

---

<b>West Malling</b> West Malling And Leybourne	<b>568095 157784</b>	<b>03.10.2005</b>	<b>TM/05/03034/FL</b>
--	----------------------	-------------------	-----------------------

Proposal:	2 no. 2 bedroom houses and 1 no. commercial unit (Class A1) with parking, revised access and associated works
Location:	Mill Yard Swan Street West Malling Kent ME19 6LP
Applicant:	Bedlars Holdings Limited

---

## **1. Description:**

- 1.1 Members will recall that proposals have previously been submitted to the Council for the redevelopment of this site. This latest application has been submitted following the Council's refusal of application TM/03/03673/FL and the Inspector's dismissal of a subsequent appeal. The applicant has sought to identify the previous grounds of refusal identified by the Inspector and specifically address those issues.
- 1.2 These proposals are for the development of the site for a mixed use scheme of 2 two bed-roomed residential units and one commercial premises that could feasibly be used as three individual units. The development would be in the form of a two storey 'L' shaped block to reflect the courtyard style layout of buildings at the Mill Yard.
- 1.3 Vehicular access is obtained from an existing access off Swan Street. 8 car parking spaces are proposed and two motorcycle spaces - one parking space for each of the new dwellings and 6 to serve the Mill Yard commercial units (both existing and proposed). The proposals have been designed to allow for the retention of the existing 'permissive' pedestrian link through the site.
- 1.4 The applicant has submitted supporting statements, covering matters such as the locational strategy, the mixed use qualities of the scheme, transportation issues, car parking provision, design issues, privacy and overlooking, fire safety, pedestrian links, refuse disposal, townscape improvements and archaeology. Additionally, sectional drawings and details of how the scheme can be constructed without damaging surrounding vegetation have been obtained from the applicant. Members are invited to inspect this supporting information.
- 1.5 The proposed scheme provides 2 two bedroomed residential units and one commercial building that could feasibly be used as three small units within a site area totalling 0.11 hectares.

## **2. The Site:**

- 2.1 The site lies within the built confines of West Malling and is designated within the TMBLP Proposals Map as an area for retail development. The site lies to the south of Swan Street with vehicular access into the site immediately to the west of

the Post Office. The site contains a mix of single and two storey barns converted into retail and associated uses. These buildings form an attractive courtyard with a number of Listed Buildings immediately to the west of the site. An undercroft provides access to the site of the glasshouse and the pedestrian link between Swan Street and the public car park. The southern boundary of the site is formed by a row of conifer and holly trees, whilst the eastern boundary is formed by a 1.5m high brick wall on a ragstone plinth.

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

- 3.1 TM/03/03673/FL Refused 20.10.2004; Appeal Dismissed 19.04.2005  
Demolition of existing glasshouse and erection of 4 residential units and a commercial unit (Class A1) with parking, revised access and associated works.
- 3.2 TM/03/03731/CA Approved 02.03.2004  
Conservation Area Consent: Demolition of glasshouse.
- 3.3 TM/89/0196 Approved 21.06.1989  
Erection of greenhouse in connection with existing garden area and shoppers footpath.
- 3.4 TM/84/0978 Approved 24.09.1984  
Conversion of existing stores for use as craftsman's market/mini store with car parking spaces.

### **4. Consultees:**

- 4.1 PC: The PC expresses major concerns about access to the site – in particular for construction and emergency vehicles. Members also expressed concern at the consequent loss of parking for businesses and urge that an archaeological survey is carried out.
- 4.2 DHH: No objections.
- 4.3 KCC (Highways): No objections subject to conditions.
- 4.4 KCC Archaeology: No development should commence until a scheme of investigation into archaeology on site has been submitted to and approved by the LPA.
- 4.5 Fire Officer: No objections.
- 4.6 Private Reps: 58/0X/0S/3R. Three letters received objecting to the revised scheme on the following grounds:
  - Result in overshadowing of the dwellings to the east;
  - The development will appear imposing on the dwellings to the east;

- The reduction in height is not significant;
- The dwellings to the east lie on lower ground;
- The massing of the development is excessive;
- Loss of privacy and outlook to neighbouring dwellings;
- Access into main site is restricted and would not permit emergency vehicles;
- Lack of parking spaces for existing users;
- Garages will not be used as parking spaces;
- Development is too close to the trees;
- Refuse in front of site will be a visual intrusion;
- Increase in traffic movements;
- Archaeological interest;
- Lack of amenity area;
- Harm to pedestrian safety;
- Local flooding occurs.

**5. Determining Issues:**

- 5.1 Given that this site is located within a town centre and proposes a mixed use, the broad principle of the development proposed must be considered acceptable. Moreover, as the history above indicates, the site was the subject of a relatively recent appeal for a similar redevelopment scheme and the Inspector's conclusions on that proposal are most relevant in terms of assessing matters of detail.
- 5.2 The Inspector stated in his consideration of the previous proposals that the proposed buildings did not amount to an over intensive form of development given the character of the Mill Yard, that there would not be any undue harm to the Conservation Area or nearby Listed Buildings and that commercial units would not require parking facilities in this particular location. He found the general form and design of the buildings to be acceptable in visual amenity terms and their subsequent impact upon the Conservation Area and its Listed Buildings. The appeal failed only on the grounds that the proposals would not adequately replace 6 parking spaces serving the whole of the Mill Yard that would be displaced by the new buildings and because the proposals would have an unacceptable impact upon the privacy and amenity of neighbouring dwellings.

- 5.3 Notwithstanding the above, I have also been keen to ensure that there is clear evidence to support the applicant's claims that the development would not unduly harm existing trees of note adjacent to the site. This has been provided in the form of an appraisal from a landscape architect.
- 5.4 Additionally, the issue of density needs to be examined since, unlike the previous application that was for 6 dwellings plus 1 commercial unit, this proposal seeks permission for just two residential units with the remainder of the buildings being for commercial use. The density of the development dwellings proposed is 18 dph. Whilst this is below the 30dph that should normally be sought within an urban area, because this application proposes a mixed use within the site and the application area actually relates to the whole of the Mill Yard, it would not be appropriate in my view to object on the grounds of a profligate use of land.
- 5.5 In assessing the impacts of these revised proposals in terms of their impact upon surrounding properties, the key consideration is whether or not this amended scheme adequately addresses the grounds of refusal previously identified by the Inspector in relation to planning application TM/03/03673/FL.
- 5.6 This proposal features a reduced roof to the northern section of the block in comparison to the refused scheme, through the use of a hipped end in place of the originally proposed gable end. There has also been a slight reduction of the ridge and eaves levels. The other principal difference in built form is that two rear projections on the east elevation have been deleted. In all other respects, this bulk and height of the proposed buildings are the same as those rejected on appeal. The Inspector considered that the previous proposals would give rise to significant harm to amenity through the building appearing "dominant and neighbourly" and that it would cause overshadowing/loss of light to gardens – particularly in winter months. I have examined this matter in detail through both detailed site inspections and the requisition of sectional drawings from the applicant. My conclusions are that, in light of this latest assessment and data, the minor revisions proposed would have little effect in reducing the harm previously identified by the Inspector. Accordingly, I find this element of the proposal objectionable.
- 5.7 With regard to privacy, the revised design incorporates only high level windows in the elevation facing 36 Swan Street and no first floor windows facing 32 Swan Street. I am satisfied that subject to suitable conditions, securing the precise height relative to floor level of the high level windows and the prohibition of any additional openings, the privacy of neighbouring properties could be adequately safeguarded.
- 5.8 With regard to the issue of impact upon surrounding vegetation, the applicant have submitted evidence to support their claims that it is possible to retain the important conifer and holly tree screen along the southern boundary and some trees located in the rear garden of 32 Swan Street. (A supporting statement from a qualified

landscape consultant considers that the adjacent trees and hedge can be retained with an appropriate foundation design.) I am satisfied that it would be possible to retain these trees with an appropriate foundation design and also subject to the pruning of many of this specimens back to the site boundary.

- 5.9 Clearly, the severe pruning of the adjacent trees and hedge will have a notable impact upon their shape and, as a result, their amenity value. However, in my view, the specimens that are affected are of relatively limited quality in terms of their contribution to visual amenity with the principal value afforded by them being the screening function that the conifer and holly hedge provides to the public car park. Since that visual buffer/screening function would still be retained, I believe that the impact of this development upon the nearby vegetation would adequately preserve the Conservation Area's integrity. This would only be acceptable subject to conditions to secure full details of appropriate foundations and all works to trees before any construction works commence.
- 5.10 Adequate access exists for emergency vehicles and refuse storage for the commercial and residential units could be provided within the courtyard and the wider Mill Yard site. Detailed provision is clearly a matter that can be adequately controlled by condition.
- 5.11 Within this locality there could potentially be archaeology within the site but, again, a condition could adequately deal with that matter as suggested by the County Archaeologist.
- 5.12 Dealing finally with highway issues, the proposal seeks to provide each dwelling with its own dedicated parking space and also seeks to retain the six protected off street parking spaces that were safeguarded to serve the former stores when converted into craft/retail units by an earlier planning permission for Mill Yard (TM/84/0978). I find this provision acceptable since the Inspector made it clear in his assessment of the previous case that, in this sustainable town centre location, it would not be necessary for new/additional commercial units under 1000m<sup>2</sup> to be provided with their own dedicated on site parking.
- 5.13 As indicated above, the scheme has been designed to retain the existing permissive pedestrian link through the application site between Swan Street and the public car park subject to the existing arrangements that it is closed outside normal working hours. The retention of this permissive footpath link is welcomed and is important in my view in ensuring that the new commercial units would not require their own parking facilities.
- 5.14 Concerns have been raised regarding flooding of the site, however, the proposal does not lie within a flood plain and any problem would relate to local surface water run off. Again, this is a matter that could be controlled by condition requiring submission of details on how to deal with surface water run off were a positive decision to be issued.

5.15 In the light of the above, whilst I find the scheme to be generally acceptable in most respects, my judgement is that the proposals have not satisfactorily overcome the concerns that were raised by an Inspector in relation to harmful impacts upon the amenities of neighbouring residential properties and, accordingly, I can only recommend refusal on that ground.

**6. Recommendation:**

6.1 **Refuse Planning Permission** for the following reason:

- 1 The proposals would be likely to give rise to undue harm to the residential amenities of neighbouring dwellings through loss of light and having an overbearing impact as a result of the bulk and height of the proposed buildings. The development would therefore be contrary to the provision of Policy P4/11 of the TMBLP and policy QL1 of the Kent & Medway Structure Plan.

Contact: Kevin Wise