

3. The Site:

- 3.1 The site is a detached house situated on the north western side of Hadlow Road, opposite Mill Stream Place. The site is within a residential area and the built confines of Tonbridge. The house is set back about 16m from the highway on ground that is higher than Hadlow Road. There are detached houses on either side of the site.

4. Planning History:

TM/09/02728/FL Approved 9 March 2010

Proposed two storey rear extension, roof alterations and detached garage

11/00159/UNAWKS Notices (2) Served 29 October 2012

Alleged new window not in accordance with approved plans on TM/09/02728/FL & alleged breach of Condition 8 (privacy screen) of TM/09/02728/FL

5. Consultees:

- 5.1 Private Reps: 10/0X/1R/0S. Objection centres on grounds of design and visual amenity in both cases.

6. Determining Issues:

- 6.1 TMBCS policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:

- The character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
- The distinctive setting of and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.

- 6.2 Additionally, saved policy P4/12 of the TMBLP states that extensions should only be permitted where they would have no adverse impact on:

- The character of the building or the street scene in terms of form, scale, design and materials;
- Residential amenity of neighbouring properties in terms of light and privacy and overlooking of private garden areas.

- 6.3 Both conditions 7 and 8 were originally imposed in order to enable the Local Planning Authority to regulate and control any such further development in the interests of the amenity and privacy of the neighbouring residential properties.
- 6.4 Members will recall that when the breaches of condition were reported to Area 1 Planning Committee in October 2012, officers advised that the provision of two sets of double outward opening doors on the rear elevation of the second floor roof extension without any fixed barriers (the approved scheme specified these as external barriers) would result in detriment to the privacy of adjoining properties because they would allow access to the flat roof of the first floor extension to the severe detriment of the amenity and privacy of the adjoining properties. It was further considered that an application to retain the unauthorised second floor windows/doors that open outwards and without any features to prevent access to the flat roof of the first floor extension could not be supported because of the implications for the amenity and privacy of the adjoining properties.
- 6.5 As a result, Members resolved to serve an Enforcement Notice as it was considered necessary to alleviate the nuisance and detriment to amenity resulting from the unauthorised variation from the development as approved. The Enforcement Notice was served requiring the owner to remove the existing window/door frames and outward opening doors and replace with new frames with inward opening doors and fit permanently fixed external barriers at least 1.1 metres high above sill level to the window openings.
- 6.6 The details now submitted in seeking to formally vary condition 7 (rather than comply with the requirements of the Enforcement Notice as outlined above) show a barrier installed internally, allowing the doors to remain outward opening, but limiting access to the flat roof beyond. Whilst I acknowledge that this arrangement does not expressly comply with the requirements of the Enforcement Notice, it does, in my view, ensure that a suitable level of protection is afforded to the privacy of the immediate neighbours given the height of the barrier that was previously approved and also that required by the Enforcement Notice. The resultant effect in terms of preventing or restricting people gaining access to the external flat roof would be largely comparable with both the originally approved arrangement and also that subsequently sought through the Enforcement Notice.
- 6.7 I recognise that the neighbour considers that the outward opening of the doors and the barriers themselves are unsightly in appearance. However, I do not share this view nor do I consider that the arrangement would cause overt harm to the appearance of the dwelling or the visual amenities of the locality.

- 6.8 In light of the above assessment, I consider that the arrangements shown within Application A, which represents the prevailing situation on site in respect of these particular windows, has adequately overcome the previous concerns regarding privacy and would not give rise to any consequent harmful effects. As such, I recommend that planning permission be granted for the variation of condition 7 which would effectively quash the relevant Enforcement Notice.
- 6.9 Turning to the details of the privacy screen (Application B) this also needs to be considered in the context of the issues set out in paragraphs 6.1 – 6.3 above. I have no doubt that the screen would serve its intended purpose effectively and would suitably protect the privacy of the immediate neighbours. However, the screen as constructed is an ill-considered and inelegant solution, wholly incongruous with the aesthetic of the host dwelling and in my view simply does not represent an acceptable solution in visual terms. As such, in its current form, the privacy screen is contrary to the requirements of policy CP24 of the TMBCS, policy SQ1 of the MDE DPD and saved policy P4/12 of the TMBLP.
- 6.10 The second Enforcement Notice seeks a screen consisting on the side elevation of a solid panel painted white to match the house and on the rear one panel of dark tinted toughened and obscured glass. Such a design would far more closely reflect the design of the host dwelling. I therefore conclude that an acceptable solution has not been provided through the submission of the application seeking to formally discharge condition 8 and, with this in mind, I believe it appropriate to refuse the details as submitted. Under the circumstances it would be appropriate for the Director of Central Services to prosecute for the non-compliance with the Enforcement Notice served in October 2012.

7. Recommendation:

(A) TM/13/02514/FL:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Proposed Plans and Elevations DRG/HAD/SK10 p1 dated 19.08.2013, subject to the following:

Conditions:

- 1 The glazed safety panels shown on plan number DRG/HAD/SK10 P1 hereby approved shall be retained at all times.

Reason: In the interests of protecting the privacy of the adjoining property.

- 2 The garage(s) shown on the submitted plan approved under planning reference TM/09/02728/FL shall be kept available at all times for the parking of private motor vehicles.

Reason: Development without the provision of adequate vehicle parking space is likely to lead to hazardous on-street parking.

- 3 The scheme of landscaping and boundary treatment shown on the plans approved under planning reference TM/09/02728/FL shall be carried out in the first planting season following the completion of the approved garage. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

- 4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no further windows or similar openings shall be constructed in the roof of the building other than as hereby permitted and permitted under planning reference TM/09/02728/FL without the prior written consent of the Local Planning Authority.

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

- 5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no further windows or similar openings shall be constructed in any elevation of the building other than as approved under planning permissions TM/09/02728/FL and TM/13/02514/FL, without the prior written consent of the Local Planning Authority.

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

Informative:

- 1 The applicant is reminded of the need to fully comply with the Building Regulations in respect of the strength of the safety screens, as specified in the Building Regulations guidance documents (British Standard BS6399-1:1996).

(B) TM/13/02569/RD:

7.2 **Refuse Reserved Detail** for the following reason:

- 1 The privacy screen is of an incongruous form, design, material and colour which is out of keeping with the appearance of the host dwelling and detrimental to the visual amenities of the locality. As such, it is contrary to policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy SQ1 of the Managing Development and the Environment DPD 2010 and saved policy P4/12 of the Tonbridge and Malling Borough Local Plan 1998.

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