

**Kings Hill**  
Kings Hill

**23 August 2021**

**TM/21/02301/FL**

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Proposal: Erection of a Class E retail unit with access, car parking and associated works  
Location: Area 14 Kings Hill Phase 3 Gibson Drive Kings Hill West Malling Kent  
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**1. Description:**

- 1.1 Planning permission is sought for the erection of a new Class E retail unit (supermarket), along with associated works including access, car parking and landscaping.
- 1.2 The total floorspace of the new store would be roughly 1,959sqm, with a GIA (Gross Internal Area) of 1,879sqm. The sales area would be around 1,315sqm with the remaining space for back office/warehouse and lobby space.
- 1.3 120 parking spaces would be provided to serve the new store. 20 of these would be enabled for electric vehicle charging; 4 would be ready on opening with the remaining 16 spaces “hardwired” for later conversion as demand grows. A further 7 spaces would be accessible for disabled residents, and 10 would also be slightly larger for parent and child parking.
- 1.4 The building would be located in the northern half of the site, with parking and access from Alexander Grove. Pedestrian links would also be installed from Tower View and Warwick Way to improve and support connectivity between the store and adjacent premises. The landscaped buffer on the eastern corner of the site would be retained with some trees removed but additional trees planted to compensate. Deliveries would use a loading bay to the rear of the store, partially screened by planting.
- 1.5 The building itself would be single storey with a mono pitch roof, with a design that is fairly typical of this sized store. At ground floor the east and south elevations would be mostly glazed to form the entrance and lobby areas, with the rest of the building finished in a light silver cladding. The building would incorporate renewable and low carbon initiatives.
- 1.6 It is worth noting that whilst the applicant is current Aldi Supermarkets, the application should be considered in land use planning terms, and not on the basis of the potential operator. Any perceived benefits of this operator’s pricing or choice of goods should not be taking into account.

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

- 2.1 At the request of Councillor Kim Tanner to consider the retail policy implications, parking and highways.

**3. The Site:**

- 3.1 The site is an irregular shaped parcel of grassland, known as “Area 14” within the phase 3 development of Kings Hill. The site was initially allocated for B1 business floorspace under phase 2, but no detailed scheme was ever proposed. Subsequently, in 2013 as part of the phase 3 development, the site was instead put forward for residential development, which was granted in principle under outline application reference 13/01535/OAEA. As such, the principle of the development of the site has been firmly established twice before.
- 3.2 Whilst currently maintained as grassland, the site is surrounded by commercial development, with residential flats also nearby, as well as a school. The location on a main thoroughfare through Kings Hill and adjacent to the primary retail centre of the settlement gives the location a busy mixed character.

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

TM/21/01039/RM Approved

23 June 2021

Reserved Matters Application: Details of Landscaping and Layout for proposed Woodland Walk and Air Field Cycling Track, including hard and soft landscaping and lighting details submitted in accordance with the Open Space Schedule approved through Outline Consent TM/13/01535/OAEA (Residential development for 635 dwellings and associated community facilities). The application includes details pursuant to partial discharge of Conditions 10 (Open Space), 22 (Movement), 23 (Landscaping Strategy), 24 (Landscaping) and 33 (Lighting)

**5. Consultees:**

- 5.1 Kings Hill Parish Council: A new “Green” industrial/commercial building of this magnitude will set a precedence for the borough and retailer alike. Producing such an ecological friendly site will certainly prove TMBC are adopting their own policies in attempting to meet their carbon zero target and Aldi will be seen as green leaders in the retail sector which no doubt will set a trend for other giants to compete.

- 5.1.1 This Green building should include:

- The up to date eco technology suitable for the 21st century.
- The building should use a high percentage of recycled materials as is practicable, e.g such developments as Wood Polymer Composites. This does not mean materials which are sold as “Composite” but are filled with

materials like brick dust, but engineering grade materials conforming to standards such as BS EN 15534-4:2014.

- Use the latest coated windows that can generate power almost as efficiently as traditional panels
- Use eco heating/cooling systems.
- Use solar roof panels.
- Living walls and roof with planting that will sequester carbon from the air.
- Dedicate a section of the roof for solitary bee's & Rich nectar planting as a food resource for them. Bee Habit to follow the Kents Plan Bee
- Insect friendly hedge planting at ground level upon the site (Hedge are most productive at Sequestering carbon from the air at a height of 1.5-1.7 meters).
- Sufficient electric charging points to boost the current small number of publicly available Electric Vehicle charging Points in Kings Hill
- Recycling bank areas within the car park.

5.2 KCC (H+T): Comments made in respect to highway matters, following submission of Transport Assessment, Dated August 2021:

5.2.1 Consideration has also been given to the various drawings, Travel Plan, and Design and Access Statement :-

Site Access

5.2.2 The development will be accessed via a new priority junction, off Alexander Grove. Alexander Grove provides a connection to Tower View, which has good links to A228, a strategic route. The speed limit on Alexander Grove is 30mph, which requires visibility splays of 2.4 x 43m, in each direction. The development achieves this standard as defined by Manual for Streets and has been evidenced within Appendix 2.

Sustainable Travel

5.2.3 This development has good provision of pedestrian footways on the adjoining road network, as well as within the internal site layout. Cycle network has some infrastructure, but this could be improved upon and made more cohesive for users. Tower View has painted, on-carriageway, cycle lanes, but the infrastructure is not continuous.

5.2.4 Bus routes operate within 100 metres of the store, with frequent services throughout the day. West Malling Railway Station is located within 2.5km of the proposed site, with an hourly, connecting bus service.

Parking

5.2.5 It is proposed that five Sheffield Stands will provide cycle storage for ten cycles. The store canopy will cover this facility. Vehicular parking will consist of 120 spaces, of which 7 spaces will be reserved for mobility impaired users, 10 spaces for parent with young children. Four spaces will have active electric

vehicle charging points, with a further sixteen spaces with passive supply ready for future demand.

#### Store Deliveries

- 5.2.6 It is anticipated that this development will receive four HGV deliveries per day, with a further 1-2 general waste collections per week. Swept path analysis Appendix 4 shows that the internal site layout can cope with HGV turning movement. When leaving the store, this will be undertaken using a forward gear.

#### Trip Generation

- 5.2.7 Section 4 of the Transport Assessment (TA), provided by the applicant, as part of this application, sets out the process undertaken to determine trips expected. The land does have an extant permission granted for approximately 50 dwellings, so a number of trips have already been approved previously, as seen within Table 4.1 of TA - 28 trips in AM peak hour and 27 in PM peak hour. It is anticipated that 87 trips will be generated in the AM peak hour and 171 during the PM peak, including both arrivals and departures from site. The trip generations includes the following factors: Primary trips, Pass-by trips, transfer from other supermarkets, linked trips with other trip purposes have all been factored into these figures. Of these expected trip numbers - 59 trips in the AM peak hour and 144 trips during PM peak hour are exclusively generated by this store.

#### Junction Assessments

- 5.2.8 Following the exercise undertaken by the applicant, using Census data and Google Maps journey planner, the expected trip generation was assigned to the Kings Hill study area. A traffic data review was undertaken by the transport consultant to understand pre-Covid travel patterns, this was carried out by using existing data, plus, collecting new data but factoring the data to pre-pandemic levels.
- 5.2.9 Trips were then assigned to junctions based on the above study. All junctions, listed in Table 4.13 of the TA, were due to have a negligible impact except for Site access/Alexander Grove and Alexander Grove/Tower View. Tables 5.1 and 5.2 indicate the predicted delay at both junctions and the impact is not seen as severe and would not warrant refusal.

#### Summary

- 5.2.10 I confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

1. Submission of a Construction Management Plan before the commencement of any development on site to include the following:

- (a) Routing of construction and delivery vehicles to/from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

2. All Electric Vehicle chargers provided will need to be fast changing, based on short parking stays.

3. Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing. There is an opportunity for the Local Planning Authority to engage the site developer on the existing cycle infrastructure around the proposed development site. Tower View is not Public Highway, and therefore a Section 106 or 278 agreement is not applicable or appropriate in this instance, however, off-road cycle facilities could be incorporated into the network, on Tower View, between A228 Ashton Way and Fortune Way.

5.2.11 **INFORMATIVE:** Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development 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.

5.2.12 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>

5.2.13 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.

Additional representation received:

- 5.2.14 Connect Consultants has produced an extensive response, titled TN02 – ASDA Objection, to the objection raised by ASDA, through their consultant TPS. Connect Consultants response has answered all issues raised by the objection. KCC has been involved in pre-application discussion with Connect Consultant Ltd and Aldi, many of these issues have been debated prior to the submitted application.

Servicing Strategy

- 5.2.15 Supermarkets logistically plan deliveries to their various stores and proposed routing from depot to site location. It would not be effective planning to have multiple drivers or stock sitting around, awaiting for other vehicles to unload/load – as there is cost associated with such inefficiency. The internal store layout will enable an HGV to serve the store without hindering the main car park located to the front of the proposed store. HGV deliveries will have a marshal, at appropriate times, to ensure conflict with customers is handled and to promote safe practices. In addition, Aldi trucks have cameras and sensors fitted to assist with reversing manoeuvres.
- 5.2.16 The internal site layout and Alexander Grove have good visibility which will enable HGV drivers to assess their position and those of other road users when turning.

Trip Generation

- 5.2.17 This has been answered by Connect Consultants under Materially Assessment and KCC has nothing further to add.

Junction Modelling

- 5.2.18 Within Junctions 9, the modelling software, Alexander Grove/Tower View was assessed using 'One Hour', in older versions of the software this was called OD-TAB. It proves a warm-up and run-down period and a higher, more robust, synthesised flow during the peak hour. It is expected that the actual queue on Alexander Grove, will be far lower – rather than 48 metres, down to 31 metres. There is, however, possible mitigation such as 'Keep Clear' boxes on Alexander Grove to allow vehicles, unhindered flow, to turn right in to Aldi, however, this is not something KCC consider necessary at this stage, plus, the carriageway is not adopted and cannot be conditioned through a 278 agreement. Aldi would need to discuss with the landowner should this be required in the future, also, Aldi will not want vehicles to be stuck on the network outside this, or any store.

Summary

- 5.2.19 KCC's view has not changed and we continue to recommend approval for this planning application.
- 5.3 KCC (LLFA): Having reviewed the information submitted we are generally satisfied that the principles for dealing with surface water, namely a system of attenuation with discharge to ground, do not increase the risk of flooding and so do not have an objection to the application. Should you as LPA be minded to grant permission then we would recommend that the following conditions with advisories are applied. (*Officer note: Conditions to the back of the report*)
- 5.4 Southern Water: Please see the attached extract from Southern Water records showing the approximate position of our existing sewer in the vicinity of the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised. Please note:
- The 300 mm public foul sewer requires a clearance of 3 metres on either side of the public foul sewer to protect it from construction works and to allow for future maintenance access.
  - No development or tree planting should be carried out within 3 metres of the external edge of the public foul sewer without consent from Southern Water.
  - No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public foul sewer.
  - All existing infrastructure should be protected during the course of construction works.
- 5.4.1 Please refer to: [www.southernwater.co.uk/media/3011/stand-off-distances.pdf](http://www.southernwater.co.uk/media/3011/stand-off-distances.pdf)
- 5.4.2 Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.
- 5.4.3 In order to protect public sewers, Southern Water requests that if consent is granted, the following condition is attached to the planning permission; The developer must agree with Southern Water, prior to commencement of the development, the measures to be taken to protect the public sewers.
- 5.4.4 The submitted drainage layout (Drawing No. 3787-366-SMCE-XX-XX-DR-D-0301) shows tree planting within easement to public foul which is not acceptable to Southern Water. We have restrictions on the proposed tree

planting adjacent to Southern Water sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting. Reference should be made to Southern Water's publication "A Guide to Tree Planting near water Mains and Sewers" ([southernwater.co.uk/media/3027/ds-tree-planting-guide.pdf](http://southernwater.co.uk/media/3027/ds-tree-planting-guide.pdf)) and the Sewerage Sector Guidance ([water.org.uk/sewerage-sector-guidance-approved-documents/](http://water.org.uk/sewerage-sector-guidance-approved-documents/)) with regards to any landscaping proposals and our restrictions and maintenance of tree planting adjacent to sewers, rising mains and water mains.

5.4.5 Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. To make an application visit Southern Water's Get Connected service: [developerservices.southernwater.co.uk](http://developerservices.southernwater.co.uk) and please read our New Connections Charging Arrangements documents which are available on our website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](http://southernwater.co.uk/developing-building/connection-charging-arrangements)

5.4.6 The planning application form makes reference to drainage using Sustainable Drainage Systems (SuDS). Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance available here: [water.org.uk/sewerage-sector-guidance-approved-documents](http://water.org.uk/sewerage-sector-guidance-approved-documents) [ciria.org/Memberships/The\\_SuDS\\_Manual\\_C753\\_Chapters.aspx](http://ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx)

5.4.7 Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

5.4.8 Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

5.4.9 This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The Council's Building Control officers or



technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

- 5.4.10 Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors. We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.
- 5.4.11 This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.
- 5.5 TMBC Environmental Protection: The report presents the findings of a desk study. A previous investigation by BAE Systems (September 2016) has also been considered. It adequately reviews the history and environmental setting of the site. It is well documented that the use of the wider site as an airfield has resulted in contaminated soils in places. The BAE investigation found asbestos previously on this parcel of land. It is therefore considered an updated intrusive investigation for this site is required. I agree with this conclusion and recommend the following conditions: (*Officer note: Conditions to the back of the report*)
- 5.5.1 The Applicant has submitted a Plant Noise Assessment carried out by their Consultant, Sharps Redmore (their ref R2(final)-18.8.21-Aldi Kings Hill BREEAM-2120250-GJK, dated August 2021). This assesses the plant noise likely to be generated at the site and its impact upon the Nearest Noise Sensitive Receptor (NNSR) using BS4142:2014 + A1:2019.
- 5.5.2 The Assessment details two 'plant packs' used by Aldi – a Low Noise Option and an Ultra Low Noise option. I believe that either of these will be suitable as they will both give a level below 30dB(A) at the NNSR. However, the Ultra Low Noise Option will fully comply with the BREEAM requirement and so is the preferred option.
- 5.5.3 No opening hours are cited within the Application, so clarification is required from the Applicant, as this may impact upon the conclusions drawn in the Assessment.
- 5.5.4 The Assessment has also considered the impact of plant noise upon areas within the proposed building, such as Managers Office and Staff Room. I would not wish to comment further upon this aspect of the Assessment.

- 5.5.5 No information appears to have been provided about the construction methodology of the proposed building. If piling is to be used for foundations I would strongly urge that this be by the Continuous Flight Auger (CFA) method. If other methods are to be used, the Applicant should be required to consult with the Environmental Protection team at the Council at an early stage.
- 5.5.6 No information appears to have been provided about deliveries to and collection from the proposed store. Of particular concern will be the noise generated from these activities and their likely impact upon nearby residents. I would recommend that deliveries/collections only take place between 07:00 – 20:00 Monday – Saturday.
- 5.5.7 The Applicant has submitted a plan from their Consultant, Holophane (their ref P186-696, dated 05-Oct-2021 [sic] showing the proposed lighting together with lighting contours. This indicates that light spill from the site should not unduly affect residents in the locality.
- 5.5.8 TMBC Environmental Health further comment: At para 6.6 and Table 11, the Report shows the outcome of the BS4142 assessment that was carried out. This clearly shows that between 20:00 – 07:00 there is a significant adverse impact caused by the deliveries when comparing the predicted Specific Rating Level [L<sub>Ar,Tr</sub>] with the Background Level [LA<sub>90</sub>]. This Level Difference is between 10dB and 21dB during those times. There is also an indicated adverse impact from 19:00 – 20:00.
- 5.5.9 For explanation, Chapter 11 of BS4142:2014 states that a Level Difference (L<sub>Ar,Tr</sub> – LA<sub>90</sub>) of +5dB is indicative of an adverse impact, depending upon context and that a Level Difference of +10dB is indicative of a significant adverse impact.
- 5.5.10 Para 6.7 of their Report reads "Based on the above assessment noise from delivery activity between 0700 and 2000 hours would not cause significant adverse impact to future residents."
- 5.5.11 They then contextualise these by commenting that their survey was carried out during Covid restrictions (mid-late March this year) and that this could've resulted in lower than normal levels being measured. If 'normal' conditions were to raise the background levels, as might be expected, it would consequently lower the Level Difference and reduce the impact.
- 5.5.12 They add that monitoring for the adjacent residential development on Warwick Way returned higher levels too, making reference to a Report from Acoustic Associates Sussex, which I don't appear to be able to locate.
- 5.5.13 It is further added that the assessment takes no consideration of any barriers that there may be between the source of the noise and the residential receptors. This would again lessen the noise's impact.

- 5.5.14 They also add that this noise will be at times when residents will be inside their homes and so not as impacted as much. However, contrary to this, the residents will be expecting to sleep during those times, possibly with windows slightly open for ventilation, and so will be more impacted by the noise.
- 5.5.15 Having 'failed' the BS4142 assessment for the delivery hours sought, the Report then argues that the absolute levels need to be looked at and assessed against prevailing levels at the site. They look at the L<sub>Amax</sub> for the existing conditions and what they predict will come from the site. They comment that levels in the area already regularly exceed 60dB during the night-time hours, namely 23:00 – 07:00. This level, when taken with a 15dB reduction for a partially open window (in the range 10-15dB) would equate to the upper limit in the WHO document of 45 dB L<sub>Amax</sub> being exceeded too. The Report argues that levels produced on site of 63dB L<sub>Amax</sub> would not cause a significant adverse impact to residents (including prospective ones) in the locality.
- 5.5.16 Based upon their BS4142 assessment and taking into account the mitigating circumstances proffered that would tend to reduce the impact, I would still have reservations, but would suggest that delivery times between 06:00 – 21:00 would be acceptable.
- 5.6 Private Reps: 38 reps + site notice/0X/7R/31S

Objections summarised as follows:

- Contravenes previous consent
- Should be green space
- Loss of trees unacceptable
- Unsafe for HGVs
- Pedestrian safety impacted
- Increased crash risk
- No need for another supermarket
- Infrastructure can't cope
- Doesn't connect with village centre
- Detrimental to built landscape
- Insufficient parking
- Roads too narrow
- Elevation facing wrong way
- Concern over rubbish and smells
- Insufficient landscaping
- Unexploded bombs may be found
- May cause loss of jobs
- Increased waste production
- Is footpath safe

Support summarised as follows:

- More choice
- New jobs
- Redundant area
- More supermarkets needed for more housing
- Benefit community
- Affordable to everyone
- Positive move
- Value shopping
- Better for the environment
- Help families
- Help alleviate unemployment
- Low prices
- Other stores not well stocked or too expensive
- Plenty of parking
- Linked trips to central area
- 50 new jobs

Neutral comments summarised as:

- Request 1.8m fence on boundary
- Concern over anti-social behaviour
- Concern over shoppers using adjacent private car park

5.6.1 Additionally, an objection has been received on behalf of ASDA Stores Ltd, which criticises the transport statement provided with reference to HGV manoeuvring and trip generation.

**6. Determining Issues:**

Preliminary Matters:

6.1 As noted, the site was formerly allocated for employment use prior to outline permission being granted under 13/01535/OAEA for residential development of the site. The indicative parameters plans set out in that permission indicated that this site would be for residential development of up to 3 storeys or 13m in height. The existing tree belt was shown to be retained.

6.2 For the avoidance of doubt, at no time was this land marked for open space. The open space parameter plan of the phase 3 outline permission did not include this land when indicating areas of open space to serve the development, except for the existing tree line that was shown to be existing natural green space.

- 6.3 Whilst the development of this site for retail would naturally prevent it from being delivered for housing, this would not necessarily reduce the amount of housing delivered as part of this consent, since additional dwellings could be provided in the remaining parcels, provided it accorded with the approved parameter plans in all respects. It would not however allow for the housing units originally proposed on this land parcel to be provided elsewhere on Kings Hill beyond the red line of the Phase 3 permission.

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

- 6.4 As the proposal 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.
- 6.5 The site lies outside of, but directly adjacent to, the Kings Hill district centre retail boundary, as defined within policy R1 of the DLA DPD. It is therefore not considered to fall within a “town centre” location, but it would comfortably meet the definition of an “edge of centre” location as defined by the NPPF, since it lies well within the 300m of the district centre boundary. It is therefore an “edge of centre” location for the purposes of applying national policy.
- 6.6 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.
- 6.7 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.
- 6.8 Policy R1 of the DLADPD expands on policy but providing a list of District and local retail centres. A sequential approach will be applied to the location of new retail development in accordance with Core Policy CP22. The prioritisation of new retail development to the primary shopping areas in CP22 is broadly consistent with retail policy set out in the NPPF, as follows.

- 6.9 Retail policy in the NPPF is set out under chapter 7, *“Ensuring the vitality of town centres”*. Under paragraphs 86 – 88, 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 86 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
- 6.10 Paragraph 87 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.
- 6.11 Finally, paragraph 88 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.
- 6.12 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”*.
- 6.13 The requirements of paragraph 86 and 88 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. Paragraph 87 builds on this and gives preference to well-connected edge of centre locations that are readily accessible.

- 6.14 Additionally, paragraphs 90 and 91 of the NPPF explain further requirements for retail development outside of town centres (this includes edge of centre locations). The requirements of paragraph 90 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).
- 6.15 Paragraph 91 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 90, it should be refused.
- 6.16 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”*
- 6.17 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 aids in the interpretation of NPPF policy.
- 6.18 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.

- 6.19 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]

- 6.20 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.
- 6.21 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 91. "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.
- 6.22 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.

- 6.23 Nonetheless, the overarching aim of CP22 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.
- 6.24 The application will therefore need to satisfy the locational requirements of policy CP22 and paragraphs 86 – 89, have due regard to the established retail hierarchy set out in policy R1, and consider the policy requirements for retail impact highlighted under paragraphs 90 and 91, 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:*

- 6.25 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:*

- 6.26 As required by policy CP22 and the NPPF, it is first necessary to consider whether there is any sequentially preferable sites, (as in, whether an available site exists within the district retail centre of the town, as defined by policy R1).

- 6.27 However, given the relatively small size of the Kings Hill retail area, it is not surprising that no broadly comparable sites can be identified within the boundary. Both Asda and Waitrose stores are already occupied, and all remaining units are much smaller than the type of development being proposed, even with some flexibility on size and footprint. All other land in and around Kings Hill is occupied by other uses like office space or being built out for residential, and no site is available that is directly adjacent to the district centre.
- 6.28 Overall, it is considered that there is a robust case that no sequentially preferable sites within the boundary of the retail centre. National policy and policy CP22 therefore advise that preference should be given to edge of centre sites, ideally ones that are well connected to the retail centre.
- 6.29 In this respect it is clear that the site is very well connected to the retail boundary with pedestrian pathways and parking areas that are all very close. Therefore, whilst it is not possible to identify sites within the retail centre, this site is well within the 300m radius defined by the NPPF for an edge of centre site, and very well connected. As there are no sequentially preferable suitable or available sites within the district retail centre, in accordance with policy CP22 and paragraphs 86 – 88 of the NPPF, edge of centre sites that are well connected are the next choice.
- 6.30 It is therefore considered that the edge of centre location of the proposed new retail store has passed the sequential tests set out under policy CP22, TCA8 and paragraphs 86, 88 and 89 of the NPPF. As such there are no retail policy objections on the principle of a new convenience store at this location.

*Retail Impact – whether an assessment is required:*

- 6.31 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.
- 6.32 Paragraphs 90 and 91 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.
- 6.33 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 1,959sqm, falling 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.

- 6.34 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.
- 6.35 Accordingly, it is not considered that there is any conflict with the requirements of paragraph 90 and 91 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.
- 6.36 Therefore, there is no policy basis for requiring an RIA.

*Policy E3 – Employment Allocations:*

- 6.37 Aside from the retail policy highlighted above, the land is also allocated within the DLADPD under policy E3 for employment uses. However, as noted from the planning history, no employment proposals have ever come forward on this land, and the 2013 phase 3 consent for Kings Hill permitted the use of the land for residential (which remains extant).
- 6.38 Policy E1, E2 and E3 are therefore significantly out of date in requiring the land to only be used for employment under B use classes. Furthermore, retail and B1 office now fall within the same use class E that was recently introduced, and demonstrates the Government's intention for retail and employment space to be used more flexibly. In many respects, the use of the site for this retail store would more closely align with the original intentions of policies E1 – E3 by providing a job creating use that would sit comfortably alongside the wider campus style office buildings, existing retail stores and residential development.
- 6.39 Drawing all these factors together, it is not considered that the allocation of the site for B use class employment would be sufficient grounds to withhold consent. No objections are raised under policies E1, E2 or E3 of the DLADPD.

*Character and design:*

- 6.40 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises

that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape.

- 6.41 These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments, in particular paragraph 130 of the NPPF that requires proposals to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Schemes should also be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 6.42 Paragraph 131 of the NPPF explains that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.
- 6.43 The proposed building would be single storey with a mono-pitch roof, clad in grey with areas of full height glazing around the entrance and lobby. Whilst functional to a degree, it is considered that the design would sit comfortably alongside the neighbouring office buildings and achieve a good standard of design, with a reasonably active frontage around the entrance and towards Tower View. Additional planting and landscaping would help soften the visual impact.
- 6.44 Following pre-application discussions, the applicants also took care to increase opportunities for connectivity into and across the site with multiple pedestrian entrances and footpaths. This is considered to be a positive design principle that further enables the development to function well.
- 6.45 Whilst the site is currently open grassland it has limited character, and as noted, has extant permissions for development anyway, in which case its open character would also be lost. The line of trees along Tower View are attractive and contribute positively to the wide street scene, but the majority would be retained and replacement planting would be provided to compensate where removal is necessary. This would comply with paragraph 131 of the NPPF.
- 6.46 Overall therefore, the development is considered to be acceptable with regards to character and design, complying with policies CP24 of the TMBCS and SQ1 of the MDEDPD, as well as paragraphs 130 and 131 of the NPPF.

Neighbouring Amenity:

- 6.47 Whilst the site is detached from neighbouring properties such that no harmful overbearing, overshadowing or loss of privacy would result, it is still necessary to consider the impact on amenity through increased noise and disruption, from both deliveries, future shoppers, and any plant/equipment.
- 6.48 The applicant has provided a noise assessment which has been reviewed by the Council's environmental health team. The report confirms that noise levels from plant will be in compliance with accepted standards and as such no objections are raised in this respect. Noise levels from the car park and daytime activity would be below amenity noise levels (i.e. from existing roads and activity within the centre), and therefore, no adverse noise impacts would result from this element of the proposal.
- 6.49 The Council's environmental health team recommends conditions to restrict the hours of deliveries which can be controlled by condition. Subject to this, it is not considered that any undue harm would arise to neighbouring amenity.
- 6.50 Third party comments regarding potential for anti-social behaviour are noted; however, it is not considered that sufficient evidence exists to suggest that the new store would result in an increase in such behaviour. Use of adjoining land for parking for the store would be a matter for the respective landowner to control. The store would be subject to strict licensing controls on the sale of alcohol and other controlled goods. The car park can also be required to be shut overnight as part of a submitted management plan, to be secured by condition, to further limit the potential for anti-social uses overnight.
- 6.51 Whilst the request for additional fencing across the full length of the boundary is noted, having reviewed this with the applicant, it is not considered that this would be necessary as it would lead to quite a harsh boundary treatment along this part of the site, which is already screened and separated by an existing hedge. This hedge could also be harmed by the erection of a large fence very close to its root area. Overall, it is considered that the use of the existing hedge plus estate railing along this boundary would be sufficient to discourage trespass into adjoining land.

Highway safety and parking provision:

- 6.52 Paragraph 110 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.

6.53 Paragraph 111 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.

6.54 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.

- 6.55 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.
- 6.56 Whilst the existing use of the site would not attract any vehicle movements, it should be noted that the extant consent or allocation for business use both would.
- 6.57 In any event, the applicants transport assessment has been carefully reviewed by KCC as statutory highways authority, who raise no objections. In particular, they support the good pedestrian connectivity, level of parking provision and swept path analysis for HGV deliveries.
- 6.58 They further note that the site has committed trips already (from the residential use) but that overall the level of new vehicle trips would not meet the requisite test under paragraph 110 of the NPPF (“severe” impacts). Some trips would also already be on the road network, for example, visitors would have previously been visiting nearby stores, but instead divert to the new store, or passing trade, where visitors would be driving through the area anyway, and stop at the store then continue their onward journey. Therefore, in some circumstances, trips to and from the store would not place any additional pressure on the highways network.
- 6.59 The development would provide 120 spaces. Against the Council’s adopted parking standards set out in SP4 a retail development of this floor area would require around 138 spaces, with a shortfall of around 18. However, these standards are very dated (adopted in 2006). Although there is some shortfall against these standards, the building would also be sustainably located within walking distance of many local residents and offices. Other parking is also available in the nearby retail centre and any overspill could also be accommodated here.
- 6.60 Given the age of the standards, which may not fully reflect modern day parking habits, it is not considered that the level of shortfall would be sufficient to justify a refusal. A travel plan has also been submitted, detailing how future employees would be encouraged to use public transport or car share where possible to

reduce reliance on private cars. The recommendations of the travel plan can be secured by condition.

- 6.61 Overall, KCC do not consider a highways refusal to be arguable. On this basis, it is not considered that any policy conflict would arise with SQ8 of the MDEDPD, or paragraphs 110 or 111 of the NPPF.
- 6.62 Following receipt of KCC's comments, a letter of objection was received by Asda Stores Ltd, which raised objections on highways grounds. KCC was sent the response for comment, as well as an additional rebuttal from the applicant which countered Asda's objection.
- 6.63 Having reviewed the objection from Asda, KCC maintain that there are no highways reasons why permission should not be granted.

Employment benefits:

- 6.64 Paragraph 81 of the NPPF sets out that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.65 The new store, regardless of end operator, is likely to create at least 50 new jobs, which would also be well placed for easy access by Kings Hill residents, many of which could walk to the store for work and reduce reliance on private cars for accessing employment opportunities. The creation of a significant number of jobs in a sustainable location which would be advantageous to local residents is a considerable benefit of the scheme which would accord with the provisions of paragraph 81 of the NPPF. This would attract significant weight in support of the scheme.

Other matters:

- 6.66 The applicant has provided an ecology survey which rules out the presence of any protected species on site. The recommendations of the survey include the removal of some identified non-native species and measures to safeguard animals during the construction process; this can be secured by condition. This will comply with policy NE3 of the MDEDPD.
- 6.67 The submitted drainage strategy has been reviewed by KCC SUDs who are satisfied with the measures proposed. They recommend conditions for final details which would ensure that the risk of surface water flooding is not increased, and that the site would be adequately drained. This would comply with policy CP10 of the TMBCS.



- 6.68 Third party comments refer to the land as being protected open space. The land is privately owned and has no formal planning policy designation requiring it to be kept as open space. Furthermore, there are extant consents for residential development on the site, as well as outstanding allocations for employment use. If these were to be pursued, then the area would be developed. Accordingly, it is not considered that a refusal on this basis could be justified.
- 6.69 The development would utilise sustainable construction methods where possible and is designed to be energy efficient. These are set out as follows:
- The building would be heated by air source heat pumps with a heat recovery system deployed to supplement this form excess heat generated by the refrigerators
  - Refrigerators utilise a closed door system and operate up to 70% more efficiently than open chiller cabinets
  - Energy efficient panel heaters would be used with an advanced building management control system to monitor temperature and reduce waste heating
  - The managers' office would be equipped with a heat pump system to provide cooling and heating
  - The building canopy and additional tree planting would provide shading and reduce solar heating gain in summer
  - Four electric vehicle chargers are deployed with hard wiring to provide a further 16 in future as demand increases
  - Overall, the building would be built to BREEAM "very good standards"
- 6.70 This would draw policy support from paragraph 152 of the NPPF though helping to combat climate change.

Conclusions:

- 6.71 The development would not harm the character and appearance of the area and, subject to conditions, neither would there be any adverse impact on neighbouring amenity. There are no suitable or available sites within the Kings Hill district retail centre boundary, and therefore this edge of centre site, which is well connected to the centre, is considered acceptable in principle for retail development. This would also broadly accord with the original intentions for the land in the adopted development plan, which reserved it for employment uses. To this end, 50 jobs would be created, and the development would increase choice for local residents. No unacceptable highways impacts would arise, and the development provides sufficient parking to meet the demands of the development.
- 6.72 Overall, the development would deliver significant economic benefits to the wider community, with no adverse impacts identified that would outweigh these benefits. The proposal would comply with the adopted development plan and national policy and is therefore recommended for approval.

**7. Recommendation:**

- 7.1 **Grant planning permission** in accordance with the following submitted details: Block Plan 17139 101C dated 23.08.2021, Site Plan 17139 102B dated 23.08.2021, Demolition Plan 17139 109B dated 23.08.2021, Site Plan 17139 110G Proposed dated 23.08.2021, Floor Plan 17139 111A dated 23.08.2021, Proposed Roof Plan 17139 112A dated 23.08.2021, Proposed Elevations 17139 113C dated 23.08.2021, Proposed Elevations 17139 114C dated 23.08.2021, Sections 17139 115A dated 23.08.2021, Boundary Treatment 17139 121F dated 23.08.2021, Landscaping 17139-VL\_L01C dated 23.08.2021, Location Plan 17139 100C dated 23.08.2021, Artist's Impression 17139 SHP KINGS HILL M\_01 CGI\_02 dated 23.08.2021, Planning Statement dated 23.08.2021, Other dated 23.08.2021, Statement Energy Rev 2 dated 23.08.2021, Other LCA (Concept Design)\_Rev 2 dated 23.08.2021, Desk Study Assessment P1 dated 23.08.2021, Desk Study Assessment P2 dated 23.08.2021, Desk Study Assessment P3 dated 23.08.2021, Design and Access Statement 17139 01 dated 23.08.2021, Waste Management Strategy 17139-WRS01 dated 23.08.2021, Flood Risk Assessment 3787 366 dated 23.08.2021, Ecological Assessment 9729 dated 23.08.2021, Other Appendix A dated 23.08.2021, Other Appendix B dated 23.08.2021, Other Appendix C dated 23.08.2021, Other Appendix D dated 23.08.2021, Other Appendix E dated 23.08.2021, Other Appendix F dated 23.08.2021, Other Appendix G dated 23.08.2021, Other Appendix H dated 23.08.2021, Transport Assessment dated 23.08.2021, Travel Plan dated 23.08.2021, Lighting External dated 23.08.2021, Report Pre Assessment dated 23.08.2021, Noise Assessment R1(FINAL)-18.8.21 dated 23.08.2021, Report SGN Manual V3 dated 23.08.2021, Statement 20210816 Community Involvement dated 23.08.2021, Tree Protection Plan 21055-4-PDF dated 23.08.2021, Arboricultural Assessment 21055-AA3-JB dated 23.08.2021; subject to 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. This decision refers to the red-edged site location plan, drawings numbered Block Plan 17139 101C dated 23.08.2021, Site Plan 17139 102B dated 23.08.2021, Demolition Plan 17139 109B dated 23.08.2021, Site Plan 17139 110G Proposed dated 23.08.2021, Floor Plan 17139 111A dated 23.08.2021, Proposed Roof Plan 17139 112A dated 23.08.2021, Proposed Elevations 17139 113C dated 23.08.2021, Proposed Elevations 17139 114C dated 23.08.2021, Sections 17139 115A dated 23.08.2021, Boundary Treatment 17139 121F dated 23.08.2021, Landscaping 17139-VL\_L01C dated 23.08.2021, Location Plan 17139 100C dated 23.08.2021, Artist's Impression 17139 SHP KINGS HILL M\_01 CGI\_02 dated 23.08.2021, Planning Statement dated 23.08.2021, Other dated 23.08.2021, Statement Energy Rev 2 dated

23.08.2021, Other LCA (Concept Design)\_Rev 2 dated 23.08.2021, Desk Study Assessment P1 dated 23.08.2021, Desk Study Assessment P2 dated 23.08.2021, Desk Study Assessment P3 dated 23.08.2021, Design and Access Statement 17139 01 dated 23.08.2021, Waste Management Strategy 17139-WRS01 dated 23.08.2021, Flood Risk Assessment 3787 366 dated 23.08.2021, Ecological Assessment 9729 dated 23.08.2021, Other Appendix A dated 23.08.2021, Other Appendix B dated 23.08.2021, Other Appendix C dated 23.08.2021, Other Appendix D dated 23.08.2021, Other Appendix E dated 23.08.2021, Other Appendix F dated 23.08.2021, Other Appendix G dated 23.08.2021, Other Appendix H dated 23.08.2021, Transport Assessment dated 23.08.2021, Travel Plan dated 23.08.2021, Lighting External dated 23.08.2021, Report Pre Assessment dated 23.08.2021, Noise Assessment R1(FINAL)-18.8.21 dated 23.08.2021, Report SGN Manual V3 dated 23.08.2021, Statement 20210816 Community Involvement dated 23.08.2021, Tree Protection Plan 21055-4-PDF dated 23.08.2021, Arboricultural Assessment 21055-AA3-JB dated 23.08.2021. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.

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

3. No above ground works shall take place until details of all materials to be used externally have been submitted to and approved 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.

4. The development hereby approved shall not be occupied until the areas shown on the submitted layout for a vehicle parking spaces, turning and access onto the highway has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking 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: To ensure that parking and access is provided safely and maintained in accordance with the Council's adopted standards.

5. 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. 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: In the interests of visual amenity.

6. No deliveries shall be made to the site outside of the hours of 06:00 – 23:00.

Reason: In the interests of local amenity.

7. Before the development hereby approved is occupied, all noise and lighting mitigation measures shall be installed in accordance with the recommendations of the submitted noise report reference 2120250 dated August 2021 and the proposed lighting layout reference P186-696 dated 05/10/2021.

Reason: To safeguard future occupants from unacceptable noise and light pollution impacts.

8. The hours of opening shall be restricted to 07:00 – 22:00 Monday to Saturday and 10:00 – 17:00 on Sundays and Bank Holidays.

Reason: In the interests of local amenity.

9. Prior to first occupation of the development hereby approved, the Electric Vehicle charging points shall be installed in accordance with the approved plans and retained thereafter. Spaces 25 to 31 inclusive (to the west of the proposed Electric Vehicle spaces) shall include underground ducting to enable easy potential future provision of further electrical charging stations.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with paragraph 110(e) of the NPPF.

10. Prior to the commencement of the development hereby approved, arrangements for the management of all demolition and 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 demolition and construction works will be limited to and measures to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the demolition and 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; 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.

- Details of wheel washing facilities

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

Reason: In the interests of residential amenity and highway safety in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

11. Prior to the opening of the use hereby approved, the submitted Travel Plan shall be implemented, regularly monitored and amended, if necessary, if targets identified in the Plan are not being met over a period of 5 years from the date the development is occupied. At the end of the first and third years of the life of the Travel Plan, the applicant must apply to the Local Planning Authority for approval of reports monitoring the effectiveness of the Travel Plan and setting out any changes you propose to make to the Plan to overcome any identified problems.

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

12. The use of the development hereby permitted shall not commence until a Service Delivery Plan Delivery, Servicing and Waste Management Plan and general site Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Service Delivery Plan shall include details of the number, frequency and times of deliveries and collections from the premises and the noise impact. The use shall operate in accordance with the approved Service Delivery Plan. The management plan shall include specific details of which party(s) is/are responsible for securing the site overnight and what times of the day the site is to be opened and secured. The site shall be strictly operated in accordance with the approved management plan.

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

13. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the FRA Ref 3787/366 dated August 2021 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

14. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

15. Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure safe and suitable disposal of surface water.

16. No development shall take place other than as required as part of any relevant approved site investigation, remediation or demolition works until the following have been submitted to and approved by the Local Planning Authority:
  - a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

b) prior to the commencement of the development the historic underground fuel storage infrastructure shall be removed together with any associated hydrocarbon contamination. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of these works.

c) prior to the first occupation of the development the relevant approved remediation scheme shall be completed as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework.

17. The effectiveness of the remediation scheme shall be verified in two phases.

a) The first phase will cover the removal of the fuel storage infrastructure and associated contamination and will be submitted prior to commencement of the development.

b) Following completion of the remainder of the approved remediation strategy, and prior to the first occupation of the development, a final verification report shall be submitted.

In each case, the verification report shall scientifically and technically demonstrate the effectiveness and completion of that phase of the remediation scheme at above and below ground level and shall be submitted for the information of the Local Planning Authority.

The reports shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework.

18. The development shall be carried out in accordance with all of the recommendations contained within the Preliminary Ecological Appraisal dated April 2021 reference 9729.PEA.vf.

Reason: To ensure that the development is carried out in accordance with the plans and documents hereby approved.

19. The development shall be carried out in accordance with all of the recommendations contained within the Arboricultural assessment & method statement dated 7th June 2021 reference 21055-AA3-JB.

Reason: To ensure that the development is carried out in accordance with the plans and documents hereby approved.

### **Informatives**

- 1 A formal application for connection to the public sewerage system is required in order to service this development. More information is available on Southern Water's website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>. The disposal of surface water from this development should be in compliance with the following hierarchy of Part H3 of Building Regulations:

- a) An adequate soakaway or some other adequate infiltration system.
- b) A water course.
- c) Where neither of the above is practicable: a sewer.

The design of the proposed basements and on-site drainage system should consider the possibility of surcharging within the public sewerage system in order to provide the protection from the risk of flooding.

- 2 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate a postal address to the new property. To discuss the arrangements, you are invited 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.
- 3 The applicant is strongly encouraged to consider opportunities for incorporating renewable energy technologies into the approved development wherever possible and for measures to support biodiversity within the construction of the buildings.

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