

Kings Hill
Kings Hill

23 August 2021

TM/21/02301/FL

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 Determination of this application was deferred by the Area 2 Planning committee on the 08 December 2021. The reason for the deferral was to enable officers to obtain further information regarding proposed renewable energy measures across the scheme in addition to give further consideration to perceived highways impacts.
- 1.2 Since the deferral, the applicant has constructively engaged with officers in order to overcome Members' concerns. They have subsequently submitted amended plans and elevations of the building and additional details regarding renewable energy measures and on highways traffic assessments. These details are considered in further detail within the main part of the report.
- 1.3 The December committee is attached in full at Appendix 1 for ease of information. This report should be read in conjunction with those papers.

2. Consultations (received since 08 December 2021)

- 2.1 None

3. Determining Issues:

Renewable technologies and energy efficiencies:

- 3.1 The amendments and additional information provided since December are summarised as follows:
 - Photovoltaic panels are proposed on the roof, providing an additional saving of 13.2 tonnes of CO₂ per annum in addition to the 15.6 tonnes of CO₂ per annum that will be saved as a result of the technologies proposed within the construction of the building. This will lead to an annual saving of 28.8 tonnes of CO₂ per annum. The installed technology (excluding the PV panels) will lead to a saving of 30% of regulated CO₂ emissions through on-site renewable technologies against a policy requirement of 10%. The PVs will increase this saving.

- The number of active electric vehicle charging spaces has been doubled from day one (from 4 to 8) comprising 7% of the total available spaces. In addition, Aldi commit to managing these spaces as part of the overall car park management and monitoring the usage to ensure that passive spaces are converted to active spaces when required;
 - A further 14 cycle parking spaces are now proposed taking the total to 24. This comprises an additional 8 staff cycle spaces (2 within the warehouse) and 6 customer cycle spaces. This includes the provision of non-standard cycle parking for cargo bikes and similar.
 - The creation of additional habitats to increase biodiversity on the site including the provision of one bug hotel and three log pile habitats complemented by an information board for customers to assist them in identifying species that they may see; and
 - The inclusion of significant additional brick elements on the external elevations to provide a greater diversity of materials and to provide a linkage with the brick clad commercial building adjacent to the site.
- 3.2 The plans have been updated to reflect these changes, with the solar panels now displayed on the roof, an increase in EV charging points, and additional information on landscaping and biodiversity.
- 3.3 The proposals to significantly increase the provision of renewable energy generation on site are considered to be very positive, particularly in the absence of an adopted policy requiring such measures to be incorporated, either at the local or national policy level.
- 3.4 The applicant's figures explain that the proposal would save 28.8 tonnes of CO₂ every year (over the same development without this technology), with an overall saving of 30% of the ordinary CO₂ generation from a building of this kind. These quantities significantly exceed expectations, and in light of the Council's Climate Change Strategy, should be afforded important positive weight in favour of the scheme.
- 3.5 Furthermore, the applicant has doubled the "day one" offering of EV charging spaces, from 4 spaces to 8 (i.e., when the store opens). Further spaces can be provided in future, to an agreed timeframe, as demand increases. Again, given the absence of any adopted planning policy requiring this provision at the current time, it is considered that this is an important benefit that exceeds expectations, and should be afforded positive weight in favour of the scheme.

Landscaping & biodiversity:

- 3.6 Additional landscaping and biodiversity benefits would also be incorporated into the retained landscaping space. The scheme now proposes to increase the

number of trees on site by 24 in total, which is a significant uplift over existing coverage. Aside from the biodiversity and landscape benefits, this also provides some assistance towards combatting climate change and meeting the Council's corporate objectives in this regard. In addition to trees, within the landscaping areas new log piles and "bug hotels" would be installed to increase biodiversity.

Design/external materials:

- 3.7 The external finish of the building has also been updated to include red brick elements, to better accord with the local context and particularly the adjacent office building which shares a similar palette.
- 3.8 In terms of the external finish, the applicant has provided updated elevation drawings with brick detailing now proposed. This would be viewable on the flank (side of the building) from the Alexander Grove pedestrian crossing and is an attractive finish that would better fit with local character and context. Brick detailing would also be provided on the front elevation towards the car park. Whilst the initial design was already considered to be acceptable, it is also clear that the addition of brick is a noticeable improvement. The building would sit more comfortably with the adjacent office building, sharing a similar palette which would give a degree of group value to the street scene. The development would continue to meet policy expectations on design, and more so than before, in accordance with policies CP24 of the TMBCS and SQ1 of the MDEDPD.

Traffic generation and highway safety:

- 3.9 The applicant has provided a further transport note to analyse the previously submitted evidence. It notes that no objections were received by KCC Highways, who considered the evidence to be robust.
- 3.10 There remains an absence of any technical, evidenced material to support any concerns that the proposed development would have an adverse impact on highway safety via increased trip generation. The concerns raised by Members at the December APC2 meeting were noted, but were based on anecdotal evidence that has not been substantiated.
- 3.11 Equally, Members must have in mind that there will already be a significant inward flow of traffic to Kings Hill from the surrounding areas to use the existing retail shops, including Waitrose and Asda, or to reach employment. The submitted evidence shows that many of these trips will be existing or re-distributed i.e. visitors will instead visit the new store, rather than going to the Asda or Waitrose, or stop off at the store whilst visiting Kings Hill anyway. As a result, this is not "new" traffic on the network, but journeys that occur already with just a change to the end destination.
- 3.12 This matter was also considered in a recent appeal at Cannon Lane Retail Park in Tonbridge. Whilst the circumstances and site context are not exactly the same,

this scheme was for a comparable discount food retailer, close to other food retail stores. The inspector made a comment of the matter of linked or redirected trips as follows, at paragraph 23 of his judgement.

“A further factor to consider is the way transferred trips and linked trips are accounted for in the assessments. These can be an important factor, particularly in cases such as this where the subject premises are located within an established retail park with an existing food store”

3.13 The appeal, attached as Appendix 2 to this report for information, was allowed by the Inspector against the Area 1 Planning Committee decision to refuse the scheme on highways grounds. The inspector ultimately agreed that there would be no unacceptable or severe highways safety impacts, which was the view of KCC Highways. He found in favour of their advice, also attributing their view significant weight:

“I also attach significant weight to the fact that KCC has reviewed the trip rates used in the TA and found them to be robust.” (Paragraph 22)

3.14 Insofar as the issues can be compared, this appeal decision is a material planning consideration in the determination of this application. As with that scheme, KCC has reviewed the trip generation rates for the proposed store and finds no grounds to object. Their view on this case must also be given significant weight, given their role as statutory consultee on matters of highways safety and impact.

3.15 As such, there remain no justifiable grounds to resist the development on highway capacity or safety matters.

Conclusions:

3.16 The applicant had constructively addressed the concerns raised by APC2 in the previous deferral by incorporating additional renewable technologies into the build which exceed any requirement under local or national policy. It would be unreasonable to require any additional measures to be incorporated and moreover, the measures should be welcomed.

3.17 Similarly, the changes to the external appearance of the building are appropriate and address the concerns of APC2 in December.

3.18 There remains an absence of any objective, technical evidence to support a conclusion that the highways impacts would be severe, or that there would be unacceptable safety impacts. There is no justifiable ground to seek to resist this development on such grounds and to do so in light of the evidence provided would be unreasonable.

4. Recommendation:

- 4.1 **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, Planning Statement

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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.

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@tmhc.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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