

SUPPLEMENTARY REPORTS

AREA 1 PLANNING COMMITTEE

DATED 24 October 2013

Tonbridge (A) TM/13/02514/FL
Medway (B) TM/13/02569/RD

(A) Variation of condition 7 of planning permission TM/09/02728/FL to allow for safety glazing inside the outward opening doors serving bedrooms and a bathroom at second floor level; (B) Details of privacy screen serving sun terrace submitted pursuant to condition 8 of planning permission TM/09/02728/FL at 65 Hadlow Road Tonbridge Kent TN9 1QB for Mr & Mrs Paul McPartland

(A) TM/13/02514/FL

No supplementary matters to report.

(B) TM/13/02569/RD

DPHEH: Since publication of the Committee report, the applicant has provided further clarification as to his intention of the final nature of the timber cladding, stating that the green ply in situ will be externally clad in cedar.

As described in the main report, the Enforcement Notice required the privacy screen to consist of a solid panel on the side elevation, painted white to match the house, and on the rear one panel of dark tinted toughened and obscured glass.

However, had we considered that a positive recommendation could have been made in this case for the external grade green ply currently in situ to be retained and further clad with timber as shown on the submitted plans, there would have been a recommendation to require the final finish to be submitted for approval by condition. Notwithstanding the further clarification that has now been provided, the use of timber cladding of this nature would result in an awkward, dark structure, at odds with the host dwelling as described within the main report.

The clarification put forward by the applicant therefore does not overcome the concerns set out in the main report and my recommendation to refuse remains.

RECOMMENDATION REMAINS UNCHANGED

Tonbridge TM/13/01195/FL
Castle

Retrospective Application: Demolition of garage. Erection of part single, part two storey rear extension, single storey side extension and creation of raised terrace in rear garden being a revised scheme to that approved under ref: TM/12/03489/FL at 56 Dry Hill Park Road Tonbridge Kent TN10 3BX for Mr David Allison

No supplementary matters to report.

Tonbridge TM/13/02172/FL
Cage Green

Construction of two replacement dwellings on frontage and detached garage to rear (to serve detached dwelling approved under planning ref TM/09/00951/FL) at 335 - 337 Shipbourne Road Tonbridge Kent TN10 3EU for Prolem Ltd

Private Reps: 2 further letters received raising the following objections:

- No reference has been made to the loss of garden to the front of the detached property to the rear by virtue of the garage having been relocated;
- Question how it can be agreed that work has commenced on house to the rear as this only involved the digging of a trench and the houses to the front have not been demolished;
- This has become a very emotive issue, affecting and disrupting the lives of many people, potentially destroying a lot of wildlife and tranquillity which the Inspector previously tried to preserve for residents;
- Regardless of what an Inspector did or did not like in previous applications, this should not be taken into account if that application was ultimately refused;
- Landscaping plans are not detailed enough for the site;
- Car parking areas should be surfaced in porous materials.

DPHEH:

There is clearly an ongoing concern amongst local residents regarding the legitimacy of the material start in respect of the dwelling to the rear of the site and the resultant fact that Members are not required to consider that part of the development within the context of this latest application. This matter is discussed within the body of the main report (paragraphs 6.3 – 6.6) and I do not intend to revisit that discussion in depth other than to stress that the Director of Central Services has accepted that a material start has taken place and that as such the 2009 planning permission remains extant.

As explained in the main report, Inspectors' decisions do form a key material planning consideration. Those decisions are formed not only of whether the ultimate decision is to

allow or dismiss the appeal but also the narrative that leads to that final conclusion. It is quite usual for Inspectors to accept certain elements of a scheme before dismissing an appeal based on other elements.

The relocation of the garage to serve the detached dwelling to the rear has resulted in an increase in hardstanding to the frontage of this building but the impact of this would be negligible when viewed within the wider context of the development as a whole.

I accept the neighbours' concerns regarding the limited information put forward as part of the landscaping scheme and how robust it really is given the nature of the site. I have given this matter some further thought and would suggest that amending condition 13 to require a full scheme of hard and soft landscaping to be submitted for approval, would satisfactorily ensure that due consideration is given to this aspect of the scheme. This would also allow for consideration of the hard surfacing of the car parking areas, which I agree should be constructed of a porous material.

An amended plan has been received showing an additional window proposed to each of the dwellings to serve the stairwells. These are shown to be fitted with obscured glass and non-opening which would ensure an acceptable level of privacy is maintained. This can be secured by planning condition as set out below. I also consider it prudent to impose a further condition controlling the future installation of windows at first floor level, should Members be minded to grant planning permission, in the interests of maintaining suitable levels of privacy.

AMENDED RECOMMENDATION:

Amend Condition 13:

13. No development shall take place, other than the demolition of the existing dwellings, until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping and boundary treatment. 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, unless the Authority gives written consent to any variation. 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: To ensure that the development does not harm the visual amenities of the locality.

Additional Conditions:

16. The windows serving the stairwells of both dwellings hereby approved shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the relevant dwelling is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto neighbouring properties.

17. 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 windows or similar openings shall be constructed at first floor level in any elevation of the buildings other than as hereby approved, 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.

Additional Informative:

6. In seeking to formally discharge Condition 13, the applicant should be aware that the vehicle parking spaces, turning areas and access road should be constructed of porous materials or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the application site. Further guidance can be found under 'Guidance on the Permeable Surfacing of Front Gardens' produced by the Environment Agency.

Hildenborough TM/13/02727/FL
Hildenborough

Change of use from residential (C3) and ground floor shop (A1) to restaurant and cafe (A3) on ground floor and beauticians and bride area (A1) at first floor. Demolition of flat roof side and rear extension and removal of two storey rear extension. Construction of new single storey additions and alterations to front elevation at 152-154 Tonbridge Road Hildenborough Tonbridge Kent TN11 9HW for Double Gold Enterprise Ltd

Private Reps: 13 further letters received; 3 raising objections and 10 in support. Further objections centre on the following grounds:

- Issues of parking, deliveries and travel have not been addressed;
- Bus service is totally inadequate;
- Claiming that local staff will be employed is laudable but the required local staff may not be available;

- Stating that customers will be mostly local is a vague assumption – it is likely that customers will come from anywhere by whatever mode of transport suits them;
- Applicant should withdraw the current application and submit detailed plans showing a scaled down version of the plans;
- Personal issues raised in the applicant's supporting statement are not a material planning consideration;
- Question the level of research that has been undertaken in respect of opening hours;
- Applicant has provided no reassurance of the viability or acceptability of the proposed development;
- Right to light is a consideration that must be addressed;
- Two previous planning applications (04/02340/OA and 91/11440/FUL) were both refused due to potential problems with traffic accessing Tonbridge Road.

Letters of support reiterate those previously summarised within the main report.

I am also aware that Members of the Planning Committee have also been contacted by two local residents who have made the following comments:

- Applicant has been able to use her celebrity status to use social media to gain support;
- Committee report has disregarded many of the issues raised by objectors including loss of light to window serving neighbouring office building;
- Bulk of premises is not an existing shop – this is misleading;
- Tonbridge Road is a dangerous road and residents are amazed at the contents of the KCC representations;
- Lack of reference in the report to the NPPF emphasis on provision of affordable homes;
- Hildenborough is already a vibrant area and there is a wealth of fully employed people in the area;
- The capacity and intended operation of the premises shows that the development is going to be a restaurant not a café.

DPHEH:

To clarify, planning applications 04/02340/OA and 91/11440/FUL were both refused some years ago, the latter of the two some eight years before the current Government policy, in NPPF, came into being. The 2004 application related to the construction of 22 houses and bungalows with access onto Tonbridge Road on land at Chequers Farm (on the south side of Tonbridge Road) and was refused for a total of five reasons with two of those relating to the inadequacy of the proposed access onto the main road to serve the new houses. I do not consider that this proposal is in any way comparable to the application before Members for consideration as it related to an entirely different

type of development, involving a new access onto a main road. Conversely, no new access is proposed as part of the scheme here.

The application referred to from 1991 related to a change of use from A1 to A3 (restaurant) on ground floor of former double shop premises including part demolition and new building at rear incorporating s/c entrance to first floor two bedroomed flat at 164 Tonbridge Road. Indeed the refusal of this application centred on the absence of adequate parking facilities and the likelihood of their being additional hazards to traffic as a result. This decision was taken on the understanding that the unit also had an unfettered A1 use at the time.

I would stress that this decision was made almost 20 years ago, at a time when the planning system was operating under a wholly different framework.

Additionally, it is important to emphasise that there is a clear distinction between the absence of parking provision having an adverse impact on the operation of the highway network and road safety on the one hand, and the impacts on residential amenity arising from there being a greater demand for on-street parking on the other. Advice from Kent Highway Services is that the lack of parking within the site would not adversely affect the operation of the highway network. NPPF requires that development is resisted in highways terms only if there is a severe issue arising and clearly KCC does not consider this to be the case here. I accept that the lack of onsite parking may result in there being a greater demand for the available spaces and this may mean that residents may not be able to enjoy the arrangements that have historically existed. However, I do not consider that this would be to the detriment of the amenities of those neighbours in a manner or to an extent that would justify refusal of this proposal on planning grounds.

I do appreciate that a private function such as a party or wedding would result in a potentially more intensive use of the premises, at concentrated periods of time, which could be to the detriment of the amenities of local residents. I therefore consider it appropriate to restrict the use of the premises more extensively than that previously outlined in the recommendation contained within the main report.

I would stress that restaurants and cafes come under the same Use Class as set out within the Town and Country Planning Use Classes Order and as such there is no distinction to be drawn between the two.

I accept that the NPPF places great emphasis on the need to provide affordable homes, especially in rural areas, and note local residents' contention that the area is 'fully employed'. Rather than just focusing on the numbers of staff the enterprise would employ, there would be a certain amount of investment into the local rural economy which does reflect a key focus of the NPPF.

Paragraph 6.11 of the main report discusses the impacts the proposed extension would have on the immediate neighbours. The most direct relationship the extension would have is with the adjacent office building. However, I would stress that this is a commercial property rather than a private dwellinghouse which would be expected to enjoy a certain amount of daylight/sunlight to the rear facing windows and where the 45-degree rule as set out in the saved local plan policy would apply. Furthermore, I would stress that the extension to the rear is concentrated at single storey level and replaces a two storey rear protrusion close to this shared boundary.

Members will note that the recommended condition 3 in the main agenda does not set out a detailed wording for the proposed condition relating to the control of cooking odours. Having given this matter some further thought, I now propose a bespoke condition (as set out below) that recognises that a limited range of cooking processes may be intended, whilst at the same time safeguarding the position should that situation change in the future.

AMENDED RECOMMENDATION:

Amended Conditions:

3. The use shall not commence until full details of the range of goods to be cooked on the premises along with an associated scheme of mechanical air extraction serving the kitchen, including arrangements for the continuing maintenance of this equipment and any noise attenuation measures required in connection with the equipment, have been submitted to and approved in writing by the Local Planning Authority. The approved schemes shall be fully installed before use of the kitchen commences and shall thereafter be maintained in strict accordance with the approved details. The range of goods to be cooked on the premises shall not be varied unless further details have been submitted to and approved by the local Planning Authority, including a corresponding re-assessment of the scheme of mechanical air extraction systems. No cooking of food shall take place unless the approved extraction system is being operated.

Reason: In the interests of the amenities of nearby properties.

8. The uses hereby approved shall be operated fully in accordance with the Design and Access Statement received on 06 September 2013 and email received on 03 October 2013 and no private functions, including weddings, wedding receptions and similar gatherings shall take place at any time.

Reason: In the interest of residential amenity and highway safety.

Alleged Unauthorised Development
Tonbridge 13/00384/USEM
Trench

Location: Whitelake Road Tonbridge Kent

Members will note from my main report that this site was to be the subject of further investigation and inspections, prior to your meeting tonight.

The site has been inspected today and, although the portable office units have been removed from the site, the storage containers remain in situ, along with a number of skips. It is therefore necessary to give detailed consideration to the expediency of taking enforcement action.

The units, which appear to be provided by Russet homes' contractors, have given rise to a number of concerns due their visual appearance and the concern that, unless controlled, the use could become permanent. The use of the site and the stationing of these units do not respect the site and its surroundings and are contrary to policy CP24 of the Tonbridge and Malling Local Development Framework Core Strategy 2007 and also contrary to policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.

I am led to believe that it is Russet Homes' contractors' intention to remove the unauthorised development in the near future, but in the light of the ongoing situation it is far from clear when this matter will be resolved. In these circumstances, I consider it appropriate to seek Members' authorisation for the service of an Enforcement Notice, but I would intend to refrain from service of this Notice for two weeks.

AMENDED RECOMMENDATION:

An Enforcement Notice BE ISSUED, the detailed the wording of which to be agreed with the Director of Central Services, requiring the cessation of the unauthorised use and the removal of all associated unauthorised equipment.
