

**Kings Hill
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TM/21/02301/FL

Erection of a Class E retail unit with access, car parking and associated works at Area 14 Kings Hill Phase 3 Gibson Drive Kings Hill West Malling Kent

DPHEH: Following publication of the main report, the applicant has requested some minor changes to the wording of the proposed conditions to ensure effective operation of the permission following commencement. The main change is in relation to Condition 12 where the applicant has advised that they would maintain security via CCTV systems rather than a fixed gate. This will be set out in a management plan, secured by that condition, which will be sent to the Council for approval prior to the commencement of the use. Should the CCTV prove ineffective at maintaining security in the car park overnight, this can be reviewed through the management plan and alternative measures proposed as necessary.

The applicant has also questioned whether it would be possible to extend the times for deliveries to be made to 22:00 hours. After further consultation with the Council's Environmental Protection Team, it is considered that 21:00 hours is reasonable and appropriate given the location of the site relative to its surroundings. Condition 4 as recommended below reflects this.

Additional conditions are also recommended at 18 and 19 to prevent subdivision of the unit or the creation of additional floorspace through the insertion of a mezzanine level.

The conditions involving parking and landscaping (4 and 5 of the main papers) have also been replaced with condition 20 to ensure that the applicant maximises the opportunities to retain important trees around the site, whilst consideration is given by officers to establish whether any trees on site should be specifically protected by way of TPO. Condition 21 seeks to ensure suitable means of tree protection during construction.

For the avoidance of any confusion, the conditions are reproduced in full below with new numbering.

Members will be aware that the planning practice guidance sets out that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. It is not possible to impose conditions on a planning permission to resolve pre-existing problems in an area. Furthermore, planning permission cannot be withheld because a local planning authority believes that they may not be adhered to in the future but rather there must be an assumption that conditions will be

complied with, and any future breaches addressed through planning enforcement investigations as might be necessary if they do occur. To do otherwise, would be unreasonable on the part of the local planning authority.

AMENDED RECOMMENDATION

Amended and additional conditions, with associated renumbering (reproduced in full)

- 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, 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. **No deliveries shall be made to the site outside of the hours of 06:00 – 21:00.**

Reason: In the interests of local amenity.

5. **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.

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

Reason: In the interests of local amenity.

7. **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. The spaces marked as such on plan Proposed EV Spaces Site Plan 17139-124 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 National Planning Policy Framework 2021.

8. **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.

- 9. 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.

- 10. 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 details of how security on the site will be maintained overnight. The site shall be strictly operated in accordance with the approved management plan.**

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

- 11. Construction 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.

- 12. The building hereby permitted shall not 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.

- 13. 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.

- 14. 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 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.

- 15. The effectiveness of the remediation scheme shall be verified in two phases.**

a) Following completion 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.

- 16. 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.

- 17. 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.

- 18. The retail unit hereby approved shall not be subdivided by any means into two or more units.**

Reason: In the interests of retail impact and highways safety.

- 19. No additional floorspace shall be created through the insertion of another mezzanine floor or by any other method.**

Reason: In the interests of retail impact and highways safety.

- 20. Notwithstanding the details set out on drawing numbers 17139 110G, 17139-VL_L01C and 21055-4, prior to the commencement of the development hereby approved, a detailed scheme of parking provision together with full hard and soft landscaping which also indicates all tree retention details across the site shall be submitted to and approved by the Local Planning Authority. The scheme shall incorporate all reasonable measures to maximise opportunities**

for tree retention across the site. The scheme shall be implemented in full prior to the first commencement of the use hereby approved and maintained and retained at all times thereafter.

Reason: In the interests of visual amenity and to accord with paragraph 131 of the National Planning Policy Framework 2021.

21. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.
