

**West Malling**  
West Malling And  
Leybourne

**568093 157783 11 July 2013**

**TM/13/01952/FL**

---

Proposal: Development comprising 4 no. two bedroom town houses and one retail unit plus associated parking and external works  
Location: Mill Yard 26 Swan Street West Malling Kent ME19 6LP  
Applicant: Bedlars Holdings (UK) LLP

---

**1. Description:**

- 1.1 Planning permission is sought for redevelopment of existing vacant land to the rear (south and south east) of Mill Yard Craft Centre, to the rear (south) of the Post Office and 30a, 30b and 32 Swan Street, to the north of the shared Tesco and TMBC public car park, to the east of Listed properties on the High Street and to the west of the grounds of St Mary's Abbey.
- 1.2 The proposal represents four, two bedroom, town houses and a single retail unit with associated parking and external works to form a private shared courtyard, amenity space and separate pedestrian route from the public car park and Swan Street.
- 1.3 The proposal would utilise existing changes in ground level and would appear as slightly above two storeys from the car park view; however the maximum storey height is proposed at three storeys (as viewed from the internal courtyard). Along the boundary with the Abbey the buildings are reduced to two storeys with the first floor being entirely within the roofspace with no windows proposed within the eastern roof slope (i.e. in to the Abbey grounds).
- 1.4 Materials are proposed to be Kent Peg tiles, stained timber boarding, rendered panels, painted timber joinery with aluminium rainwater goods. Granite setts with concrete tegular paving is proposed for the hard surfacing, with some areas being bonded gravel to tie in with the existing accessible areas within the Mill Yard. Balustrading is proposed to be stainless steel wiring with stainless steel upstands.
- 1.5 The proposal would affect the parking layout on the public car park to the South (owned and managed by TMBC). The number of car parking spaces is not proposed to change; they would, however, require slight amendment to their siting i.e. they would need to be re-painted.
- 1.6 The single storey retail unit (with vaulted roof space) is proposed on the western end of the development measuring 35sqm in floor area.
- 1.7 4no. parking spaces are proposed, one to serve each two bedroom unit which would be accessed via Swan Street and Mill Yard.

- 1.8 The private courtyard amenity space will be enclosed by a gate, details and location of which are to be determined at a later date.
- 1.9 The application has been submitted with an Acoustic report in relation to noise from the adjacent public car park and recycling facilities. The report measured LAeq levels during the daytime and nighttime and LAm<sub>ax</sub> levels measured at nighttime. The report concludes that an acceptable noise climate can be achieved within the proposed residential properties with a 2.5m high acoustic barrier in place for a 6.5m run on the boundary line. This climate would be achieved with standard 4-16-4 double glazing. The highest recorded LAm<sub>ax</sub> during the Friday monitoring was 83.8dB. However, with the combined attenuation from a partially opened window and the acoustic fence, this would give a level of approximately 62dB L<sub>max</sub> inside, which would equate to conversation speech, being an acceptable level.

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

- 2.1 The application was called-in by Cllrs Luker, Shrubsole and Luck due to its location within the centre of West Malling and concerns regarding car parking.

**3. The Site:**

- 3.1 The application site is situated at the southern end of Mill Yard, off Swan Street in West Malling. The site is within the central area of West Malling which is a district centre as defined by Policy CP22 of the Tonbridge and Malling Borough Core Strategy 2007. The site also lies within a retail policy area as defined by Policy R1 of the DLADPD 2008. The site lies within the West Malling Conservation Area. The site is also situated within the historic core of West Malling and in an Area of Archaeological Potential.
- 3.2 Mill Yard is currently a small collection of commercial units with a variety of different occupiers. The buildings comprise traditional single and two storey weatherboarded buildings that are stained black. Adjoining Mill Yard and the northern boundary of the application site is the West Malling Post Office.
- 3.3 The site currently comprises unused land around the existing Mill Yard building, that are largely unkempt and overgrown, This land is either hardsurfaced and used as informal private car parking or forms the footpath route through the site between the public car park and Swan Street. The site is also edged to the south by a band of trees and shrubs, these trees are covered by a Tree Preservation Order.
- 3.4 Directly to the west of the site are the rear yards of properties in the High Street. These buildings are between two and three storeys in height and most of them are Grade II listed or of local interest. Most of these buildings have also been

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

- 3.5 To the south of the site and forming the southern boundary of the proposed development is a public car park (managed by TMBC); this car park is heavily used and also forms the main car parking serving the nearby Tesco store on the High Street. There is also a local recycling centre adjacent to the south eastern corner of the proposed development. A pedestrian route used by the public also runs across the site and links the car park to Mill Yard and Swan Street; this is closed by a gate overnight.
- 3.6 To the east of the site are the gardens of residential properties on Swan Street. These also adjoin the northern boundary of the application site. There are five residential properties adjoining the site (3 dwellings and 2 flats). Further east and within close proximity are the grounds of St Mary's Abbey, which is a Scheduled Ancient Monument, and also a Grade I listed wall that adjoins the south eastern corner of the application site.
- 3.7 The levels on the site vary, resulting in a steep drop behind the existing car park wall on the southern boundary of the site. The drop in level can be appreciated by the relatively steep ramped section of pathway.

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

TM/10/00991/FL      Approved      14 June 2011

Erection of a mixed use development comprising 7 no. ground floor retail units, 5 no. 2 bed apartments with associated car parking and public space

#### **5. Consultees:**

- 5.1 PC: Members had no objections but expressed concerns about the possible impact of deliveries: they suggested that the start and finish time for deliveries should be set so as to minimise disruption and inconvenience to residents. Comments on amended information: No objections.
- 5.2 KCC Highways: I have no objection to the application. The car parking numbers proposed are within standard for this central location and egress onto Swan Street is not materially intensified. Some new car parking, deliveries and construction is proposed to be undertaken via the Borough Council's car park. It is anticipated that these elements will require some co-ordination and management input from the Borough Council (such as control of the height barrier at the entrance to the car park) and that the applicant will not be able to undertake this work in isolation or independently. A formal agreement or agreements may therefore be required. The formation of a permanent sustainable link to integrate parts of West Malling is welcomed.

- 5.3 KCC Heritage: The site lies within the historic core of West Malling which is considered to have been an early medieval community focused around the abbey of St Marys. During the Medieval Period the settlement thrived as an important local market town and trading centre. Remains associated with this activity may survive on site. It should be noted that the Scheduled Monument boundary of St Mary's Abbey adjoins the site on the south east corner. I recommend a timetable of archaeological works and safeguarding measures are required by condition.
- 5.4 English Heritage: We do not wish to comment in detail, but offer the following general observations.
- 5.4.1 West Malling conservation area is characterised by a pattern of linear road-fronting shops lining the High Street. Mill Yard lies behind the West Malling High Street within a rear service area and is adjacent to St Mary's Abbey. The Abbey complex is recognised as being of exceptional interest by virtue of holding designations as scheduled ancient monument and listed at grade I. The proposed development at Mill Yard seeks to create four two bedroom houses and one retail unit.
- 5.4.2 Whilst we do not object to development within an area to the rear of the High Street, we do have concerns about the height and form of the proposals. We feel that a three storey building would conflict with surrounding buildings and not respond to the existing grain of the rear of the High Street. This is contrary to NPPF guidance where Local Planning Authorities should look for opportunities for new development within conservation areas to enhance or better reveal their significance (NPPF paragraph 137). Similarly, in our view, the proposed height and gabled roof design will impact on the significance of St Mary's Abbey by the way in which the proposed modern roof line will be visible from within the enclosed complex of the Benedictine Abbey and alter the way in which the purposely secluded Abbey grounds are experienced. NPPF paragraph 132 stresses that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. We also feel the current application fails to assess the impact on the setting and significance of St Mary's Abbey as outlined in NPPF paragraph 128.
- 5.4.3 In determining this application we draw your Council's attention to English Heritage guidance, The Setting of Heritage Assets (2011), and suggest consideration should be given to the way in which the new proposals will impact on the significance and alter the setting of West Malling conservation area and in particular St Mary's Abbey.
- 5.4.4 Although English Heritage does not have a locus for possible impact on archaeology as there is no nationally designated archaeology on the site, this does not necessarily imply that there are no archaeological impacts to consider. We therefore advise you to contact your archaeological advisors at Kent County Council for further advice particularly as the site is adjacent to the scheduled ancient monument of St Mary's Abbey.

### **English Heritage Recommendation**

5.4.5 We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

5.4.6 Following this, the applicant submitted a further photographic study in relation to the impact on St Mary's Abbey and English Heritage now concludes that there will be minimal impact on the setting and significance of the Abbey.

5.5 Private Reps: 42/0X/1R/0S + site and press notices (DEPART/LB/CA). One letter of representation has been received and objections have been raised on the following grounds (in summary):

- Swan Street is very narrow and is frequently blocked by traffic, particularly since the buses have been rerouted down this street.
- There is not enough room for a bus and a lorry to pass. Buses have knocked down scaffolding on two occasions because there is insufficient room to pass.
- Lorries carrying building materials will add to the situation. If lorries use the public car park this will further reduce spaces.
- The occupants of the units may have two cars per dwelling which will add to traffic congestion. Lack of turning.
- There is not sufficient room for these buildings in the space proposed.
- The proposal will result in overlooking.
- West Malling is a small medieval village/town and modern housing in this Conservation Area is not in keeping with the general surroundings.
- The buildings are not an appropriate use of the land.
- Concerns raised over fire engine access.

### **6. Determining Issues:**

6.1 Members will recall the previously approved scheme for redevelopment of part of the Mill Yard, under reference number TM/10/00991/FL, which was heard at APC2 on 25 May 2011. The application was subsequently approved by decision notice dated 14 June 2011. The previously approved scheme was for a mixed use development of 7no. ground floor retail units, 5no. 2 bedroom apartments and associated car parking and public space.

6.2 The 2011 decision established the principle of a mixed use retail and residential development on this site: access, parking, contemporary design approach and impact on the character and appearance of the Conservation Area.

- 6.3 The current application is very similar to the approved scheme in terms of access, parking, scale and massing, and overall aesthetic approach. The main difference is the mix of retail to residential as there is only one retail unit proposed under the current application, compared to seven small units previously (280sqm). The residential scheme is now proposed as 4 two bedroom town houses and a single retail unit (35sqm).
- 6.4 In terms of the privately operated pedestrian route, this would be maintained via a new route through the site. The existing car parking numbers on the public car park side of the site would be slightly reconfigured and no loss of spaces would occur. Within the site, 4 car parking spaces are proposed, one to serve each two bedroom house. As stated above, the principle of one space per 2 bedroom unit was established in the approval of the 2011 decision, and conforms with current Kent Design Standards and IGN3.
- 6.5 Since the previous approval in 2011 the NPPF has been published by Government (March 2012). The NPPF consolidated the previous set of PPG's and PPS's in to a single compact document. The overall thrust of policy relating to residential and retail development, impact on heritage assets, parking and design has not materially changed.
- 6.6 Paragraphs 23 to 27 of the NPPF relate to the viability of town centres. At paragraph 23 it is stated that Local Authorities should recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites. Paragraph 69 of the NPPF is concerned with promoting healthy communities and states that decisions should aim to achieve places which, *inter alia*, promote mixed-use developments, strong neighbourhood centres and active street frontages which bring together those who work, live and play in the vicinity. Paragraph 17 of the NPPF which sets out the core policies of the Framework also promotes mixed use development.
- 6.7 Paragraph 131 of the NPPF requires Local Authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and, *inter alia*, the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.8 At a local level, the Council's Core Strategy (TMBCS), MDEDPD and DLADPD all remain in force. The relevant policies are CP1, CP12, CP22 and CP24 of the TMBCS and policies CC1, NE4 and SQ1 of the MDEDPD. Policy R1 of the DLADPD defines the retail area within the wider confines of West Malling. Under the terms of Policy R1 West Malling is defined as a District Centre in respect of retail hierarchy.

- 6.9 Policy CP1 relates to sustainable development and promotes mixed use developments, where appropriate, in town and rural service centres. Policy CP12 allows for the principle of housing and employment development in rural service centres, and CP24 is the general policy in relation to the design of new buildings.
- 6.10 The principle of the mixed use redevelopment of the land to the rear of the Mill Yard site is supported by Policy CP12 of the TMBCS and paragraphs 17, 23 and 68 of the NPPF.
- 6.11 The level of retail development proposed is relatively small, being 35sqm, and, as the site lies within a defined retail area, the appropriateness of the mix of retail to residential within the scheme needs to be considered. The retail policy boundary extends out to the east of the main bulk of High Street properties to include the Mill Yard site. The site is therefore on the extremities of the retail boundary and is bounded by residential properties to the north and east. As Members are aware, the purpose of defining a retail area through Policy R1 of the DLA DPD is to protect existing retail uses from changes of use, it does not prescribe that only retail development can be promoted. The "parent" policy in the Core Strategy (CP22) seeks to resist development proposals that might harm the vitality or viability of an existing centre or undermine the balance of uses, harming their amenity. Looking at the wider retail offering, along with other services provided within the District Centre, the overall vitality and viability of West Malling would not be harmed by the proposed development in the sense that no retail uses or other key services would be lost as the site is currently vacant. The inclusion of an element of retail floor space will ensure that the retail offer in West Malling is improved overall by the proposal. Accordingly, in my view, a development with a low proportion of retail is in fact more appropriate for this location on the edge of the retail area. The use of the site for a predominantly residential development would complement the other residential dwellings on Swan Street, as well as the first floor residential accommodation within the High Street. The proposal can be considered to accord with Policies CP1, CP12 and CP22 of the TMBCS and paragraphs 17, 23 and 68 of the NPPF.
- 6.12 The design of the proposed development is broadly the same, in aesthetic terms, as the previous scheme and has been designed to reflect the character of West Malling, the character of the Conservation Area and to respect the amenity and historic value of adjoining buildings and structures. It is of a scale, form and materials that are in keeping and appropriate for this form of development, although it has a contemporary appearance/edge to the fenestrations. It is considered that this proposal is an example of thought out design on a very restricted site.
- 6.13 The application site is situated in West Malling Conservation Area, as identified above. It is considered that this design is appropriate for the context of the site and the Conservation Area. The key test in terms of the impact on a conservation area is whether it preserves or enhances the character and appearance of the

Conservation Area. In my opinion this development will enhance the character of the Conservation Area as it is bringing largely underused land into use and enhancing the built form of the locality. Some concern has been raised over the loss of the trees along the south western side of the site. However a tree survey has identified that these trees are all of poor quality and have not been appropriately maintained over the last 15 years. Consequently the trees' quality and amenity value is limited. Therefore, although there will some loss of a green aspect to this part of the Conservation Area and the public car park, the overall impact on amenity and value within the wider Conservation Area is limited. The proposed development therefore complies with Paragraph 131 of the NPPF.

- 6.14 There are a number of Listed Buildings adjoining and within close proximity to the application site, as well as the Scheduled Ancient Monument of the Abbey. The nearby buildings are both Grade I and Grade II listed. There is also a Grade I listed wall abutting the south east corner of the proposed development. The proposed development has been assessed in respect of its impact on these buildings.
- 6.15 In terms of the impact on the Listed Buildings in the High Street, the impact of the development is considered to be limited due to the distance between the existing and proposed buildings. Also most of the Listed Buildings on the High Street are commercial properties with commercial uses extending to the rear, consequently the impact on residential amenity is minimised. It is considered that the form of the proposed buildings is similar in scale to the properties in the High Street and therefore of a scale that is in keeping with those buildings. It is not, therefore, considered that there is a detrimental impact on these listed buildings, thereby complying with Paragraph 131 of the NPPF.
- 6.16 The Conservation Officer has been involved in the design, siting and assessment of the proposed development throughout the application process and is satisfied that the proposed development will not affect the setting of the listed buildings due to the context of the site. In addition, English Heritage has been consulted on the application and is now satisfied with the scheme as proposed. Consequently all measures have been taken to ensure any impact on Listed Buildings or structures and their setting has been fully assessed. I am therefore satisfied that the proposed development complies with national guidance within the NPPF.
- 6.17 In terms of the impact on the Scheduled Ancient Monument of the Abbey, this is sited a significant distance away from the application site. The grounds and setting that contribute to its significance are unaffected by the proposed development and therefore the relationship with the proposed development is acceptable. EH is satisfied that the scheme will not adversely affect the Abbey.
- 6.18 The final street scene issue that will have an impact on the locality is the loss of trees along the southern boundary, adjoining the public car park. These trees are also covered by a Tree Preservation Order. The impact of their loss on the



Conservation Area has already been discussed above. However, their condition has been fully and appropriately assessed and it is clear these trees have not been maintained appropriately and are therefore of poor quality. Consequently they do not contribute as much to the locality as mature native trees would and, on balance, their loss is considered acceptable in the circumstances of this particular site. Some minor landscaping adjoining the 24 hour public access point through the site is proposed to soften this boundary and will be discussed later. The loss of the trees however has been addressed as required under policy NE4 of the MDE DPD.

- 6.19 The site is situated within an Area of Archaeological Potential and therefore there is the potential for significant archaeological remains. It is recommended by KCC Heritage that the required archaeological investigations are secured by way of conditions. I am satisfied that, with the imposition of appropriate planning conditions, the potential for any significant archaeological finds can be dealt with appropriately and on this basis I am happy to recommend approval without a further investigative survey prior to determination.
- 6.20 In terms of potential overlooking or loss of privacy to neighbouring properties, most of which are residential with residential gardens adjoining the application site, there is considered to be a limited impact. This is because all elevations proposed within the current scheme which adjoin existing residential properties will either have high level windows only or none at all. This ensures there will be no overlooking or loss of privacy to the adjoining residential properties and their gardens. Moreover the catslide roof to the eastern building minimises the impact further as no openings are proposed within the roof slope. The north eastern building (Unit 4) also has no windows on the elevation facing towards Swan Street (north) to reduce the impact on those properties in Swan Street. Notwithstanding the above, a condition is required to ensure no additional windows are inserted in the elevations or roof slope of the development which adjoin residential properties. Therefore I find the relationships between the existing and proposed buildings acceptable and the development complies with polices CP1 and CP24 of the TMBCS and policy SQ1 of the MDEDPD and paragraphs 57 and 58 of the NPPF.
- 6.21 In line with Policy CC1 of the MDEDPD, a comprehensive assessment of the ability to incorporate sustainable design and construction elements within the buildings is required. Notwithstanding this, the applicants have stated that the design and location of the buildings does not lend itself to the incorporation of such features. I agree with this view and consider that renewable energy generation measures are not appropriate for this development. Normally renewable energy is in the form of solar panels, a wind turbine or a ground source heat pump. In some cases biomass generators are proposed. However the design of the buildings does not lend itself to solar panels or a wind turbine, due to the sensitive location of the proposed development and also the specific design of the proposed buildings. A ground source heat pump is not possible due to the potential archaeology and the development is not large enough for a biomass generator to

be viable. For these reasons I am of the view that, on this occasion, it would not be appropriate to request the provision of renewable energy requirements within the scheme. I do, however, see no reason why all other sustainable construction and design measures cannot be incorporated and these can be dealt with by planning condition. On this basis the development will comply with most of the requirements identified in policy CC1 of the MDE DPD.

- 6.22 In terms of highway issues, a number of matters need to be considered that all interrelate: these include access to the site, car parking provision, refuse and bin collection, servicing and also the matter of construction traffic. Clearly this is a restricted site in a busy location and adjacent to a heavily used public car park. These aspects have all been considered acceptable and approved previously through TM/10/00991/FL which is still live.
- 6.23 KCC Highways has assessed the traffic and car parking issues in relation to the proposed development and, due to the adjoining public car park and traffic control measures along surrounding streets, KHS is satisfied with the approach taken and considers it is acceptable in highway terms. The car parking provision proposed, although at the minimum, is also acceptable for this site under current Kent Design standards.
- 6.24 Refuse collection has also been addressed with a proposed bin collection area sited in close proximity to the Swan Street entrance, that would serve all the residential and commercial units and this removes any need for a refuse vehicle to enter the site. Consequently the issue of refuse and recycling bin storage and collection has been adequately addressed. Notwithstanding, a condition has been imposed to provide further details in respect of the bin collection area and its management, to ensure this matter is fully addressed in all respects.
- 6.25 In terms of pedestrian access to and across the site, this will be improved overall as a result of the proposed development as the route would become available 24 hours a day. The proposal represents an improvement to pedestrian access in terms of its availability which should be encouraged.
- 6.26 The control of construction and construction traffic is also necessary due to the restricted nature of the site and access to and from the locality. Therefore, although not normally controlled by condition, it is considered that due to the sensitive nature of the site, the existing uses and the potential for serious disruption to be caused to the locality, a condition also needs to be imposed in this regard. Therefore a comprehensive condition is proposed that deals with all matters in relation to construction traffic and the management of the site whilst construction work and clearance of the site is taking place. Although informatives would normally be imposed in this regard, on this occasion I feel a condition is appropriate to safeguard adjoining uses and access to and from the site.

- 6.27 In respect of the control of the different uses within the site and the protection of existing and proposed residential amenities, a number of conditions have been suggested to ensure the mix of uses is appropriately safeguarded. The retail element can be controlled by the imposition of a condition to restrict the use to Use Class A1. This is largely to ensure that cafes or office uses do not take over the proposed retail element of the development. For similar reasons a condition has been suggested to ensure the units are not amalgamated, subdivided or a new floor inserted. Finally, an hours of use condition for the commercial unit is also required to protect residential amenities. It is considered that 08.30-18.00 Monday to Saturdays and no opening on Sundays and Public/Bank Holidays would be sensible hours of opening within this location, however Members may wish to further consider the hours of opening.
- 6.28 A number of other conditions have also been suggested to further control the use and development of the site. In particular, a contamination condition is necessary as there is some potential for contamination to be present on the site and this needs to be adequately controlled. Tree and landscaping conditions have been imposed to ensure the protection of trees within close proximity to the site and to provide details of the small landscaped private amenity space proposed within the courtyard to serve the residential units.
- 6.29 In light of the above considerations, I recommend that planning permission is approved.

## **7. Recommendation:**

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

To be confirmed in a Supplementary Report.

### **Conditions**

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

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

- 2 No development shall take place until details and samples of materials to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

- 3 No development shall take place until details of any joinery to be used have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

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

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

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

- 5 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 6 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of

(i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

(ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure appropriate assessment of the archaeological Implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- 7 No development shall take place until details of the access gate to the public space have been submitted to and approved in writing by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

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

- 8 No development shall take place until details of the bin collection area to include its designation and if necessary screening have been submitted to and approved in writing by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

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

- 9 The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

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

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

- 11 The noise attenuation measures to protect the residential properties from noise from the public car park and recycling centre set out within MRL Acoustics Noise Impact Assessment dated October 2013 shall be completed before any of the permitted buildings are occupied and shall be retained at all times unless otherwise approved by the Local Planning Authority.

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

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

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

- 13 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 14 No building shall be occupied until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

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

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

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

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

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

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

Reason: In the interests of amenity and public safety.

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

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

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

Reason: In the interests of the historic environment.

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

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

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

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

- 21 Means of vehicular access to the designated residential parking within the site shall be derived solely from Swan Street. The access from Swan Street shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved parking spaces.

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

- 22 No development shall take place until details of a pedestrian link strategy have been submitted to and approved by the Local Planning Authority, and the pedestrian access shall be retained in accordance with those details.

Reason: To accord with the terms of the Design and Access Statement.

- 23 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no antenna development shall be carried out within Class A of Part 25 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of visual amenity

- 24 No development shall be commenced until details of a scheme setting out all the alterations to the layout of the adjoining car park and recycling centre, required as a consequence of the development hereby approved, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timescale for the carrying out of the necessary works and any other related measures. The approved scheme shall be fully implemented in accordance with the timescale set out.

Reason: To ensure that the development access to the south hereby approved minimises any consequential impacts on the capacity of the adjoining public car park and on the facilities and operation of the recycling centre in the interests of safeguarding community facilities.



- 25 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C, D, E and G of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of the character and amenity of the locality and to protect the site from overdevelopment.

- 26 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A-F of Part 40 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of the character and amenity of the locality.

- 27 No development shall take place until details of a scheme for an acoustic barrier for the construction of the party wall between the retail unit and Unit 1 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 residential amenities of the adjoining property.

- 28 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class D of Part 4 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of preserving the limited retail floorspace incorporated within the proposal and to respect the vitality and viability of the retail area.

- 29 The retail unit hereby approved shall not install any air conditioning system or extraction/ventilation system without the prior approval of the Local Planning Authority. Any approved scheme shall be installed in strict accordance with the approved details and, if replacement is required a further detailed approval will be required to be approved and implemented in the same way.

Reason: In the interests of the residential amenity of the adjoining property.

- 30 No development shall take place until details of external lighting 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 or amenities of the locality and in the interests of limiting light pollution.

- 31 No development shall take place until details of any street furniture, including all bollards and the gate to the private houses, 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 or amenities of the locality and in the interests of limiting light pollution.

**Informatives:**

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](mailto:addresses@tmbc.gov.uk). To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
2. Tonbridge and Malling Borough Council operates a wheeled bin, kerbside refuse collection service. In addition the Council also operates a fortnightly recycling box/bin service. This would require an area approximately twice the size of a wheeled bin per property. On the day of collection, the wheeled bin from each property should be placed on the shared entrance at the bin collection area adjacent to the adopted KCC highway. The Council reserves the right to designate the type of bin/container. The design of the development must have regard to the type of bin/container needed and the collection method.
3. The applicant must liaise with KCC Highways prior to and during the construction phase to ensure that safety of all users of the public highway is maintained at all times.

Contact: Lucy Harvey