

**Urgent Update 21/500866/FULL**

**Further Kent County Council Highways Representation**

Kent County Council Highways has provided further justification on the request for a financial contribution for monitoring of the Travel Plan with the following (summarised) points and Officer comments:

- The recommended use of a monitored Travel Plan is requested in order to mitigate the forecast traffic impacts of the application.
- Whilst there are no required highways mitigation measures for which a financial contribution to be sought for, a Travel Plan is recommended and considered necessary to reduce the dependency on the private car and to promote the use of more sustainable modes of transport, the longer term impact of which will be to reduce private car traffic associated with the use.
- Provision of the monitoring fee enables the KCC Travel Plan Officer to ensure the Travel Plan and associated benefits are delivered as per the submission and to ensure that the Travel Plan Coordinator is supplied with KCC Highways advice where necessary.
- The monitoring fee request has been revised to £1,422.
- Request a revised condition securing the submission of a Travel Plan by planning condition with the monitoring fee secured by a S106 agreement.

**Officer Comment**

Following the submission of the further information from KCC Highways, the financial contribution of £1,422 for Travel Plan monitoring is considered to be necessary in order to make the development acceptable and meets the relevant CIL tests. The applicant has agreed to the contribution and this will be secured by a Unilateral Undertaking.

On the basis of this additional requirement KCC Highways do not object to the proposal. The proposal is considered to be in accordance with policies SP23, DM16, DM21 and DM23 of the Local Plan.

**Revised Recommendation**

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the prior completion of an acceptable form of legal agreement (Unilateral Undertaking) to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee):

1. The prior payment of £1,422 to be used for monitoring of the Travel Plan

Revised Condition:

7. The development shall not be brought into use until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include specific objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: In the interest of sustainable transport.

### **Retail Sequential Test**

Following the submission of the planning application, which was subject to a sequential test undertaken by the Applicant, a further vacant unit has been identified by The Mall's owner on the upper level, fronting onto King Street (part of the former BHS store).

The applicant has assessed the suitability of the additional vacant unit and sets out that it is not suitable for a 'Limited Assortment Discounter' (LAD) due to the overall configuration of the store and number of pillars that would compromise the functionality of the store. Lidl's store model requires unbroken space allowing pallets to be brought straight onto the shop floor. In addition, the applicant also sets out that the service access is not suitable and would require the use of goods being wheeled along corridors and using service lifts.

The unit is also further from the car park and would appear to provide no means for customers to wheel a laden trolley from the store out to their car. The applicant sets out that locating the store in either of the two vacant units within The Mall would result in a compromised offer, as compared to the Wickes unit where there will be a delivery bay directly into the rear of the store and customers will be able to wheel trolleys straight out to their cars immediately in front of the store.

### **Officer Comment**

Whilst it is an established requirement of the process that retailers should seek to be flexible when looking at potential sites / units, it is accepted that for several reasons, this additional unit would not provide appropriate accommodation. It remains the view that the sequential test has been met showing that the proposal could not be accommodated on a site within the town centre or on its edge on a preferred retail allocation site in accordance with policy DM16.

### **Health and Safety Executive**

The main report states that the HSE has advised against granting planning permission, but that if members are minded to do that there is a requirement to notify the HSE first and allow them 21 days to decide whether to ask the Secretary of State to call-in the application.

To further clarify the background to the HSE's position, it should be noted that prior to the development of the Wickes Extra unit (which was granted planning permission in December 2003 under application MA/03/1035) the site was in use as a gas works, which was a designated/licensed hazardous installation, around which the HSE designated consultation zones within which development should be restricted to protect the public from the risk of major accidents.

The gas works is clearly no longer present, the site was remediated as part of the redevelopment of the Wickes outlet, so there is no longer any hazard on, under or within the vicinity of the site, no risk to human health, nor a need to restrict development on safety grounds.

However, whilst the redevelopment of the site took place some time ago, the hazardous substances consent remains in place until such time as the Council's seeks to revoke the relevant hazardous consent and as such HSE's objection is still in place. MBC Legal have been instructed to formally revoke the hazardous substances consents in accordance with Section 14 or 17 of the Planning (Hazardous Substances) Act 1990. Once revoked the consultation distance around the site will be withdrawn and there will be no need for HSE to be consulted on any proposed future developments in the vicinity of the site.

Prior to the hazardous substances consents being revoked, the national planning guidance requires the HSE to be notified of any intention to grant planning permission against their advice, and that they be given 21 days to decide on whether to request a call-in. However, as stated, as there is no material risk remaining, there are no grounds for the Council to refuse permission.