



TM/05/02253/FL Refuse 4 November 2005  
Appeal dismissed 7 June 2006  
Detached four bedroom chalet bungalow with detached single garage and new vehicular access

TM/07/00610/FL Approved 18 April 2007  
Detached two bedroom bungalow

TM/08/03448/FL Approved 6 January 2009  
Variation of condition 7 (sightlines) of planning permission TM/07/00610/FL:  
Detached two bedroom bungalow

TM/09/01679/FL Approved 8 October 2009  
Erection of a detached two bedroom chalet bungalow

TM/12/02948/FLX Approved 9 November 2012  
Extension of planning permission TM/09/01679/FL (Erection of a detached two bedroom chalet bungalow)

TM/12/03562/RD Approved 15 January 2013  
Details of materials, landscaping, driveway construction and foundation design submitted pursuant to conditions 2, 4, 7 and 10 of planning permission TM/12/02948/FLX (Extension of planning permission TM/09/01679/FL (Erection of a detached two bedroom chalet bungalow))

TM/13/01500/FL Application Withdrawn 31 July 2013  
Erection of a detached three bedroom chalet bungalow (revised scheme pursuant to extant planning permission TM/12/02948/FLX)

**5. Consultees:**

- 5.1 PC: The Parish Council has previously raised concerns regarding this infill development and continues to have severe concerns of the size of the proposed development compared to the limited size of the site.
- 5.2 KCC (Highways): No objection.

5.3 Private reps: 11/0S/0X/6R. The letters raise the following objections to this development:

- The proposal is larger than the previously approved dwelling.
- The dwelling would appear cramped and an overdevelopment of the site, out of character and appearance with Derby Close.
- Loss of privacy arising from the proposed dormer windows.
- The addition of the double garage to the front of the property will reduce the amount of turning for vehicles within the site. Even with the visibility splays, it will have a detrimental effect on highway safety.
- The development would exacerbate the existing surface water drainage problem within Derby Close that occurs with prolonged periods of heavy rain.
- The application is not dissimilar to one turned down in 2005 (and dismissed on appeal), the main reasons being overdevelopment of the site and road safety.
- The increase in the number of bedrooms from 2 to 3 will mean that more cars will be parked on site. This would make access to the houses in Derby Close even more difficult than it is already as there will be less space to park in the road.
- The existing service road is too narrow to serve another property.
- There are protected trees in the neighbouring properties that would be affected by the proposed development.

## **6. Determining Issues:**

6.1 The principle of erecting new dwellings within the confines of Hildenborough is acceptable under policy CP 12 of the Tonbridge and Malling Borough Core Strategy 2007.

6.2 However, consideration has to be given to other matters when considering whether a proposed development is acceptable in all regards. Whilst there is no longer any presumption that garden land could automatically be developed, in principle there is, likewise, no embargo on such development. Each case must be treated on its merits. One of the core planning principles of the NPPF listed in paragraph 17 is;

*“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.”*

- 6.3 Paragraphs 60 and 61 of the NPPF relate specifically to the issue of good design. They state;

*“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or re-enforce local distinctiveness.*

*“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*

- 6.4 These objectives are shared by policy CP 24 of the TMBCS which requires all developments to be well designed and through scale, layout, siting, character and appearance be designed to respect the site and its surroundings.

- 6.5 Policy SQ 1 of the MDEDPD is also relevant to this proposal. This requires developments to reflect the local distinctiveness of the character area they would be located within. In this case, the site is located within area 4.1 as defined within the Hildenborough Character Areas Supplementary Planning Document that was adopted in February 2011. With regard to Derby Close in particular, this document states:

*“The chalet bungalows in Derby Close are of a uniform design with prominent front facing gable ends and side dormers. The lower storeys are white painted and the gable ends tile hung. The uniform design and colour scheme gives the Close a cohesive character.”*

- 6.6 However, the existing bungalows at nos. 6 and 7 Derby Close are not specifically referenced in the Hildenborough Character Area Assessment. It is also worthy of note that no 5 Derby Close, which is located at the west end of this cul-de-sac, has been extended to the side and now has the scale, bulk and appearance of a conventional two storey dwelling house rather than the chalet dwelling it once was. Therefore the dwellings in this road vary in terms of size, form, height and character. It is in this context that this application has to be considered.

- 6.7 A concern of local residents is that the proposed dwelling is larger than the one previously approved, and is similar in size to a dwelling that was refused in 2005 (and which was subsequently dismissed on appeal). There is no reason, in principle, why a dwelling that is larger than one that was previously allowed should not be allowed; the tests are ones of the acceptability of the current proposal in its own right. The acceptability will, of course, depend upon the scale of the development and how it relates to the site and the wider surroundings and of course the earlier permission does provide something of a datum.

- 6.8 It is, perhaps, worth noting that the last approved dwelling on this site had a maximum width of 10m whereas the current proposal is 10.1m in width (excluding the chimney breast) and a length of 13.8m whereas the current scheme is 14m in length. In the previously approved scheme, the ridge line of the main part of the dwelling stood 6.5m high, whereas the maximum height of the dwelling currently proposed is 6.6m.
- 6.9 It is acknowledged that the proposed scheme is bulkier than the previously approved scheme, particularly at first floor level. In part this is accounted for by the fact that the previous scheme contained a conservatory on the front elevation, which had a lower ridge height than the main section of the dwelling. However, it is considered that the proposed dwelling would not appear significantly larger nor would it spread across much more of the site than the scheme that has previously been considered to be acceptable.
- 6.10 The proposed dwelling also has a similar overall width and length to the dwelling that was refused permission and dismissed on appeal (ref. TM/05/02253/FL). The refused scheme, however, also contained a detached garage located between the dwelling and Derby Close. The forward projecting section of that dwelling was also wider than as currently proposed and the dwelling had a uniform ridge line with a gable end. The currently proposed dwelling contains two separate ridge lines and the forward projecting section also contains a hipped roof where it would face the road. These differences result in a development that appears less cramped than the scheme that was refused permission and dismissed on appeal in 2005.
- 6.11 The application site has a plot size that is commensurate with existing properties in Derby Close. In this context, the proposed development would not result in a cramped over-development of the site and would not fail to respect the general arrangement and spacing of dwellings in the locality.
- 6.12 Therefore, in terms of siting, form, scale, layout and appearance, the proposed development would reflect the local distinctiveness of the existing development within Derby Close. Accordingly whilst the development would not now be on PDL it would, none-the-less, accord with Government policy outlined above as well development plan policies CP 24 and SQ 1.
- 6.13 Concern has been expressed with regard to overlooking arising from the dormer windows. One dormer window would be located within the west facing roof slope of the dwelling serving bedroom 1. However, this would not face directly towards the neighbouring dwelling at 48 Knowsley Way and would be located over 25 metres away from this neighbouring dwelling. Similarly, the rear facing first floor windows would not look directly towards the private garden space of the dwelling house within the neighbouring property at April Lodge, 13 Coldharbour Lane. The roof lights located within the east facing roof slope would sit a minimum of 1.6m

above the floor level of the bedroom they would serve. The Government has determined (in defining permitted development rights for dwellings) that a window cill height of 1.7m is acceptable to prevent overlooking to neighbouring properties. I would, therefore, recommend the use of a condition to ensure the side facing roof lights are located a minimum of 1.7m above the internal floor level of the bedroom they would serve rather than 1.6m as currently shown.

- 6.14 Concern has also been expressed with the impact of the development upon highway safety. Under the current adopted car parking standards, two and three bedroom dwellings have the same car parking requirement, which is for two car parking spaces in this location. The development includes a driveway that would accommodate two vehicles, in addition to the space within the integral double garage. Adequate room would be provided to turn vehicles around within the site and the highway authority is satisfied that this development is acceptable in terms of highway safety.
- 6.15 The development has been amended from the previously permitted scheme to move the dwelling away from the mature trees that are located within the neighbouring property within Knowsley Way. Moving the site of the dwelling outside of their root protection zones would be beneficial to them.
- 6.16 In light of the above, the proposed development is considered to be acceptable, notwithstanding the concerns raised by the Parish Council and local residents. Accordingly, I recommend that planning permission be granted.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** as detailed in the following submitted details: Location Plan dated 27.09.2013, Photograph MATERIALS dated 27.09.2013, Arboricultural Survey dated 27.09.2013, Sections E12 dated 27.09.2013, Floor Plan 1 F dated 27.09.2013, Floor Plan 2 F dated 27.09.2013, Elevations 3 F dated 27.09.2013, Site Plan 12/080/101 Rev. A dated 27.09.2013, Survey OP1207/203 dated 27.09.2013, subject to:

### **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. All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of 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: 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. 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: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

5. The access shall not be used until the area of land within the vision splays shown on the approved plans has been reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic.

6. No development shall take place until details of the construction of the driveway including the surfacing and drainage thereof, to be used for the parking of vehicles have been submitted to and approved by the Local Planning Authority. The work shall be carried out in strict accordance with the approved details. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town & Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting that Order) shall be carried out on land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

7. The garage shall not be used for any other purpose than the accommodation of private vehicles or for a purpose incidental to the enjoyment of the related dwellinghouse and no trade or business shall be carried on therefrom.

Reason: To safeguard the amenities and interests of the occupants of other property in this residential area.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C and E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To safeguard the appearance of the area

- 9 a) If during development work, site significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease immediately and an investigation/remediation strategy shall be agreed with the Local Planning Authority and implemented by the developer.

b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought on site should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

c) A closure report shall be submitted by the developer delineating (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

- 10 Notwithstanding the details contained on drawing no. E12, the roof lights located within the east facing roof slope of the dwelling shall have a minimum lower cill height of 1.7m above internal floor level and this level shall be maintained at all times.



Reason: To ensure that the development does not harm the amenities of the locality.

**Informative:**

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmhc.gov.uk](mailto: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.

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