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**Report of 14 September 2005**

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**West Malling**                      **567721 158379**                      **01.08.2005**                      **TM/05/01341/OA**  
West Malling And  
Leybourne

Proposal:                      Outline Application for the erection of one dwelling  
Location:                      Land Rear Of 31 To 38 Brickfields West Malling Kent  
Applicant:                      Mr A R Craddock

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**1. Description:**

1.1 The proposal seeks outline planning permission for the erection of one dwelling. Details of external appearance, means of access, siting, landscaping and design have been reserved for future consideration.

**2. The Site:**

- 2.1 The site lies within the settlement confines of West Malling as defined within the Tonbridge and Malling Borough Local Plan 1998 (TMBLP). Policy P6/3 of the local plan defines West Malling as a settlement where minor residential development is acceptable in principle subject to proposals conserving and enhancing the special character of the settlement.
- 2.2 The site is currently an area of grassland, used for parking on a casual basis by the residents of 31-38 Brickfields.
- 2.3 The site is accessed by a narrow, unlaidd road, which extends to the A20. It currently has vehicular access. The private shared access is also part of the route of a public right of way.

**3. Planning History:**

3.1 None relevant.

**4. Consultees:**

- 4.1 PC: Members had no objections as long as the dwelling is solely for residential purposes.
- 4.2 Kent Fire & Rescue Services: The Fire and Rescue Authority confirm that adequate means of access for Fire Service ladders and an appliance has been provided under the local enactment.

4.3 KCC (PROW): I have two concerns regarding the development of the site which I would ask are considered as part of your deliberations on this application and if possible dealt with within the planning process.

- The construction of a further, and in all likelihood sizeable property, will generate additional movements over the Public Footpath. While the numbers of additional movements may not be great, the length of Public Footpath MR137 which serves a dual purpose should, I feel, be improved to a standard to properly support the vehicular use to be made of it.
- Access to the site during construction will I assume be by the same vehicular access. A safe turning area should be provided within the site for delivery vehicles etc, which should themselves be limited in size so as to limit any potential damage to the boundaries of the Public Footpath. Priority should at all times be given to pedestrian users of the footpath.

4.4 KCC (Highways): No objections.

4.5 DHH: No objection, subject to contamination condition.

4.6 Private Reps: Art 8 Site and Press Notice + 14/0S/0X/10R. Ten letters received, objecting on the following grounds:

- The section of roadway outlined in red cannot be part of this development as it is the only road to houses 25 and 26, as well as serving various other properties for vehicular access.
- Access is very poor, especially at the point of turn-in from Brickfields into the red outlined roadway for large vehicles.
- Brickfields is a very narrow unmade road, which is also a public footpath. Additional traffic will have negative impact on this amenity.
- The tight bends involved in accessing the site may cause major problems in the construction of this dwelling and for access by emergency services.
- The land in question is currently used as car parking for existing residents. Residential parking is already at a premium, the road being very narrow. The loss of the parking would result in a greater number of cars being parked on the A20, which would restrict visibility and lead to a greater risk of accidents.
- The area surrounding Brickfields has a relatively rural aspect which would be lost as a result of the proposal.
- Depending upon the size of the building, the proposal could result in a loss of privacy for existing properties.

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- The proposal would further reduce the limited water pressure in the area.
  - The land contains several mature trees, which may need to be removed as a result of the application. The loss of these trees would be harmful to the visual amenity of the locality.
  - The traffic census was carried in the school holidays and therefore does not reflect an accurate representation of traffic and pedestrian movements.
  - The traffic census was carried out in July when there was good visibility conditions so does not show an accurate result.
  - No indication of traffic and pedestrian flow was recorded at the weekend. The footpath would be most heavily used on the weekend.
  - The applicant intends to widen the vehicular access, which will involve removing trees and fencing.

## **5. Determining Issues:**

- 5.1 The main determining issues associated with this outline application are whether the principle of the proposal is acceptable.
- 5.2 Policy RS3(b) of the KSP 1996 seeks to protect villages and small towns of exceptional conservation importance. Policy P6/3 of the TMBLP identifies West Malling as being an RS3(b) village, where minor residential development will be appropriate in principle, subject to all such proposals conserving and enhancing the special character of the settlement. Policy QL1 of the emerging KMSP states that development which would be detrimental to the built environment, amenity, functioning and character of settlements or the countryside will not be permitted.
- 5.3 Details relating to siting and design have been reserved for future consideration. However, I am of the opinion that subject to further details relating to the siting and design, the principle of the proposal will not be detrimental to the special character of the settlement.
- 5.4 It is proposed to access the site off of the A20. Policy T19 of the KSP states that development will normally be refused which involves the increased use of an existing access directly onto that network, where an increased risk of accidents or significant traffic delays may result. This is reflected also in TP11 of KMSP.
- 5.5 At my request additional work has been carried out and a census of traffic and pedestrian movements has been submitted by the applicant to provide details in relation to the existing traffic flow to assess the likely impact of the proposed dwelling on the flow of the traffic.

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- 5.6 The census demonstrates that the proposal will not have a significant impact upon the number of vehicles entering and leaving Brickfields and will therefore be acceptable under Policy T19 of the KSP. Whilst I note that the census was carried out in the school holidays, I am of the opinion that by carrying it out in term-time would not be likely to raise a significant cause for concern.
- 5.7 Less traffic would be likely to use the dog-leg access road to the site (near to the side of no. 31), given that the vehicles currently parked on the site would need to park elsewhere.
- 5.8 Whilst I note the concerns relating to the loss of the existing parking for vehicles, this is a civil issue. The owner could prevent vehicles parking their cars on this land at any time. The applicant considers that the vehicles currently parked on the site would be parked to the front of nos. 31-38.
- 5.9 I note the concerns raised relating to the impact of the proposal on the PROW. However, I am of the opinion that the proposal will not have a significantly detrimental impact upon the safety of the PROW.
- 5.10 The applicant has not indicated that they wish to widen the access. If they wish to do this, consent would obviously need to be obtained from any additional landowners. At this stage, the application should be considered on the basis that it would not be widened.
- 5.11 Whilst I note the concerns raised relating to the impact that the proposal would have upon the water supply and the problems that would result from the access of construction vehicles to the site, these are not material planning considerations in cases such as this. Planning permission does not convey any legal right to block a public or private right of way.
- 5.12 I note the concerns raised regarding the potential loss of privacy that may result from the proposal. However, I am of the opinion that a new dwelling can be designed to meet the requirements set out in Policy Annex PA4/12 of the TMBLP, to have a minimum of 21 metres distance between habitable rooms.
- 5.13 There are a number of trees on the site. I consider that any proposal should retain the hedge on the eastern boundary, the apple and the Birch trees. However, I do not consider that any of these trees are worthy of being protected by a Tree Preservation Order. No details have been provided at this stage by the applicant relating to the siting of the proposed dwelling. However, I am of the opinion that there is sufficient space within the site to position the dwelling without resulting in a significant harm to these trees.
- 5.14 In light of the above considerations, I consider the above proposal to be acceptable.

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**6. Recommendation:****6.1 Grant Planning Permission**, subject to the following conditions:

- 1 Approval of details of the siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority.

Reason: No such approval has been given.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 3 The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 4 No development shall take place until details and samples of 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.

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 The access drive shall be constructed no steeper than 1 in 14.3 for the first 4.5 metres from the edge of the highway and no steeper than 1 in 8 on any other part.

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

- 6 The use of the access shall not be commenced until turning facilities have been provided within the curtilage of the site and these facilities shall be retained thereafter free from any obstruction.

Reason: In order that a vehicle may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

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- 7 The access shall not be used until vision splays of 2m x 2m x 45° between the driveway and the back of the footway have been provided. The area of land within these vision splays shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.

Reason: In the interests of highway safety.

- 8 The details submitted in pursuance of Condition 1 shall show land reserved for parking or garaging in accordance with the adopted County Parking Standards. None of the buildings shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. Thereafter 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 (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking area.

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

- 9 No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 10 Before the development commences, details of the slab levels of the proposed dwellings shall be submitted to and approved in writing by the Local Planning Authority and the approved slab levels shall be implemented in complete accordance with the approved details.

Reason: In the interests of the amenity of locality.

- 11 No development shall be commenced until:

(a) a site investigation has been undertaken to determine the nature and extent of any contamination, and

(b) the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted

(c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and

(d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity and public safety. (N015)

Informatives:

- 1 With regard to works within the limits of the highway, the applicant is asked to consult The Highways Manager, Engineering Services, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent. ME19 4LZ. Tel: (01732) 844522.
- 2 Surface water from the site shall not be discharged onto the public highway.
- 3 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)
- 4 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)

- 5 The granting of this permission does not purport to convey any legal right to block or impede any private right of way which may cross the application site without any consent which may be required from the beneficiaries of that right of way. (Q041)

Contact: Glenda Egerton