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**Report of 9 February 2005**

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**Borough Green**                      **561012 157179**                      **03.12.2004**                      **TM/04/02445/FL**  
Borough Green And  
Long Mill

Proposal:                      3 no. 3 bedroom dwellings and associated works  
Location:                      34 Maidstone Road Borough Green Sevenoaks Kent TN15  
                                         8BD  
Applicant:                      Mr And Mrs Jakobsson

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**1. Description:**

- 1.1 The application proposes a terrace of 3 dwellings, each with three bedrooms and a single integral garage and a driveway parking space for each unit.
- 1.2 The block is to be sited to the eastern side of the existing dwelling (Ingleside) on the site and has been designed to generally reflect the appearance and form of the host dwelling.
- 1.3 Small rear gardens will be provided of some 5.7m in depth. Each garden is to be provided with a shed.
- 1.4 The unit nearest the recreation ground boundary is two storeys in height. The other two units have a third floor of accommodation within the roof void. All first and second floor windows facing Maidstone Road are to bathrooms or en-suites and all ground floor windows on the front are to kitchens.
- 1.5 The vehicular access is shown to be via the established vehicular access to the host dwelling which is a route through the Parish Council owned car park serving Borough Green Recreation Ground. This access totals a length of 65m. The application includes the creation of 2 passing bays by widening the access which involves cutting into a bank fronting Maidstone Road.
- 1.6 A bin store is to be sited at the front of the site, accessed from a proposed new pedestrian ramp to Maidstone Road.
- 1.7 The agent has submitted various supporting statements summarised below:
  - *The proposal meets the requirement for looking like one impressive substantial house.*
  - *We have introduced two passing bays to allow cars to pass each other adjacent to already parked cars.*
  - *The development would improve the visual appearance of the area significantly.*

- *This provides additional housing on previously developed land in a sustainable urban location close to amenities.*
- *Access has lengthy sight lines affording excellent visibility.*
- *Adequate green space, parking and turning and gardens.*
- *No overlooking.*
- *Development would not significantly increase traffic and not to levels when it was a doctors surgery.*
- *The daily use of the PC car park is around 5-6 cars per day.*
- *The passing bays can be created by cutting into the bank to whatever width and length required.*
- *Parked cars tend to overhang the rear kerb, giving more room to the front.*

## **2. The Site:**

- 2.1 The application site comprises a two storey detached house and garden together with the car park to the Borough Green Recreation Ground. That car park has an existing access to Maidstone Road.
- 2.2 The car park comprises of a number of informal parking spaces in which cars park perpendicular to the access. The back of the car park is bounded by a mature beech hedge. There is no separate pedestrian access within the car park: the main route for pedestrians from Maidstone Road to the Recreation Ground's entrance traverses across the vehicular access route.
- 2.3 The house at Ingleside was a doctor's surgery until the mid 1990s.
- 2.4 The total site area is 0.217 ha (0.53 ac). The site area of the garden to be developed is 0.075 ha (0.18 ac) giving a density of 40 units per hectare.
- 2.5 There are a number of mature trees in the frontage of the site close to Maidstone Road: one group comprising a yew and an ash is protected by a TPO.
- 2.6 The rear (southern) boundary is a mature tree screen. The eastern boundary is to the Borough Green Recreation Ground.

## **3. Relevant Planning History:**

- 3.1 TM/03/02682/FL      Withdrawn 28.11.2003  
Construction of 3 new houses and double garage to Ingleside.

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- 3.2 TM/96/00219/OA Refused 17.12.1997  
Outline Application for one house, two bungalows plus double garage for Ingleside.
- 3.3 TM/93/1600FL Approved 15.02.1994  
Change of use from surgery to a single dwelling house.
- 3.4 MK/4/68/190 Refused 23.05.1968  
Outline Application for a bungalow and vehicular access, for Dr. R.A. Walker.

#### 4. Consultees:

- 4.1 PC: Objects for the following reasons (summarised):
- The construction of additional properties adjacent to a distinctive 1930's house would have a visual impact on the image of the village.
  - The additional houses face onto the recreation ground which is going through a continued process of improvement and will lead to difficulties in the future.
  - The narrow entrance of the car park is presently overburdened by users that includes commuters and the additional traffic from the development is a major planning concern.
  - A25 is very busy and the car park is relatively congested.
  - The proposal for passing bays is on land which is not owned by the applicant and would be entirely dependent upon negotiations with the PC as landowners which have not taken place.
  - Concern at stability of highway if the bank is cut away (e.g. the recent large cavity found under Maidstone Road during Southern Water roadworks).
  - For the avoidance of doubt, the PC recognises that it has responsibilities as the owner of part of the freehold of the application site and that will be dealt with as an entirely separate issue.
- 4.2 MKW: No response.
- 4.3 Fire Officer: On-site access not essential for fire engines as they would be able to stop on Maidstone Road during an emergency.
- 4.4 DHH: No objections: the layout shows no habitable rooms on the A25 façade.
- 4.5 CE(BS): Objected to the originally submitted plans: The three proposed dwellings are likely to provide for an increase of 24 movements per day. This is likely to result in additional movements during the peak hours with the remainder spread throughout the day. Although there will be an increase I am of the opinion that it is

unlikely to be to an unacceptable level that is likely to result in a significant increase in the potential for hazards or delays. However, I would not find the access arrangements acceptable. The access is through a public car park that is not in the ownership or control of the applicant, although applicants currently have some access rights over it. Free access may not always be available, which is likely to result in inappropriate manoeuvres on the public highway. I am doubtful about the ability of vehicles to comfortably pass and re-pass through the car park via the access, which is also the only pedestrian route to the proposed dwellings. There is the potential for inappropriate manoeuvres due to the constraints of the access route. The proposal is also likely to increase the number of delivery vehicle visits. It is unlikely that they will access the site and are more likely to stand on the public highway to the detriment of other road users. The proposal provides for three, 3 bedroom dwellings. Current KCCVPS could attract up to a maximum of 2 off street parking spaces each and this provision is shown in the form of a single garage and parking space for each of the new houses. Concerns are also expressed over the detail of the parking layout. The Council has a back of highway collection policy and there seems to be no alternative means to access the public highway, with the maximum carry distance to bin storage being 25m. The site is lower than the general level of the public highway. With the proposed works being in close proximity to the public highway there will be a need to consult with the Kent County Council to ensure that the integrity of the public highway is not affected.

4.5.1 Comments on Revised Plans re access and parking layout: The development proposal has now addressed the parking and onsite turning within the site in a satisfactory manner. With the pedestrian access onto Maidstone Road it is possible that refuse collection can take place from the back edge of highway. This operation does already take place and the introduction of 3 additional dwelling is likely to result in a slight increase in time for this operation. The other area of concern is the increased use of the Parish Council car park to access the development. The applicant has attempted to show how with modifications to the layout vehicles should be able to pass within the car park without resulting in an increase risk of accidents or significant delays to traffic on the Primary Distributor Road (A25). Therefore on balance providing the layout for parking and turning can be achieved within the development site and the Parish car park, I raise no objection.

## **5. Determining Issues:**

5.1 The site is within the rural settlement of Borough Green fronting the A25 primary distributor route. The principle of infill residential development is therefore acceptable subject to scale and design; no harm to amenity; a satisfactory noise environment; acceptable access and parking; no impact on important trees, and no impact on Maidstone Road in terms of highway safety and the flow of traffic.

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- 5.2 Borough Green is subject to Policy P6/1 of the TMBLP which presumes in favour of minor residential development such as infilling.
- 5.3 Policy P4/11 of the TMBLP requires new development to maintain local character and quality of the environment and to be acceptable in terms of density, layout, and appearance. The density of the development is higher than the prevailing density of this part of Borough Green but does fall within the guideline of 30-50 dwellings per hectare that is encouraged in Government Guidance in PPG3 (Housing).
- 5.4 The block has been designed to have the general appearance of a large house albeit sub-divided into 3 terraced units. The ground level of the terrace is set at a lower level than the host dwelling with the result that the ridge height is level with that of the host dwelling. The design and appearance of the new development is acceptable in my opinion.
- 5.5 The new terrace will be sited between the host dwelling and the Recreation Ground, which is to the eastern side. Residential amenity effects will therefore be limited to those on the host dwelling. The separation between main flanks is 3.7m and the new block is sited such that it projects approx. 4m to the rear of Ingleside. There are no flank windows in the new terrace facing Ingleside. The new terrace will reduce some early morning sunlight to the rear of the host dwelling but overall I consider that there is no harm to residential amenity.
- 5.6 In terms of Policy P3/17, an acoustic survey submitted with application TM/03/02682/FL indicated that the site falls within NEC C during both day and night. In accordance with Policy P3/17, the development has been designed such that no noise sensitive rooms are on the front elevation and the proposal is therefore acceptable on this basis although a restrictive condition would need to be imposed to ensure the layout remains acceptable.
- 5.7 The site is subject to a TPO. It is considered that the layout of the development does not harm the protected trees subject to the imposition of a relevant condition.
- 5.8 Policy T19 of the KSP resists development with access onto the primary distributor network if there will be an increased risk of accidents or significant traffic delays.
- 5.9 As a result of the initial objection from CE(BS), revisions have taken place to the layout of the development in order to ensure that delivery vehicles etc can turn on site. This reduces the risk of such vehicles either parking on Maidstone Road or in the Recreation Ground car park to deliver goods. The site does not need to be able to allow fire engines to turn on site as the Fire Brigade has confirmed that the new dwellings will be within an acceptable distance from a fire engine parked on Maidstone Road in emergencies.
- 5.10 The remaining issue is access and the additional traffic movements. The access to Maidstone Road currently passes through the car park to the Recreation Ground.

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- 5.11 This access therefore serves the existing dwelling (Ingleside), visitors to the Recreation Ground and (as parking is unrestricted) there is also likely to be some use by commuters or visitors to other sites close by.
- 5.12 The addition of 3 no. 3 bedroomed dwellings will increase the use of the access route through the car park and also the junction with Maidstone Road. This is estimated to be an increase of 24 movements per day although not all will be in the peak periods. Members will note that CE(BS) does not consider that, in terms of numbers of extra movements, there will be a significant increase in the potential for hazards or delays on Maidstone Road.
- 5.13 The remaining issue is the currently inadequate width of the access for a distance of 65m between Maidstone Road and the new dwellings. Apart from the area used by pedestrians to access to the recreation ground, there is not enough space for two vehicles to pass if a number of the car parking spaces are in use. The agent has stated that there is scope to create two passing bays that will be of adequate dimensions. Members are advised however that in order to create one of the passing bays, a section of the beech hedge's canopy on the back edge of the car park may need to be cut back slightly although this is not considered to be visually detrimental to the locality.
- 5.14 The works to the car park are on land outside the control of the applicant and will need to be subject to a legal agreement.
- 5.15 The additional traffic due to the new houses will also increase potential congestion and conflict between vehicles and/or pedestrians in the car park. However, on balance, CE(BS) does not consider that this will impact on strategic highway safety sufficient to justify refusal.

## 6. Recommendation:

- 6.1 **Grant Planning Permission** as detailed by letters dated 01.10.2003; 12.07.2004; 08.12.2004; Certificate B date stamped 13.07.2004; drawings 106/01B; 106/02; 106/03; site location plan date stamped 03.12.2004; access details date stamped 11.01.2005 subject to:
- The applicant and any third party interests entering into a s106 legal agreement to ensure the provision of 2 passing bays in accordance with details to be first submitted and approved by the Local Planning Authority.
  - The following conditions:
    - 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission. (Z001)

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

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- 2 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. The boundary treatment shall be implemented as approved and retained thereafter. 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. (L003\*)

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.

- 3 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. (L005)

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.

- 4 No development shall take place until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details. (D001)

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

- 5 No development shall take place until details of the sheds and refuse store have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details. (D008)

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

- 6 The development shall be constructed at the level indicated on the approved drawing. (B005)

Reason: In the interests of amenity and privacy.

- 7 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 roof or western flank elevation of the building other than as hereby approved, without the prior written consent of the Local Planning Authority. (D013\*)

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.

- 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 Class A, B, C, D, E, of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto. (R001)

Reason: To enable the Local Planning Authority to control development in the interests of amenity.

- 9 No building shall be occupied until the access road and associated passing bays have been constructed in accordance with details that have been submitted to and approved by the Local Planning Authority. (H009\*)

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

- 10 There shall be no gates to the access road or to the driveways to the new dwellings hereby permitted.

Reason: To prevent vehicles blocking the vehicular access whilst any gates are being operated.



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- 11 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 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 parking space. (P004)

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

- 12 The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles. (P009)

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

- 13 No building shall be occupied until the area shown on the submitted plan as a 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. (P011)

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

- 14 The internal layout of the dwellings hereby permitted shall be constructed in exact conformity with the approved plans and there shall be no habitable rooms with windows or other openings to the front elevation of the dwellings hereby permitted.

Reason: In the interests of the residential amenity of the new development.

- 15 Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved by the Local Planning Authority. (W001)

Reason: In the interests of pollution prevention.

#### Informatives:

- 1 Details to be submitted pursuant to condition 9 shall be expected to show parking bays within the Borough Green Recreation Ground car park of a minimum depth of 4.8m and 2 passing bays of overall minimum dimensions 4.1m by 8m.

- 2 You are advised that works proposed close to the public highway will require consultation with the Highway Authority to ensure that the integrity of the public highway is not affected.
- 3 This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners. (Q040)
- 4 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate number(s) to the new property/ies. To discuss the allocation of numbers you are asked to write to the Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or telephone Trevor Bowen, Principal Legal Officer, on 01732 876039. To avoid difficulties, 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. (Q050)

Contact: Marion Geary

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**SUPPLEMENTARY REPORTS****AREA PLANNING COMMITTEE NO 2 DATED 9 February 2005**

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**Borough Green                      TM/04/02445/FL                      Pages 45-55**  
**Borough Green And Long Mill****3 no. 3 bedroom dwellings and associated works at 34 Maidstone Road Borough Green Sevenoaks Kent TN15 8BD for Mr And Mrs Jakobsson**

DHH: I am of the opinion that noise arising from the playing of tennis is unlikely to cause significant detriment to the aural amenity of the residents of the proposed houses.

Applicants' Agent: Has submitted a circular letter addressed to Members with the following summarised comments:

- There is not a need to widen the car park to allow 2 vehicles to pass alongside cars which are already in the car park
- The agent has rarely seen more than 4 or 5 cars using the car park, of which 3-4 are commuters which do not park there at weekends
- The situation whereby two cars cannot pass each other due to the presence of parked cars is a situation that exists in both Western Road and the High Street in Borough Green: this situation was created by TMBC Highways who have provided parking bays along much of their lengths
- For the above reasons, we do not consider it is necessary to cut back a substantial section of the beech hedge in order to provide a safe situation
- However, if it is the wish of Members that the car park be widened to provide passing bays, we are happy to offer to carry this out as a planning gain.

PC: Additional objections have been submitted, summarised as follows:

- Extreme concern about safe access/egress of cars from the west with the proposed car parking layout
- Pedestrian access is not shown. Extreme concern about safety of pedestrians due to the steep bank down from Maidstone Road
- A dedicated pathway for pedestrians and disabled would be necessary
- Concern about loss of beech hedge
- Concern about the stability of the bank and adjacent highway if the bank is cut away.

DPE comment: I disagree with the agent that the situation in Western Road and High Street in Borough Green is comparable to the situation on this site. I accept that in both those roads, a number of parallel parking bays have been created which narrow the remainder of the carriageway such that two vehicles would not easily be able to pass each other. However, the parking bays are not continuous along both roads. The High Street has one such bay of approx. 25m length in a stretch of road of some 150m in length. Western Road has five such bays of total length 125m in a road of length 300m.

Hence in both cases, there are intermittent areas of double yellow lines which effectively serve as passing bays in exactly the same way as officers have requested at the application site.

Members will also note that the car park at Borough Green Recreation Ground differs from Western Road and the High Street in that the former is a shared surface used by both cars and pedestrians. The Borough Green Recreation Ground also has perpendicular parking so vehicles reversing out of spaces have more restricted visibility and are more likely to interfere with the flow of vehicles accessing the development site than would be the case for the parallel parking in Western Road and the High Street.

In terms of the popularity of the Recreation Ground Car Park, it is my view that the frequency of use of the car park will vary upon the time of day and day of the week and whether there are any particular events being held. The applicants have no control as to how many cars will use the car park in the future. Members will note the aspirations of the PC as to envisaged improvements. If this application were permitted and implemented, the additional dwellings will exist in the long term and I consider it is prudent to attempt to ensure that access thereto remains acceptable over the long term.

In response to the PC's additional comments, Members will note from para 4.5.1 of the main agenda that the advice of the CE(BS) is that, subject to development site being able to be modified to accommodate room for vehicles to pass within the car park, on balance no objections were raised. The car park does of course have a long established pre-existing situation whereby there is no segregation for pedestrians and of the two possible pedestrian entrances to the car park, the shorter route is quite steep. I consider that additional improvements to the car park in terms of marking out the bays, marking out the pedestrian route traversing the access and signage to ensure the passing bays are kept clear could all be included as requirements in the legal agreement. If the PC and the developer were to come to a mutual agreement whereby additional improvements were carried out, these would need to be submitted for the Council's approval under suggested condition 9 and the Section 106 agreement.

In the light of the benefit of the car park for visitors to the recreation ground, if Members were minded to approve the application, it would be desirable if it were kept free for such purposes during construction of the dwellings. Accordingly, it is suggested that the legal agreement could also include a requirement for all building materials to be stored and for all construction traffic to park only within the garden of Ingleside.

#### **AMENDED RECOMMENDATION:**

#### **AMEND CONTENTS OF SUGGESTED SECTION 106 AGREEMENT:**

- **The applicants and any third party interests entering into a Section 106 legal agreement to ensure:**
  - **the provision and retention in perpetuity of 2 passing bays in accordance with details to be first submitted and approved by the Local Planning Authority.**
  - **the provision and retention in perpetuity of lined parking bays, of a marked direct pedestrian route and measures to prevent parking within the**

**passing bays in accordance with details to be first submitted and approved by the Local Planning Authority.**

- **all building materials to be stored only within the garden of Ingleside and not the Borough Green Recreation Ground Car Park.**
- **all construction traffic to be parked only within the garden of Ingleside and not the Borough Green Recreation Ground Car Park.**

**AMEND CONDITION 9:**

**9 No construction works on any of the dwellings hereby permitted shall be commenced until the access road from the A25 and associated passing bays have been constructed in accordance with details that have been first submitted to and approved by the Local Planning Authority. The access road and associated passing bays shall be retained for such use in perpetuity. (H009\*)**

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

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