonable connectivity from the site to the primary and secondary shopping areas, it is not considered that there is sufficient evidence that the proposal would result in significant adverse impacts to the vitality or viability of the shopping areas in terms of retail impact.

6.41 Accordingly, it is not considered that there is any conflict with the requirements of paragraph 89 and 90 of the NPPF, and even where there is some limited conflict with policy CP22's stricter requirements, the weight that can be attributed to this conflict is greatly and decisively reduced as a result of inconsistencies with the NPPF.

6.42 Therefore, there is no policy basis for requiring an RIA.

Highways and Parking:

6.43 Paragraph 108 of the NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

6.44 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110 goes on to state that within this context, applications for development should:



- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.45 Policy CP2 of the TMBCS advises that new development that is likely to generate a significant number of trips should:

- (a) be well located relative to public transport, cycle and pedestrian routes and with good access to local service centres;
- (b) minimise the need to travel through the implementation of Travel Plans and the provision or retention of local services and facilities;
- (c) either provide or make use of, and if necessary enhance, a choice of transport modes, including public transport, cycling and walking;
- (d) be compatible with the character and capacity of the highway network in terms of the volume and nature of traffic generated;
- (e) provide for any necessary enhancements to the safety of the highway network and capacity of transport infrastructure whilst avoiding road improvements that significantly harm the natural or historic environment or the character of the area; and,
- (f) ensure accessibility for all, including elderly people, people with disabilities and others with restricted mobility.

6.46 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided. It goes on to state that development proposals will only be permitted where they would not significantly

harm highway safety and where traffic generated by the development can adequately be served by the highway network.

- 6.47 A number of third-party concerns have been raised regarding potential highways and parking impact. Following comments raised by KCC Highways and Transportation, the applicant provided update traffic data to address initial concerns.
- 6.48 KCC's detailed response is set out in the accompanying Annex 1 and 2. It recognises that the convenience store use would attract increased vehicle trips, and without mitigation, may lead to severe cumulative impacts from queuing traffic at the junction onto the A26. KCC therefore confirm that the Tonbridge Retail Park/A26 junction improvement scheme should be implemented (by way of a S278 agreement if required) prior to the unit being occupied in this manner. Subject to this, they raise no highways objections.
- 6.49 This scheme has already been granted planning permission under reference TM/18/00704/FL and the plans have been resubmitted with this application. It would provide a wider, two-lane exit from the site, easing traffic flow and reducing the chances of internal queuing that could then back up traffic trying to enter the site (see **Appendix 3** – two lane exit approved plan).
- 6.50 The land for the revised access is within the control of the applicant and a Grampian style condition will ensure this is constructed before the use commences. The applicant has agreed in writing to the imposition of this type of condition.
- 6.51 These works would be implemented through a further S278 agreement with the County Council. Subject to this, it is not considered that any unacceptable or severe highways impacts would result, being the specific test set out in national policy under paragraph 109 of the NPPF. Whilst it is noted that third parties raise objections on the existing traffic in the area, the proposal can only address the resulting effects from permission being granted, not any pre-existing traffic problems along the A26.
- 6.52 Furthermore, no changes to existing parking are proposed. Whilst some increased parking may result if the new use proves more popular than the existing, KCC Highways have not raised any safety objections in this regard. It is not considered that the existing parking arrangements would be inadequate even if there is some greater use.
- 6.53 Overall, the scheme would comply with Policies CP2 of the TMBCS, SQ8 of the MDEDPD and paragraph 109 of the NPPF, subject to the junction improvements being delivered prior to commencement of the new use. This will be secured by condition.

Neighbouring amenity:

- 6.54 In terms of neighbouring amenity, third party concerns are noted. It is important to recognise again that the scope of this application is to consider any greater impacts from varying the wording of the condition, and not any pre-existing problems with the operation of the retail park, including deliveries to other stores.
- 6.55 On this matter, all previously imposed conditions on hours of operation and deliveries would be re-imposed. This includes *“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”* as well as a site management plan, which should be updated to consider the changing use of the units. Furthermore, whilst it is noted that concerns have been expressed by TMBC’s Environmental Health team in regard to future noise of plant or ventilation, this would have to be approved in a subsequent application, if required. At that time, the Council can consider whether it would achieve an appropriate noise climate.
- 6.56 The Council’s Environmental Protection Team is content that, subject to clearly worded conditions in respect of noise and an informative that substantiated noise complaints may lead to separate statutory noise nuisance claims, any changing noise impacts can be appropriately controlled.
- 6.57 Although it is noted that there have been complaints regarding the M&S store, this building is closer to a number of residential properties on Crabapple Road, with the 1B & 1C units located further away and with a deeper roof space to accommodate plant away from the nearest houses. If new plant and ventilation is required for the future use, it will be a matter for the applicants to resolve in a manner that does not result in unacceptable noise impacts to nearby residential properties.
- 6.58 As to the number and frequency of deliveries, there are no restrictions on this on the previous consent, only on the hours within which they can arrive. Given that the proposal would see two stores merged into one, it is not considered likely that the number of deliveries would change so substantially that any significant greater noise impact would arise. The hours of operation would continue to be restricted within the terms of the existing consent. Additionally, the improved two-way exit will ease traffic leaving the site and reduce the chances of car engines running whilst stationary close to neighbouring gardens.
- 6.59 Overall, whilst it is accepted that there would be some increase in activity, in the context of the existing park and adjacent road, it is not considered that objections could reasonably be sustained with regard to any greater impact from the variation of condition being sought. Therefore, the scheme would comply with policy CP24, SQ1 and SQ6 by not harming neighbouring amenity by reason of noise and disruption.

Planning Obligations:

- 6.60 Policy TCA19 of the TCAAP requires development proposals in the central area to provide an appropriate level of contribution towards the Tonbridge Central Area Regeneration Fund. Officers consider that the introduction of a food store at this location will place greater pressure on the public realm, particularly between the site and the primary shopping areas, as residents move between the two.
- 6.61 The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) and paragraph 56 of the NPPF require that requests for development must comply with three specific legal tests, namely that they must be (1) necessary, (2) related to the development, and (3) reasonably related in scale and kind. It is considered that the contributions being sought meet these tests.
- 6.62 As a result of the introduction of a more intense use at this location, including one that will draw some trade away from the primary shopping areas and increase footfall between them, it is considered that the development will generate additional pressure on the public realm, triggering the requirements of policy TCA19. It is necessary and reasonable that the development provides funding to offset this impact, that is directly related to the introduction of this use at this location. Accordingly, officers consider that relevant statutory tests have been met.
- 6.63 Following discussions with the applicant, officers have secured a contribution of £16,000 towards the Tonbridge Central Area Regeneration Fund for public realm maintenance and enhancement to offset the impact of the development. This will be secured by a unilateral undertaking prior subject to a resolution to grant planning permission by APC1; work is already underway on the part of the applicant to prepare a draft.

Conclusions:

- 6.64 The applicants have provided an extensive sequential search for more preferable sites located within or next to the primary and secondary shopping frontages. No alternative sites that are suitable or available have been identified. Although the development would result in an increase in traffic movements, subject to the provision of the two-lane exit, Kent County Council Highways and Transportation are satisfied that no unacceptable safety or cumulative traffic impacts would arise. Furthermore, it is not considered that the proposal would result in any harmful impact on neighbouring amenity with open hours remaining controlled within original parameters. Any additional plant, if required, would be subject to further approval and only if no adverse noise impacts would result.
- 6.65 Furthermore, a planning obligation, to be secured by a UU, would help mitigate from the additional pressure on the public realm as a result of the new use at this location.

6.66 Accordingly, it is considered that the proposed variation of condition to allow for a convenience/food store at this location would not result in any unacceptable impacts, subject to the agreed mitigation measures. There is no identified conflict with the development plan and national policy, and therefore the application is recommended for approval

**7. Recommendation:**

7.1 **Grant planning permission** accordance with the following submitted details: Location Plan 11136-L001 dated 19.10.2020, Existing Floor Plans 11136-P001 dated 19.10.2020, Proposed Floor Plans 11136-P002 dated 19.10.2020, Flood Risk Assessment dated 19.10.2020, Assessment Retail dated 19.10.2020, Transport Assessment dated 19.10.2020, Transport Statement ST14Dec20 Additional information dated 21.01.2021, Letter dated 10.02.2021, subject to:

- The applicant entering into a planning obligation with the Borough Council to provide financial contributions towards public realm enhancements in the Tonbridge Central Area to mitigate development impacts.

7.2 It is expected that the section 106 agreement should be agreed in principle and the legalities completed within 3 months of the committee resolution unless there are good reasons for the delay. Should the agreement under Section 106 of the Act not be completed and signed by all relevant parties within 3 months, a report back to the Area 1 Planning Committee will be made either updating on progress and making a further recommendation or in the alternative the application may be refused under powers delegated to the Director of Planning, Housing and Environmental Health who will determine the specific reasons for refusal in consultation with the Chairman and Ward Members.

- The following conditions:

**Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. The use of the retail warehousing 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.

Up to 1,900 sq.m (GIA) within Units 1B and 1C shall additionally be permitted to be used for the sale of convenience goods and associated comparison goods.

Unit 1D 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.

3. 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.

Reason: In the interests of residential amenity.

4. Before the use hereby approved is commenced details of an updated site management plan to coordinate deliveries to and the removal of waste from the new use at Units 1B and 1C shall be 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. The units shall be strictly operated in accordance with the approved management plan.

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. Noise from all plant and equipment on site including temporary units shall not exceed NR35 at the nearest site boundary.

Reason: In the interests of residential amenity.

6. The use hereby approved shall not commence until the improvements to the local highway network to provide a widened two lane exit in accordance with approved drawing number 9843 P 301 have been completed (via a s.278 Agreement with Kent County Council if required) and thereafter retained in perpetuity.

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

**Informatives**

1. Substantiated complaints of noise nuisance may result in formal enforcement action under statutory noise nuisance legislation.

Contact: Adem Mehmet

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**Tonbridge & Malling Borough Council**

Development Control  
Gibson Building  
Gibson Drive  
Kings Hill  
West Malling, Kent  
ME19 4LZ

**Highways and Transportation**

Ashford Highway Depot  
4 Javelin Way  
Ashford  
TN24 8AD

**Tel:** 03000 418181  
**Date:** 4 December 2020

**Application - TM/20/02334/FL**

**Location - Former B And Q Cannon Lane Tonbridge Kent TN9 1PN**

**Proposal - Variation of condition 1 of planning permission TM/16/00818/FL: to allow the sale of convenience goods from Units 1B and 1C**

I refer to the above planning application and whilst I have objections to the current proposals in respect of highway matters it may be possible to overcome those objections if the following amendments to the application are made:-

On appraisal of the Transport Assessment (TA), dated October 2020, prepared for the applicant by Exigo Project Solutions in respect of this application for the redevelopment of two existing non-food retail units to provide a food store.

Trip Generation

The TA states that the removal of the mezzanine floor and hence a reduction in floorspace will lead to a reduction in vehicle trips. Also, I have checked documents relating to application TM/16/0822 in respect of the mezzanine floor and of particular interest is the letter from Exigo dated 13.10.2016 which outlines that 'it is not considered that the additional mezzanine floor area would attract any additional trips, rather extend the period of time customers take to browse in the shop. A mezzanine floor provides more retail floor space for the occupier, therefore not resulting in the same trip rate as the provision of a new retail offer'.

With this in mind I would recommend that a simple comparison is made between the vehicle trip rates for non-food retail and discount food store using appropriate and recent surveys from TRICs and discounting the mezzanine floorspace for both non-food and food store assessments. The use of the trip rates used in both the 2016 assessment for the application site and those used for the Aldi application are dated and in particular, discount food store trip levels have increased significantly in recent years.

This application proposes to use traffic flows from 2013, which formed part of the previous application from 2016, paragraph 2.9 from the Transport Assessment state that volumes have not increased from 2013, the applicant has reviewed a DfT counter on Cannon Lane, to back this statement up, however, on closer inspection, I disagree with the comment. Table 2.5 clearly indicates volumes in 2013 of approximately 18,000, while in 2018, the volume on Cannon Lane has increased to about 22,000, a rise of 22% for the Annual Average Daily Flow (AADF), over five years. Clearly, this increase on the A26 will have an impact on the ingress and egress from the site. As we are currently enduring a pandemic, any new traffic counts are not recommended

as they are unlikely to be representative. However, if the applicant is able to obtain raw traffic data from DfT, to ascertain the hourly split this will help to determine how the 22% is made up throughout the day.

### Junction Modelling

The TA states at paragraph 6.32 that 'the proposed development is not predicted to increase traffic generation by a significant level and therefore no modelling is required.' Given that the capacity assessment for the site access, undertaken for the 2016 application, showed the site access to be over capacity, see Table 2.3, with significant queues and delays from the site access, an up to date assessment is required. The capacity assessment should include any proposed scheme mitigation including the proffered two exit lanes from the site access, improved junction mitigation will be a requirement of any planning permission granted.

Also, time period - 11:00-12:00 has been modelled as the peak during a Saturday, but the car park is closest to capacity between 13:00 and 15:00. I would request that the traffic count information from throughout the day is provided, to enable this data to be reviewed, to build a profile of the highway network and ensure that the true peak has profiled for the weekend scenario.

### Committed Development

Any committed development scenarios will need to include - Colas Villas, Tonbridge Trade Park on corner of Vale Road and Woodgate Way, and Priory Works development, as recent approvals have been granted on these applications.

### Parking

Parking provision requirements as outlined in SPG4 requires a higher level of provision for food retail than non-food retail. The parking requirement should be based on recent TRICs parking accumulation profiles.

### Personal Injury Crashes

There have been 8 injury crashes in the 5-year period at the A26 Cannon Lane/Hadlow Road junction. An analysis of the crashes is needed to establish if there are any patterns which can be addressed. Please also provide full details of these crashes.

INFORMATIVE: It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Yours faithfully

**Steven Timson**

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**Tonbridge & Malling Borough Council**

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Gibson Drive  
Kings Hill  
West Malling, Kent  
ME19 4LZ

**Highways and Transportation**

Ashford Highway Depot  
4 Javelin Way  
Ashford  
TN24 8AD

**Tel:** 03000 418181

**Date:** 12 February 2021

**Application - TM/20/02334/FL**

**Location - Former B And Q Cannon Lane Tonbridge Kent TN9 1PN**

**Proposal - Variation of condition 1 of planning permission TM/16/00818/FL: to allow the sale of convenience goods from Units 1B and 1C**

On receipt of the letter from Exigo Project Solutions Ltd, on 14<sup>th</sup> December 2020. I have progressed through the comments and have the following observations to make:

Trip Generation

I am happy with the explanation provided. The approach taken and trip generation from the site ensure a robust assessment is given to the highway. Clarification has been sought and offered following my previous response dated 4<sup>th</sup> December 2020.

Junction Modelling

Table 6 has helped to provide the context to the hourly traffic levels for Saturday, reinforcing that 11:00-12:00 is the true peak hour.

There is some concern for the Ratio of Flow to Capacity exceeding 1.0 on a Saturday, this may impact traffic entering the site, due to internal queuing within Tonbridge Retail Park, blocking various access points. Queues are predicted to be 48 metres for traffic travelling from site access to Cannon Lane south and 76 metres from site access to Cannon Lane north. The main car park access is set 53 metres back from the A20 London Road junction, which may mean internal queuing is possible on a Saturday peak hour.

Committed Development, Parking, and Personal Injury Accidents

I am happy with the explanation provided, following on from my previous response dated 4<sup>th</sup> December 2020

Summary

As the Tonbridge Retail Park/A20 junction improvement scheme has been assessed as part of this application, it is imperative that this mitigation measure is implemented as a Section 278 agreement, to enable improved egress from the site.

INFORMATIVE: It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

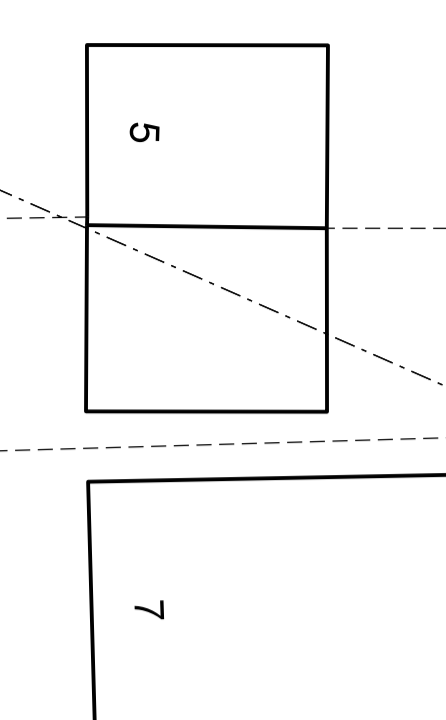
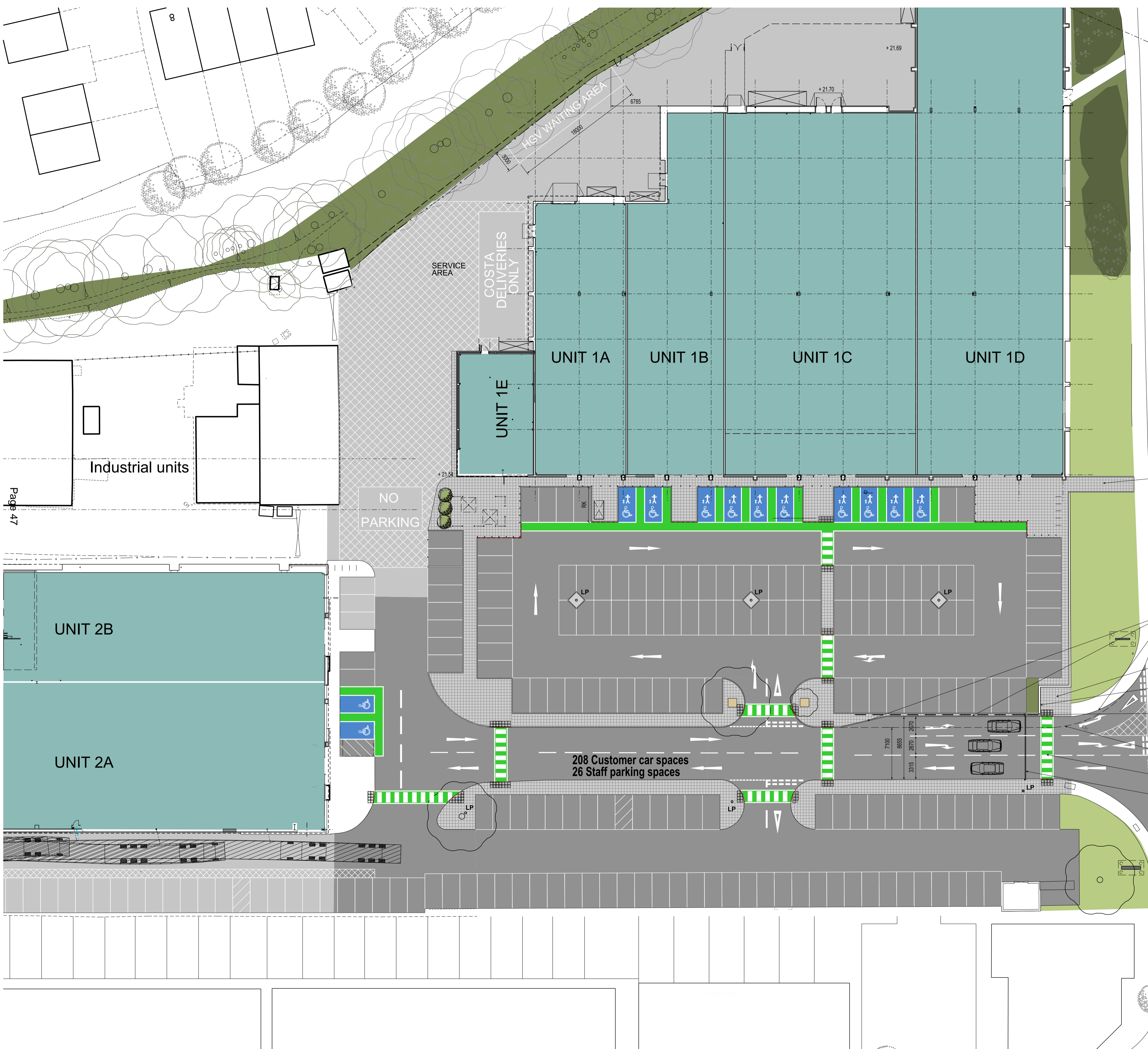
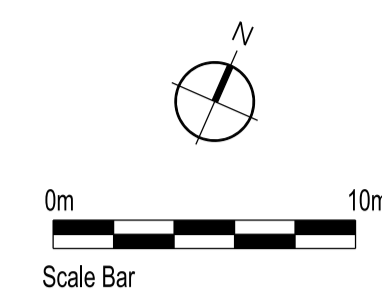
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The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Yours faithfully

**Steven Timson**



El Sub Sta

Canon Lane

NO PARKING

Industrial units

Page 47

EXISTING PEDESTRIAN ACCESS

EXISTING KERBLINE ADJUSTED TO ALLOW ADDITIONAL EXIT LANE TO BE INCORPORATED. NEW WHITE LINING AS SHOWN

NEW PAVED APRON TO MATCH EXISTING

EXISTING WALL RE-BUILT AS SHOWN

HOOPED VEHICLE BARRIERS 750mm HIGH x 1500mm LONG 60mm DIA COLOURCOATED DARK GREY

EXISTING KERBLINE SHOWN DOTTED

NEW PEDESTRIAN CROSSING AND DROPPED KERBS

NEW CAR PARK ENTRANCE BARRIER

208 Customer car spaces  
26 Staff parking spaces

REV. DATE NOTES INT.

CLIENT / PROJECT  
LondonMetric  
TONBRIDGE - PHASE 2

DRAWING TITLE  
PROPOSED SITE PLAN  
CAR PARK ENTRANCE  
MODIFICATIONS  
STATUS  
PLANNING

DATE 07.03.18 DRAWN JT SCALE @ A1/A3  
PROJECT NUMBER UNIT CI / STR TYPE A REVISION NUMBER LETTER  
9843 P 301

2d Location Plan L GA Plans P 3d/Revit E  
Sections S Details D Public Colour C

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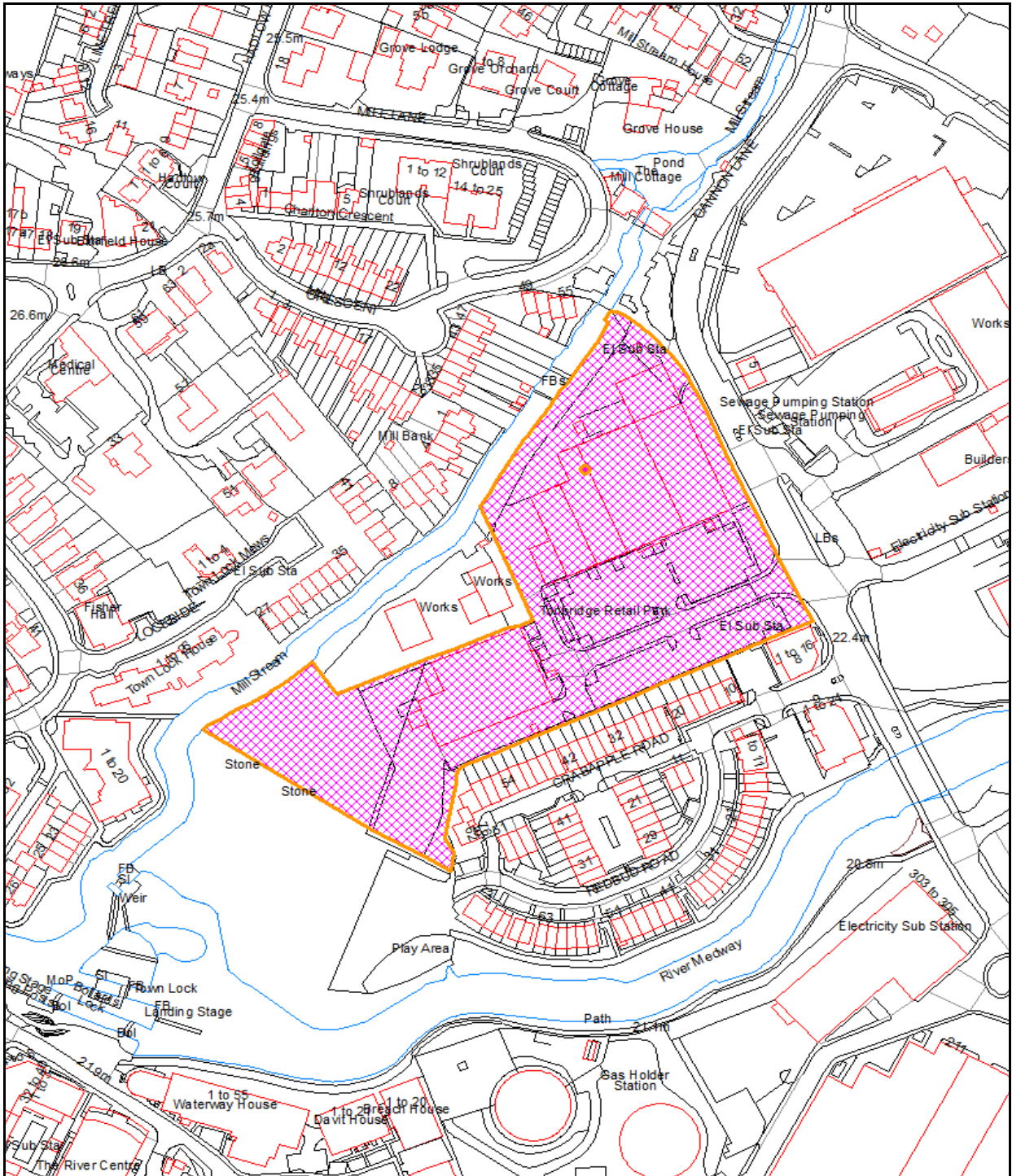


**TM/20/02334/FL**

Former B And Q Cannon Lane Tonbridge Kent TN9 1PN

Variation of condition 1 of planning permission TM/16/00818/FL: to allow the sale of convenience goods from Units 1B and 1C

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