

West Malling
West Malling And
Leybourne

567971 157795 10 June 2008

TM/08/01699/FL

Proposal: Demolition of existing buildings and erection of 4 no. residential dwellings with parking and associated landscaping
Location: 40 King Street West Malling Kent ME19 6QT
Applicant: The Executors Of Peter James Viner (Deceased)

1. Description:

1.1 The application is for the redevelopment of the site to provide 4 two bedroom dwellings with associated car parking and landscaping. The four units comprise a rear block of three terrace properties and a detached dwelling to the front of the site. Car parking is to the rear of the front building and one garage is also proposed, along with a refuse storage area and cycle store.

2. Reason for reporting to Committee:

2.1 The redevelopment of this site is controversial locally.

3. The Site:

3.1 The application site is situated within West Malling Conservation Area and adjoins the town centre area. There are a large number of Listed Buildings surrounding the site and the barn along the southern boundary is also Listed.

3.2 There is a public toilet block sited adjacent to the front of the site and a block of residential flats to the northern elevation. The rear elevations of a public house, restaurants and retail units back onto King Street opposite the site. To the rear of the site are the rear garden areas of dwellings on West Street which are a mixture of styles of two storey buildings. To the north of the site are smaller residential units in the block known as Downs View and living accommodation above shops. The area therefore has a mixed character of commercial and residential uses.

3.3 The site is presently occupied by King Street Motor Services who are long term tenants. There are two buildings on the site, one of which is sited along the rear boundary of the site and is a tall commercial workshop and a lower level building along the southern boundary which comprises office and storage areas. The rest of the site is hard surfaced and used as car parking.

4. Planning History:

TM/08/00137/FL Application Withdrawn 5 March 2008

Demolition of existing buildings and erection of 4 no. residential flats with associated parking and landscaping

Conservation Area Consent: Demolition of existing workshop building

5. Consultees:

- 5.1 PC: Members Object to this proposal, which they consider represents over-intensive development. They also expressed concern about access from King Street to the site as there appeared to be insufficient room to allow turning for lorries. King Street is already well-used for delivery access to the rear of High Street properties and this is known to cause problems for residents of King Street.

Members had no objection to the principle of housing development on this site but objected to this specific proposal. They did not consider that the part of the site fronting onto King Street was suitable for residential use.

Members felt that their concerns about access from King Street were particularly apposite in view of the current problem of a similar nature in Police Station Road where the building work was causing major problems for residents.

In view of these concerns, Parish Council Members request that a site meeting be held.

- 5.2 KCC (Highways): The proposal is to provide 4 x 2 bedroom dwellings. KVPS (2006) attracts up to a maximum of 2 off street parking spaces per dwelling. In this instance a total of 8 spaces. The applicant is proposing to provide 5 spaces 1 of which is a garage. I would not find this level of off street parking acceptable. An absolute minimum would be 6 spaces, all provided on a communal basis, not allocated i.e. 1.5 per unit. The previous withdrawn application was found acceptable in parking terms as it was to provide a total of 7 off street parking spaces 1 of which is a disabled bay. The applicant is reminded that bays are to be a minimum of 2.5m (width) x 0.5m (length) with end bays or bays in confined space widened to 2.7m. I do not consider that access and traffic generation are issues. As submitted, raise objections and recommend refusal.
- 5.3 DHH: Having looked at the plans submitted, a refuse collection point will need to be agreed near to the boundary with King Street on collection day. Alternatively the bin store could be moved next to the footway/carriage of King Street.

The submitted contamination desk top study is fit for the purpose of determining the application, but any consent should be subject to the standard contaminated land condition. An informative regarding asbestos removal is also required.

5.4 Private Representations: /0S12X and a petition with 11 signatures. Plus Site and Press Notice. Objections have been received on the following grounds:

- Loss of a regularly used business which provides a service to the local community.
- Established businesses are needed in villages and should not be places where people just live.
- There is already enough traffic and congestion on King Street.
- Residential use of this site would not be appropriate as it is too close to the commercial area of West Malling.
- Current tenants do not wish to move and state 'we are a viable business with an ever-increasing custom base. Not only do we serve the local community, but, as a specialist garage, most of our customers come from all over Kent and the South East.
- The business forms an integral part of attracting people to West Malling.
- There are nine staff at the garage and this puts their jobs/incomes and the business in jeopardy.
- Customers use the bed and breakfast accommodation in West Malling.
- The housing would be within 4 metres of the busy public house.
- The public house opposite is open until 1.20am and new housing should not put the licence in jeopardy.
- Repairs and access on boundaries would be difficult.
- Over development of the site, not enough space for car parking and turning.
- The site will become derelict before construction commences.
- Visitors to the garage use the local facilities.
- The garage is part of the character of West Malling.

6. Determining Issues:

6.1 The proposal is, in broad policy terms, acceptable in principle by virtue of Policy CP12 of TMBCS. The key issue to consider is the impact on the Conservation Area and the need to preserve or enhance this area and the impact on adjoining properties which includes a number of listed buildings. Other issues that have

been raised are the suitability of this site for a housing development due to its location and the existing traffic problems in the immediate locality and the loss of the existing business use.

- 6.2 In terms of the demolition of the buildings it should be noted that a Conservation Area Consent application for demolition of these buildings has already been granted. This consent has a condition imposed requiring no demolition to commence until a contract has been signed for the construction of the new buildings. This was approved prior to this application for redevelopment as it was not considered that the demolition of the existing buildings would detrimentally affect the character and appearance of the Conservation Area subject to an acceptable redevelopment proposal.
- 6.3 The designs of the proposed buildings are in keeping with the traditional character of West Malling and the materials proposed reflect the key features within the Conservation Area. In terms of the siting of the buildings, this would also conform with the pattern of development within West Malling with a large building set back from the street frontage and a smaller building along the street frontage which forms a sense of enclosure on this part of the road, whilst also screening the adjacent public toilet building to the south of the site. For these reasons the design and siting of the proposed buildings, is appropriate and is considered to enhance the character and appearance of the Conservation Area and also improve the appearance of the street scene.
- 6.4 In terms of the impact on neighbouring buildings and the adjacent listed buildings this is limited due to the siting of the proposed buildings. It is not considered that the siting of the new buildings would have an impact on the setting of Listed Buildings and in light of the proposed height and design add to the character of the locality and therefore the setting of these historic buildings. Overlooking and a loss of privacy are not an issue due to the orientation of the existing and proposed buildings which results in most views being obscured or oblique in respect of the potential impact on adjacent properties. In addition the elevation facing Downs View is also blank with no windows that could result in overlooking or a loss of privacy.
- 6.5 The existing traffic situation on King Street has been raised as an important issue however the planning system can not deal with or control existing situations and problems. Kent Highways have not raised an objection in terms of traffic generation, as they compare the proposal with the existing traffic from commercial use. Only the provision of car parking spaces on the site has been queried by KHS. It is not likely that the existing problems associated with the use of King Street would get any worse as a result of this development and in fact could be reduced, as there would be less delivery vehicles to the site. Consequently there can be no objection in terms of the impact of the development in traffic terms.

- 6.6 In respect of car parking provision, this is considered to be acceptable on this site, notwithstanding KCC advice for 1.5 spaces per unit compared to the 1.25 spaces per unit that is proposed. I believe this is a suitable location for a reduction in the level of car parking provision due to its central location that is within walking distance of the train station, bus routes are in close proximity and there are a large number of public car parks nearby. For these reasons the car parking provision being proposed is acceptable, and it would be unreasonable to require further provision on this particular site.
- 6.7 In terms of the loss of the existing business use, current guidance in PPG4 does not protect private business interests as a material planning consideration. Draft revised guidance in PPS4 requires LPAs to consider proposals favourably unless there is good reason to believe that the economic, social and/or environmental costs of development are likely to outweigh the benefits. Where development is in accordance with the plan it should normally be approved. In this case, Policy CP12 of the TMBCS allows for minor development appropriate to the scale and character of the settlement that is not environmentally less sustainable than the existing use. Policy CP21 of the TMBCS safeguards employment areas for that purpose if they are well related to the main road and public transport network, provide good quality modern accommodation and are capable of meeting a range of employment uses to support the local economy.
- 6.8 The views of objectors on the desirability of safeguarding the existing occupier of the site are acknowledged. However, Members may agree that this particular car repair and maintenance garage is not of such social and economic importance to West Malling to be worthy of safeguarding under Policy CP21 and that in this location, the loss to residential of a commercial premises unrestricted in terms of planning conditions is an environmental benefit not cost.
- 6.9 Moving to the suitability of this site for a residential use again it is sited within a mixed commercial/residential area that adds to the character of West Malling. Residential development of a site is therefore fully in line with Government guidance in respect of the redevelopment of brownfield sites in environmentally sustainable locations and also complies with Core Strategy policy CP12 that states redevelopment will be acceptable within West Malling.
- 6.10 A desk top contamination survey of the site has been submitted with the application however further investigation and survey work is required and therefore a condition has been imposed to require these details.
- 6.11 Archaeology conditions have been imposed due to the potential for the site to have significant archaeological remains.
- 6.12 The application is therefore recommended for approval, subject to conditions, as it complies with Government guidance in respect of brownfield sites in environmentally sustainable locations, complies with PPG15 in respect of

development within Conservation Area and next to Listed Buildings and also complies with development plan policies contained within the Core Strategy. In particular policies CP1, CP12 and CP24.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 12.08.2008, Letter dated 07.08.2008, Proposed Plans and Elevations DHA/5505/32 A dated 12.08.2008, Proposed Plans DHA/5505/33 A dated 12.08.2008, Elevations DHA/5505/34 A dated 12.08.2008, Section DHA/5505/36 A dated 12.08.2008, Site Plan DHA/5505/31 B dated 07.08.2008, Letter dated 28.05.2008, Letter dated 10.06.2008, Planning Statement dated 28.05.2008, Location Plan DHA/6585/20 dated 28.05.2008, Block Plan DHA/5505/30 dated 28.05.2008, Design and Access Statement dated 28.05.2008, Report J10513 dated 28.05.2008, Proposed Plans DHA/5505/35 dated 28.05.2008, subject to the following:

Conditions:

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. Prior to the commencement of development, details of a scheme to demonstrate that the development hereby approved will incorporate appropriate measures to contribute to a sustainable environment shall be submitted to the Local Planning Authority for approval. The scheme shall include measures to minimise waste generation, and to minimise water and energy consumption, having regard to the need for 10% of energy consumption requirements to be generated on-site from alternative energy sources and the potential for recycling water. The approved scheme shall be implemented prior to the first occupation of any of the units hereby approved.

Reason: In accordance with Core Strategy policy CP1 of the Tonbridge and Malling Local Development Framework and PPS1.

3. No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (including a timetable for such investigation) which has been submitted by the applicant and approved by the Local Planning Authority.

Reason: In the interests of archaeological research.

4. No development shall take place until details of foundation designs and any other proposals involving below ground excavation have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation in situ of important archaeological remains.

5. 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.

6. No development shall take place until details of any joinery to be used have been submitted to and approved in writing 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 visual amenity of the locality.

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 north 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 properties.

8. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft 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. 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.

9. No development shall be commenced until:

(a) a further site investigation has been undertaken using the information obtained from the desktop study 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 (method statement) 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 upon completion of the remediation a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

(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.

10. 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.

11. 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.

12. 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.

13. 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 and E 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 the protection of the character of the conservation area, locality and residential amenities.

Informatives

1. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to the Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or contact Trevor Bowen, Principal Legal Officer, on 01732 876039 or by e-mail to trevor.bowen@tmbc.gov.uk. To avoid difficulties for first occupiers, 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.
2. The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
3. Tonbridge and Malling Borough Council operate a wheeled bin, boundary of property refuse collection service. In addition the Council also operates a fortnightly recycling box/bin service. This would require an area approximately twice the size of a wheeled bin per property. On the day of collection, the wheeled bin from each property should be placed on the shared entrance or boundary of the property at the nearest point to the adopted KCC highway. The

Council reserves the right to designate the type of bin/container. The design of the development must have regard to the type of bin/container needed and the collection method.

4. Owing to the likelihood of the existing buildings containing or being constructed of asbestos products prior to demolition an Asbestos Survey be conducted in order to manage the risk from asbestos and to comply with current health and safety legislation. Any asbestos found on site must be removed in a controller manner by an appropriately qualified operator.
5. If the development hereby permitted involves the carrying out of building work or excavations along or close to a boundary with land owned by someone else, you are advised that, under the Party Wall, etc Act 1996, you may have a duty to give notice of your intentions to the adjoining owner before commencing this work.

Contact: Lucinda Green