
Report of 21 January 2009

West Malling **567971 157795** **10 June 2008** **TM/08/01699/FL**
West Malling And
Leybourne

Proposal: Demolition of existing buildings and erection of 3 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 Members will recall that an application for 4 dwellings was deferred from the APC September meeting on 17 September 2008 for a Members' Site Inspection. The Members' Site Inspection was held on 13 October 2008 at 3.30 pm.
- 1.2 Since the Members' Site Inspection, amended plans have been submitted that remove the detached dwelling at the front of the site. This means that only 3 dwellings now being proposed, all at the rear of the site. The car parking and forecourt area has also been rearranged and a 3 bay carport is also proposed along the northern boundary of the site. A total of five car parking spaces are proposed with a separate bin store area towards the front of the site and a 1.8 metre wide footpath into the site.

2. Reason for reporting to Committee:

- 2.1 Deferred from APC on 17 September 2008 for a site inspection.

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TM/08/00137/FL Application Withdrawn 5 March 2008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

TM/08/01700/CA Approved 28 July 2008

Conservation Area Consent: Demolition of existing workshop building

5. Consultees:

- 5.1 PC: Original scheme – Objected to the development on road frontage, parking and turning and concern with regard to construction traffic.

Following Amended Plans:

Members continue to have concerns about the suitability of access for construction vehicles to the site, especially in view of the problems experienced in similar locations in West Malling. They stress the need for effective site management.

Members also expressed concern about the impact on local businesses, although this may not be considered to be entirely a planning matter.

- 5.2 KCC (Highways): The amended drawings show the removal of the dwelling at the front of the site keeping the 3 x 2 bedroom dwellings at the rear of the site. 5 off street parking spaces are to be provided that I would find acceptable. No objections subject to conditions.

- 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.

No objections to the amended plans.

- 5.4 Private Representations: A further five letters of objection, including those in the previous Supplementary Report, have been received on the following grounds:

- An old fashioned service in the village would be lost to its detriment.
- The existing business materially assists the local economy through visitor associated trade and tourism.
- There is sufficient, unsold new housing on Kings Hill.

-
- The approval of this permission would be contrary to the Council's aims and objectives of 'Business in the Community' which identify the need for their support.
 - The plans are inaccurate along the southern boundary.
 - The parking provided is lower than KCC Highways advice in an area where car parking is already an issue.
 - The site at present is used as one of the only turning areas in King Street.
 - The possibility of the site being vacant for a number of years.
 - Construction vehicles will block the road.
 - The proposed development will not benefit West Malling or its residents.
 - Local car parks are normally full.
 - This end of King Street is mainly commercial.
 - Allowing additional houses that affect the operation of existing businesses is contrary to Council policy.

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. That consent has a condition imposed requiring no demolition to commence until a contract has been signed for the construction of the new buildings.
- 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. 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 residential building 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 in light of 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 and, of course the traffic generated will be less than for the original 4 units. 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 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.
- 6.7 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.
- 6.8 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.

- 6.9 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.
- 6.10 Archaeology conditions have been imposed due to the potential for the site to have significant archaeological remains.
- 6.11 Further to the Members' Site Inspection a number of points for clarification were sought regarding proximity of existing and proposed buildings and the relationships between different elements of the proposed scheme.
- 6.12 In respect of the proximity of the public toilets and to the public house these issues have effectively been resolved by the removal of the fourth dwelling at the King Street frontage of the site. The siting of the terrace to the rear of the site is therefore less likely to result in complaints regarding noise and disturbance. The potential impact, if any, is therefore considered to be appropriate and results in an acceptable relationship between different buildings and uses.
- 6.13 Car parking issues have also been resolved with the provision of five car parking spaces and more available space to park and turn vehicles on the site. Kent Highways have also removed their objection and are satisfied with the revised scheme. This scheme also allows for greater amenity space at the front of the proposed dwellings, a revised bin storage area closer to the front of the site and a pedestrian footpath adjacent to the proposed access. The revised layout therefore addresses most of the concerns about manoeuvring vehicles on the site and the collection of refuse bins from the roadside.
- 6.14 Clarification was sought in terms of the height and distances between buildings. The distance between 'The Barn' and the existing workshop building the distance is 2m to 2.3 m whereas the distance to the proposed terrace building is 1m. A metre between boundaries would normally be considered sufficient.
- 6.15 The height of the adjacent flat building, Downs View, is 8.1m to the eaves and 12.2m to the ridge, whereas the proposed terrace building is 4.6m to the eaves and 8.1m to the ridge. The height of the now proposed car-barn is 2m to the eaves and 4.1m to the ridge. These proposed heights are unlikely to result in a detrimental impact in terms of residential amenities due to the respective siting of the buildings. The design of the buildings is considered to be appropriate for new development within a Conservation Area and in close proximity to listed buildings.
- 6.16 The further objections that have been received have largely been addressed in the last report, which is attached as an annex to this report, and deals with the policy issues in respect of the proposed development. As was mentioned by Officers at the last meeting, I can sympathise with the Parish Council's concern with regard to

construction traffic. In the light of the particular issues with King Street. I therefore suggest a condition requiring the submission of management scheme for construction traffic would be reasonable and appropriate in this case because of the particular local conditions that arise from the narrowness of the road, its proximity to the very constrained junction with West Street and the servicing requirements of commercial properties in the vicinity. Such a scheme would largely control the timing and frequency of construction vehicles so as to mitigate as far as possible potential conflicts in King Street. Furthermore construction noise can be dealt with through Environmental Health procedures.

6.17 In light of the above considerations and those previously identified in the last report, I remain satisfied that this proposal is acceptable and 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 DHA/5505/33 A dated 12.08.2008, Elevations DHA/5505/34 A dated 12.08.2008, Section DHA/5505/36 B dated 21.11.2008, Site Plan DHA/5505/40 Rev A dated 21.11.08, 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, Letter dated 21.11.08, 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, including the boundary walls and railings, 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, 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.

14. Before any works commence on site, arrangements for the management of demolition and construction traffic to and from the site (including hours of operation) shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme unless any variation has been agreed by the Local Planning Authority in writing beforehand.

Reason: In the interests of residential amenities and highway safety.

15. Before work commences on site full plans and details of the proposed carport shall be submitted to and approved by the Local Planning Authority. The carport shall be implemented in accordance with the approved plans.

Reasons: 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 controlled 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

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 21 January 2009

West Malling TM/08/01699/FL
West Malling And Leybourne

Demolition of existing buildings and erection of 3 no. residential dwellings with parking and associated landscaping at 40 King Street West Malling Kent ME19 6QT for The Executors Of Peter James Viner (Deceased)

Additional Representations: Five further letters of representation have been received objecting to the application. No new issues have been raised and they restate the importance of the business to the community and the standard of service that is received by customers. The sustainable nature of the business has also been identified and its importance to the character of West Malling.

A copy of a letter sent to the MP has also been received by the tenant of the garage expressing his concerns at the loss of the premises.

RECOMMENDATION REMAINS UNCHANGED.
