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<b>West Malling</b> West Malling And Leybourne	<b>567957 158325</b>	<b>08.08.2005</b>	<b>TM/05/02490/FL</b>
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Proposal:	Construction of 2 no. detached houses with garage
Location:	249 London Road West Malling Kent ME19 5AD
Applicant:	Millwood Designer Homes Ltd

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## **1. Description:**

1.1 Members will recall that this application was deferred from the February meeting of the Area 2 Planning Committee to enable Members of the Committee to inspect the site again. The inspection took place on Friday 17 February 2006.

## **2. The Site:**

2.1 The site lies within the settlement confines of West Malling, within a low density residential area as defined on the proposals map accompanying the TMBLP. The site fronts onto London Road and currently contains one detached dwelling (No. 249) within a wide plot measuring approx 55m in width for the majority of the site, although it widens out at the rear to approx 73m. The resultant 3 unit layout density (including 249) is 6.4 dph. The density of the new development area will be 7.4 dph.

2.2 The site (and the neighbouring properties 245 & 251 London Road) is subject to Tree Preservation Order 12-10-29. Many individual trees including Beech, Horse Chestnut and Sycamore within the application site are protected as are two small groups, which include Willow, Beech, Copper Beech and False Acacia.

## **3. Planning History:**

3.1 TM/04/00225/FL Refused 18.03.2005; Appeal Dismissed 09.09.2005

Proposed 5 no. detached houses with garaging and alterations to existing access.

## **4. Consultees:**

(Brought forward from Supplementary report to February APC2)

4.1 Two further letters have been received, one of which relates to matters of size, layout, design and relationship of the proposed dwellings to their respective plot sizes. These issues were addressed in my main report to the January meeting of APC 2. The second letter comments upon the amended site plan. The neighbour welcomes the developer's intention to retain the existing planting to the north and eastern boundaries and the provision of supplemental planting. The neighbour is also pleased that the developer is proposing to reduce the slab levels of the proposed houses by 300mm but hopes that these levels could be further reduced.

However, it is still requested that plot 2 be moved further forward. It is commented that, with regard to landscaping, since most of the trees and all of the shrubs are not protected, they could be removed at a later stage. The neighbour also comments that the tree report is a resubmission of an earlier one submitted with this application.

**5. Determining Issues:**

- 5.1 The determining issues regarding this application are contained in my previous report to January meeting of the APC 2, which is attached at Annex 2 to this report.
- 5.2 With regard to the comments of the neighbour, my recommendation contains a condition (18) that requires the submission of details of the proposed slab levels of the proposed houses. With regard to the issue of moving the position of the house within the plot, as has been stated in the main body of my report to the January meeting of APC2, the siting of the proposed houses is considered to be acceptable in its current form. I do not therefore believe that it would be justifiable to require the applicants to move the house further forward. In fact, such action could well cause interference with the roots of a protected Beech tree located within the application site.
- 5.3 With regard to the issue of trees and shrubs, the recommended conditions 10, 11, 12 & 13 would, I consider, deal adequately with this matter. Indeed condition 12 specifically requires that any trees and shrubs shown on the approved plan to remain in place, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the local authority. Condition 13 requires the trees/shrubs to remain in place to be marked out on site to minimise the risk that they are accidentally removed from site during the construction works. Therefore such trees and shrubs that are to be retained on site are given protection by these proposed conditions.

**6. Recommendation:**

- 6.1 **Grant Planning Permission** as detailed in letter dated 17.08.2005, Arboricultural report dated 05.08.2005 and plan nos. P95/S3/121 rev B, 211, 221 rev A, 501 rev A, M201, subject to:

- 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 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.

- 3 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.

- 4 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.

- 5 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.

- 6 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.

- 7 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.

- 8 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.

- 9 No development shall take place until details of the proposed permeable paving and edging to be used on the proposed driveway have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the existing protected trees within the site.

- 10 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.

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.

- 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 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.

- 12 The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

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.

- 13 No development shall commence until all existing trees and shrubs shown on the approved plan to remain in place have been identified on site by way of spray marking.

Reason: To protect the appearance and character of the site and locality.

- 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 south east (flank) elevation of the building within plot 2 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 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 of the buildings other than as shown on the approved plans 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 the amenity and privacy of adjoining property.

- 16 A scheme of acoustic protection shall be submitted, pursuant to TMBLP policy P3/17, that shall be sufficient to secure internal noise levels no greater than 30 LAeq dB in bedrooms and 40 LAeq dB in living rooms with windows closed. Additionally, where the internal noise level will exceed 40 LAeq dB in bedrooms or 48 LAeq dB in living rooms with windows open, the scheme for acoustic protection should incorporate appropriate acoustically screened mechanical ventilation. Mechanical ventilation should also be provided to bedrooms having openings onto facades that will be exposed to a level of road traffic noise in excess of 78 L<sub>Amax</sub> (slow) time weighting. The scheme of acoustic protection shall be submitted in

conjunction with an acoustic appraisal of the site, the results of which will be used to develop the measures necessary to adhere to the decibel levels prescribed by this condition.

The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates.

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

- 17 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, with respect to the eastern most plot (Plot 2), shall be carried out within Classes A & B of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto. (R001)

Reason: In order to protect the amenities of neighbouring residential properties.

- 18 No development shall take place until details of the slab levels of the proposed houses, in relation to those of the existing houses at 245 and 249 London Road, have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

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

Contact: Matthew Broome