

Hildenborough **554932 150703** **25 October 2013** **TM/13/02224/FL**
Hildenborough

Proposal: Construction of twelve houses, being an amended scheme to that previously approved under planning permission reference TM/06/00140/FL and including the addition of single storey additions to six of the houses, other elevational changes, and the incorporation of additional land into individual gardens

Location: Oakhurst Park Gardens Hildenborough Tonbridge Kent

Applicant: Coombe Bank Homes

1. Description:

- 1.1 Retrospective planning permission is sought for the construction of 12 houses on the former Oakhurst Manor site, being an amended scheme to that previously approved under planning reference TM/06/00140/FL. Following Oakdene Homes Plc obtaining planning permission for the 12 unit scheme, Coombe Bank Homes commenced development but not in accordance with the approved plans. This application therefore seeks to regularise the works that have taken place on site.
- 1.2 To summarise, the changes involve alterations to the visual appearance of the elevations of the buildings including, for six of the plots, larger floor areas than previously approved by virtue of the incorporation of single storey 'additions' (conservatories). Land previously intended to be retained as a single area of private open space has been subdivided and incorporated into the individual plots by the installation of chestnut post and rail fencing.

2. Reason for reporting to Committee:

- 2.1 Lengthy and controversial planning history.

3. The Site:

- 3.1 The site lies within the Metropolitan Green Belt, outside any defined rural settlement confines.
- 3.2 The northern boundary of the site is framed by a loose-knit group of residential properties.
- 3.3 Access to the site is from Bank Lane, which is a narrow road. The site is well screened on the side boundary along the B245 (London Road) by mature trees. The land slopes down to the rear of the site and runs parallel to London Road.

4. Planning History (most recent/relevant):

TM/00/00124/FL Refuse 30 July 2001

demolition of existing building and construction of 16 no. apartments with associated car parking and bin store

TM/04/02119/FL Grant With Conditions 1 July 2005

Demolition of existing building and erection of 10 residential units

TM/05/03126/RD Grant 3 January 2006

Details regarding provision of secondary school places, scheme of acoustic protection, scheme of external decoration, scheme of soft landscaping and details of tree protection scheme (including the removal of a Beech tree), submitted pursuant to conditions 2, 3, 7, 15 and 16 of Consent ref: TM/04/02119/FL (Demolition of existing building and erection of 10 residential units)

TM/06/00140/FL Approved 30 January 2008

Residential development to construct 12 dwellings with garaging in two blocks following demolition of existing buildings

TM/08/03117/OA Application Withdrawn 19 January 2009

Outline Application: Redevelopment of Oakhurst Manor with 81 no. affordable dwellings (comprising a mixture of houses and apartments), shop unit and associated public open space, landscaping, access roads and car parking

TM/09/02992/OA Refuse 4 April 2011

Outline Application: Redevelopment of Oakhurst Manor with 81 affordable dwellings (comprising a mixture of houses and apartments), 1 shop unit and associated public open space, landscaping, access roads and car parking, (resubmission following withdrawal of planning application TM/08/03117/OA

TM/10/01066/FLX Application Withdrawn 5 January 2011

Extension of time of planning permission TM06/00140/FL: Residential development to construct 12 dwellings with garaging in two blocks

TM/10/01067/FLX Application Withdrawn 5 January 2011

Extension of time of planning permission TM04/02119/FL: Demolition of existing building and erection of 10 residential units.

TM/10/02943/RD Approved 10 December 2010

Discharge of conditions 2 (materials), 3 (joinery), 9 (junction details), 14 (landscaping), 15 (acoustic treatment), 17 (footpath details), 20 (levels), 22 (external lighting) and 23 (window reduction) submitted pursuant to TM/06/00140/FL (residential development to construct 12 dwellings with garaging in two blocks following demolition of existing buildings)

TM/11/00306/FL Approved 2 June 2011

Removal of Condition 21 (Affordable Housing) of planning permission TM/06/00140/FL: Residential development to construct 12 dwellings with garaging in two blocks following demolition of existing buildings

TM/13/01632/FL Application Withdrawn 18 July 2013

Section 73 Application seeking removal of condition 13 of planning permission TM/06/00140/FL (which required an area of private open space to be laid out and made available), (Residential development to construct 12 dwellings with garaging in two blocks following demolition of existing buildings)

5. Consultees:

5.1 Hildenborough PC: Since responding to the above planning application we have been told the closing date for comments on this application has been extended to 26 October. When we spoke to you prior to sending in our comments you were not in possession of all the background we required but subsequently we have been informed of its history and reasons for some of the conditions imposed. We would, therefore, like to add our own comments.

5.1.1 Our understanding is that on this site surrounded by Metropolitan Green Belt and adjacent to the Kent Downs Area of Outstanding Natural Beauty, permission was obtained for the development 12 houses (TM/06/00140/FUL) to be built with a surrounding private open plan area without subdivision by gardens.

5.1.2 There have, to the Parish Council's knowledge, been eight different planning applications for various numbers of dwellings, and removal of conditions placed on the original planning applications. In addition, we believe, attempts were made to fell mature trees on this site for which TPOs have now been imposed. We are most concerned to note that the current application is for retrospective permission.

5.1.3 We have, in the past, objected to planning conditions being removed and having now gained a fuller understanding of this development object to the removal of condition 13; *"the area shown on the approved plan as private open space shall be laid out and made available for use within three months of the completion of the development"*. We object to this by reason of the original reasons for its imposition

that in order to be commensurate with the original Oakhurst Manor, surrounding Metropolitan Green Belt and Kent Downs Area of Outstanding Natural Beauty the grounds should remain open in nature to preserve the characteristics of a green field site.

- 5.1.4 Further we understand that the Borough Council's Enforcement Officer was called to the site when deviation to the conditions imposed on the approved planning application was observed. No further action in response to this seems to have been taken place. The Parish Council were completely unaware of this. Further it seems to the Parish Council the sectioning up of the 'private open space' is a definite breach of condition 13, and further the building of conservatories on six of the houses without planning permission is in breach of the original plans approved by the Borough Council.
- 5.1.5 The Parish Council would like their objection to TM/13/02224/FL recorded for the reasons given above.
- 5.2 Seal PC: The proposed amendment seeks to remove conditions imposed with the original planning consent that sought to protect the open countryside in the MGB. The current proposal in creating separate garden areas instead of the parkland setting originally proposed, introduces an urban look and detracts from the surrounding area. The original planning consent removed permitted development rights to mitigate against increasing bulk of developed form. The proposed amendments remove that protection in detriment to the location, and increase the risk of light spill from the conservatories, and detracting from the night sky. Seal Parish Council (an adjoining Parish) object to this revised application and it should be refused. A large number of Seal parishioners were active in their objection to various proposals on this site, and were ambivalent to the original grant of permission, that is now proposed to be fundamentally altered in its visual context and setting in the local area.
- 5.3 KCC (H&T): No objections.
- 5.4 Private Reps: 16/3 letters of objection. Objections centre on the following grounds:
- Fencing significantly changes the character of the development and would harm the rural character of the area;
 - This is urban encroachment into the countryside;
 - Carving up land for gardens has created an inappropriate suburban appearance;
 - Question how the proposal actively seeks to protect the woodland and trees on site in light of damage caused by contractors during the course of the development;

- Development should not extend beyond the footprint of the original Manor house as originally stipulated;
- Do not agree that the failure to provide dedicated gardens to serve the new dwellings will adversely impact financial viability – similar developments nearby offer houses without individual gardens such as Fountains Park, Westerham;
- Site gives a rare opportunity to provide a large area of parkland which could be a significant selling point;
- Questions why the Council does not have a monitoring procedure whilst developments are undertaken meaning that responsibility falls on watchful neighbours to report serious divergences;
- Application makes a mockery of the original planning conditions;
- Location of bin store in close proximity to boundary of site will cause noise and odour nuisance to neighbours.

6. Determining Issues:

- 6.1 Members may recall that the planning history in respect of this site is long and involved. The key consideration in respect of this latest application is whether the development is, *in its own right*, acceptable in terms of its impact and not whether specifically it is materially different in its impact when compared to the approved 2006 planning application. It is quite correct that the 2006 permission does set a datum for acceptability but ultimately this scheme must be judge on its own merits
- 6.2 Since planning permission was granted for the 12 houses and associated garage blocks, the policy framework within which the Council is required to determine planning applications has changed considerably, with the publication of the NPPF in March 2012. The NPPF states that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
- 6.3 Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate within the Green Belt. Exceptions to this include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. It must be remembered that the principle of this scale of unit numbers was established when the decision was made to allow individual dwellings to be developed *in lieu* of the pre-existing older persons' accommodation that sat on the site previously in the form of a major block building.

- 6.4 The 'extensions' to six of the units within the development are small scale in terms of footprint and bulk and are seen entirely against the backdrop of the substantial townhouses themselves. Had the dwellings been completed and occupied, separate applications for the extension of these dwellings would have been considered as representing modest increases, not disproportionate to the original buildings and thus would have been in accordance with the requirements of the NPPF. I appreciate that the original case for permitting the scheme for 12 houses (which rested in part on the comparisons drawn between that scheme and an earlier scheme for 10 houses which itself post dated the older persons' complex) will be deviated from, to some extent, as a result of this increase in footprint but do not consider that this should now justify a refusal of planning permission.
- 6.5 Turning to the enlargement of the individual gardens serving the 12 units by subdividing the area previously shown to be retained as private open space (and protected by condition), Condition 13 of planning permission TM/06/00140/FL states that:
- "The area shown on the approved plan as private open space shall be laid out and made available for use within three months of the completion of the development."*
- 6.6 The reason given for the imposition of this condition was to ensure the availability of private open space for the recreational needs of the residents. A condition was also imposed on the planning permission restricting the installation of fences and means of enclosure usually considered to be permitted development.
- 6.7 The arrangements as actually installed are of an essentially rural character, being chestnut post and rail fences, which define the individual areas and these do not detract from the open aspect of this part of the Green Belt and provided, that other more imperforate styles of higher fence are not introduced in the future by occupants, the arrangements as installed would not substantively subvert the intention of the earlier condition
- 6.8 The NPPF does not cite the change of use of land or the installation of fences *per se* as being inappropriate development but the inclusion of the land into the individual gardens would normally be considered as inappropriate development, which is harmful by definition unless controls are applied to prevent adverse visual impact on openness.
- 6.9 It is my view that the change of use itself and the use of post and rail fencing is appropriate in this location. As I mentioned above, such fencing is a feature commonly seen in rural landscapes and I am satisfied that there would be no harm to the open nature or functioning of the Green Belt or the rural character of the locality.
- 6.10 I agree with objectors that the future incremental development of domestic sheds and outbuildings along with the installation of other domestic paraphernalia such as washing lines, garden furniture and so on could have an increasingly

suburbanising impact on the landscape as the dwellings become occupied and this could cause harm to the open landscape. In order to address such risks, officers are actively working to serve an Article 4 Direction to restrict future development within the areas in the applicants' control. I would also recommend that a condition be imposed removing relevant "permitted development" rights across the application site, including the area that would previously have been "combined" private open space had the development been undertaken in accordance with the previously approved plans. This should ensure that the intrinsic openness of the Green Belt at this point would not be compromised, having established that the fences themselves would not cause any such harm. Progress in this respect will be reported within the Supplementary report.

- 6.11 Another of the core principles contained within the NPPF centres on the need to always seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is supported by policy SQ1 of the MDE DPD. Having visited the site recently, it is my view that the development has been undertaken to a high standard and has resulted in an attractive private development within the rural locality. The changes from the approved scheme in terms of the elevational treatment are relatively minor and have in no way compromised the resulting development.
- 6.12 Finally, I have noted that one of the bin stores has been constructed directly adjacent to the northern boundary of the site, shared with a residential property. The area is enclosed by a close boarded fence and the boundary here is defined by a relatively high brick wall. As such, I do not consider that this arrangement would cause undue harm to the amenities of this neighbouring property
- 6.13 In light of the above assessment, I conclude that the proposed development meets the requirements of the NPPF, policies CP3, CP14 and CP24 of the TMBCS and I therefore recommend that planning permission be granted.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Elevations 12-OAK-119 Rev C dated 25.10.2013, Elevations 12-OAK-120 Rev C dated 25.10.2013, Elevations 12-OAK-121 Rev C dated 25.10.2013, Elevations 12-OAK-122 Rev C dated 25.10.2013, Elevations 12-OAK-123 Rev C dated 25.10.2013, Drawing 12-OAK-BIN-01 dated 05.11.2013, Location Plan 19745/745 Rev 3 dated 25.10.2013, Email dated 16.08.2013, Letter dated 16.08.2013, Floor Plan 1 OAKHURST dated 16.08.2013, Floor Plan 2 OAKHURST dated 16.08.2013, Floor Plan 3 OAKHURST dated 16.08.2013, Floor Plan 4 OAKHURST dated 16.08.2013, Floor Plan 5 OAKHURST dated 16.08.2013, Floor Plan 6 OAKHURST dated 16.08.2013, Floor Plan 7 OAKHURST dated 16.08.2013, Floor Plan 8 OAKHURST dated 16.08.2013, Floor Plan 9 OAKHURST dated 16.08.2013, Floor Plan 10 OAKHURST dated 16.08.2013, Floor Plan 11 OAKHURST dated 16.08.2013, Floor Plan 12

OAKHURST dated 16.08.2013, Floor Plan 12-OAK-105 Rev. A dated 16.08.2013, Floor Plan 12-OAK-106 Rev. A dated 16.08.2013, Floor Plan 12-OAK-109 Rev. A dated 16.08.2013 subject to the following:

Conditions:

- 1 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 and E (inclusive) of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of maintaining the openness of the Metropolitan Green Belt.

- 2 The access shall not be used until the area of land within the vision splays shown on the plans approved under planning reference TM/06/00140/FL 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.

- 3 No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the plans approved under planning reference TM/06/00140/FL.

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

- 4 Any gateway to the access shall be set back 5.0 metres from the edge of the highway.

Reason: To enable vehicles to stand off the highway whilst any gates are being operated.

- 5 The development shall not be occupied until the junction between the service road and the highway has been constructed in accordance with details approved under planning reference TM/10/02943/RD.

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

- 6 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning

(General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the 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 of vehicles is likely to lead to hazardous on-street parking.

- 7 The garage(s) shown on the submitted plan 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.

- 8 No building shall be occupied until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

- 9 The scheme of landscaping shall be carried out in accordance with the details approved under planning reference TM/ 10/02943/RD. 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.

- 10 The scheme of acoustic protection approved under planning reference TM/10/02943/RD shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

Reason: To safeguard the aural amenity of the occupiers of the dwelling(s) hereby approved.

- 11 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 recommendations outlined in the submitted tree report, BS 5837:2005 and the following requirements:
- (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.

- 12 The proposed footpath between the site and the B245 as approved under planning reference TM/10/02943/RD shall be implemented before occupation of the buildings and maintained as approved.

Reason: To provide a safe pedestrian access to the site.

- 13 The proposed buildings shall be constructed in accordance with the noise mitigation measures identified in the Noise Report dated 01.02.06 and additional requirements identified in the letter received on 09.08.06 as approved under planning reference TM/06/00140/FL.

Reason: The protection of the proposed occupiers from noise.

- 14 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 in the north and eastern elevations 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.

- 15 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 Class A of Part 2 of Schedule 2 of that Order, on the land shown on Plan TMBC1 attached to this decision, unless planning permission has been granted on an application relating thereto.

Reason: In the interests of maintaining the openness of the Metropolitan Green Belt.

Contact: Emma Keefe