

**West Malling**                      **567719 158434**    **29 December 2008**    **TM/08/03690/FL**  
West Malling And  
Leybourne

Proposal:                      Dwelling and demolition of existing garage  
Location:                      Land Adjoining 31 Brickfields West Malling Kent  
Applicant:                      Mr And Mrs Hawkins

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**1. Description:**

- 1.1 Members will recall that this application was deferred from the last meeting of the Area 2 Planning Committee to enable Members to inspect the site. The Inspection took place on Tuesday 28<sup>th</sup> April at 10.00.
- 1.2 The report below encompasses my earlier report.

**2. Reason for reporting to Committee:**

- 2.1 The application was deferred from the last meeting of the Area 2 Planning Committee.

**3. The Site:**

- 3.1 The site is located within the settlement confines of West Malling, on the east side of Brickfields. A pair of small bungalows is located to the north of the application site and a terrace of two storey red brick older dwellings is located immediately to the south of the application site. The bungalows are located along a similar building line to the proposed dwelling but the adjacent terrace of dwellings is set much further back from the road (approximately 15m).
- 3.2 Brickfields defines the western edge of the West Malling settlement with open countryside located on the opposite side of Brickfields from the application site (to the west).
- 3.3 Presently, the site is surrounded on three sides by a tall coniferous hedge and also contains a mature Eucalyptus tree towards the front of the site. Under this proposal the hedge surrounding the front and north east side of the site would be removed as would the Eucalyptus tree.

**4. Planning History:**

TM/55/10512/OLD    Grant with conditions                      4 November 1955  
  
Private garage.

TM/81/10532/FUL Application Withdrawn 31 December 1981

Demolition of existing garage and construction of new garage/workshop.

TM/84/11146/FUL grant with conditions 31 May 1984

Detached garage.

TM/90/10021/FUL Refuse 31 July 1990

Detached dwelling.

## **5. Consultees: (Brought forward from my previous report)**

5.1 PC: Members object strongly to the proposal. They consider the scale totally out of character in this location as it would destroy the character of the existing terrace.

5.2 KCC (Highways): Brickfields is a Private Street not the responsibility of the Highway Authority. The application site is set back from the public highway and the proposal is unlikely to affect the public highway. The proposal is for a 3 bedroom dwelling and KVPS (2006) could attract up to a maximum of 2 off street parking spaces. The submitted plan is showing a hard landscaped area to accommodate 2 vehicles. The proposal will also result in the loss of an existing garage and parking. However, it is likely that this parking is not conditioned and could be lost at any time.

5.3 DHH: Environmental protection:

The site lies close to the A20 creating the possibility of loss of aural amenity from road traffic. A condition should be imposed to safeguard the amenity of the occupiers of this building.

Contaminated Land:

The site is located close to an old landfill site. A walkover survey and desktop study will inform the need for further contamination related conditions.

5.4 Private Reps (including Art 8 Site Notice): 4/0S/3X/2R. The reasons for objection to the application are:

- The development will erode the special environmental character and residential amenity of the area and is, therefore, contrary to adopted planning policies.

- The surrounding area is characterised by a mixture of terraced dwellings and other smaller detached dwellings, mainly cottages and bungalows on detached plots. Infill development such as the proposed large detached house set in front of other properties is not, therefore a prevailing characteristic of the surrounding area and not appropriate.
- The proposed development would take up most of the plot and would, therefore be out of keeping with the established pattern of development in this low density residential area.
- The development would overshadow the neighbouring garden in the afternoon. The development would adversely affect the neighbour's amenity in terms of loss of sunlight and visual impact. The proposal would dominate the outlook from neighbouring properties and have a negative impact upon distant views.
- The design of the building is not in keeping with the character of the surrounding development. It would have a cramped and overbearing appearance.
- The rear facing windows would impact upon the privacy of adjacent residential properties.
- The development would cause detriment to road safety by increasing movements onto the A20.
- The development should be rejected as the earlier one was (TM/90/0721).
- No decision should be made before a full site visit has been taken to see the effect this would have on the immediate area.

5.5 At the time of writing this report, no additional comments have been received since the application was deferred by Members. Any representations received before the date of the meeting will be available within a supplementary report.

## **6. Determining Issues:**

The determining issues are set out from my previous report:

- 6.1 The site is located within the settlement confines of West Malling where the principle of the proposed development is acceptable under policy CP 12 of the Tonbridge and Malling Borough Core Strategy 2007.
- 6.2 Policy CP 24 of the Tonbridge and Malling Borough Core Strategy 2007 relates to the quality of new development. It requires developments to be well designed and through scale, layout, siting and character respect the site and its surroundings.

- 6.3 Concern has been expressed by the PC and two local residents regarding the scale, bulk and mass of the proposed dwelling and its alignment within the site, which they consider to be out of keeping with the prevailing character and appearance of development in the locality.
- 6.4 The proposed dwelling would stand well forward of the adjacent terrace of two storey dwellings (31-38 Brickfields). However the building would stand in line with the pair of bungalows located to the north of the application site (1 and 2 Brickfields) and the existing dwelling at 40 Brickfields (to the south of the adjacent housing terrace. No 43 Brickfields, which is located further to the south along Brickfields also stands very close to the road frontage.
- 6.5 The established form of development within Brickfields is therefore characterised by two distinct patterns. The detached houses stand very close to the edge of the road, whilst the terrace of Victorian dwellings stands well back from the road. In this context I do not consider the proposed development to be out of keeping with the existing pattern of development in the locality.
- 6.6 Concern has been expressed with the scale/size of the proposed development in relation to the neighbouring properties as well as in relation to the size of the site that the dwelling would sit within.
- 6.7 The proposed dwelling would extend across much of the site's frontage, but then so do adjacent properties at 1, 2 and 31-38 Brickfields. Due to the shape of the site (tapering away to the rear), the site would have a relatively small rear garden, but is considered to be of a sufficient size to serve the proposed dwelling. The neighbouring properties at 1, 2 and 31-38 Brickfields also have relative small rear gardens as well. Satisfactory provision would also be made for parking 2 cars. The proposed development would not in my mind result in a cramped over development of the site.
- 6.8 The dwellings within the locality do vary in terms of height, size, mass and bulk. When considering the existing situation, the site is flanked by small bungalows on one side (the north) and a large block of two storey terraced dwellings on the other side (the south). A detached, two-storey dwelling is located further to the south along Brickfields. The development to the north/north east of the site fronting the London Road includes both bungalows and two storey dwellings. The applicant has submitted a street elevation drawing demonstrating how the proposed dwelling would sit within the existing street scene. Whilst this can not show the change in building lines within the street, it does show that the proposed dwelling would stand noticeably lower in height than the adjacent terrace of two storey dwellings. It would stand taller than the bungalows to the north of the site, but would be seen as a natural step up between the existing very low bungalows on one side and the taller dwellings on the other.

- 6.9 The dwelling would have a ridge height of between 7 and 7.5m above ground level which is more akin to a chalet style dwelling rather than a more conventionally proportioned two storey dwelling house. Due to the variety of different building sizes in the locality, I do not consider that the proposed dwelling would be too large in this location.
- 6.10 The building would stand closer to the terrace of dwelling houses than to the bungalows to the north. Whilst it has a lower height and smaller scale than the terrace, its appearance/form would be sympathetic to the character/appearance of the terraced cottages, in my opinion.
- 6.11 In light of all of the above, I am satisfied that the proposed development, would not fail to respect the character or appearance of the site or its wider locality and, therefore, complies with Core Policy CP24.
- 6.12 The loss of the conifer hedge surrounding this site would not detract from the visual amenities in my opinion. However, I do consider that a replacement tree should be planted in lieu of the Eucalyptus that would be removed under this proposal. This can be dealt with by a condition and an informative.
- 6.13 Turning to other matters, the neighbour at no. 2 Brickfields is concerned that the proposed dwelling would overshadow his rear garden during the afternoon. An assessment has been made of the likely overshadowing of the neighbour's garden area from the proposed dwelling. The assessment is made on the 21 March (Spring equinox) in accordance with BRE guidance. Different parts of the rear garden of 2 Brickfields would be overshadowed for approximately 2 hours at the end of the afternoon on March 21 (16.15-18.15). The small garden area to the south west side of the bungalow would be overshadowed for approximately 3 hours in the late afternoon by the proposed dwelling. I do not consider that this degree of overshadowing of garden would be so detrimental to the amenity of the neighbouring property such as to recommend that permission be refused. The property's garden would benefit from sunlight during other times of the day and there is no loss of daylight or sunlight to the windows of no. 2 from this proposal.
- 6.14 In terms of overlooking, the proposed dwelling has been designed so as to not overlook the property at 2 Brickfields. The rear elevation of the dwelling has been amended to reduce the perception of overlooking to No 31 Brickfields, which is set well behind the siting of the proposed dwelling. There would still be some inter-visibility between the first floor rear bedroom window in the proposed dwelling and the windows on the front elevation of 31 Brickfields. However given the oblique angle involved between these windows and that it is the front (public) face of 31 Brickfields that would be visible from the proposed dwelling, I do not consider that the amenity of this property would be significantly disadvantaged by the proposed dwelling.

- 6.15 The proposed rear facing bedroom window would not directly look towards the rear elevations or private garden areas of the residential properties situated along the London Road. The rear elevation and private garden area of 283 London Road would be visible at an oblique angle from this window. However, due to the orientation of the proposed window in question and its distance of approximately 20 metres from the rear elevation of 283, I am satisfied that the relationship between these properties is acceptable in terms of privacy.
- 6.16 With regard to the issues of outlook and dominating the views from adjacent residential properties, there is no “right to a view”. The proposed dwelling would fit in a conventional way into a gap within an established row of residential development and I am satisfied that it would not have an unacceptable overbearing impact upon the amenities of the neighbouring residential properties.
- 6.17 Kent Highways Services is satisfied that the proposed development would not harm the safe and free flow of traffic along the public highway. The parking arrangements are considered to be acceptable.
- 6.18 I note the comments of the DHH regarding noise and possible land contamination. These matters can be dealt with by conditions.
- 6.19 Reference has been made to a previously refused scheme for the erection of a dwelling house on this site in 1990 (ref. TM/90/00721/FL). The previous scheme took a very different form, design and orientation within the site to the current scheme and policies have also changed over time. Each case has to be assessed on its individual merits and for the reasons specified above, I consider the current proposal to be acceptable.
- 6.20 Two specific issues were raised during the inspection. One concerned the difference in land level between the front and the rear of the site. A low level retaining wall is located along the Brickfields (west) boundary of the site. Detailed information regarding specific levels within the site has not been submitted to date, but the applicant’s agent has agreed to submit this information before the next meeting of the Area 2 Planning Committee. Any additional comments concerning this document will be contained within a supplementary report. However, Members will note that a condition is recommended that requires details of the slab and ridge levels of the proposed dwelling to be submitted and approved by the Council, should permission be granted.
- 6.21 The applicant’s agent also tabled an amended site plan during the Members Site inspection showing that some of the existing hedge forming the north and west boundaries of the site could be retained or replanted as part of the proposed development. Retaining or replanting hedging around these boundaries of the site would help to further soften the impact of the proposed dwelling when viewed from Brickfields or the London Road. I have now recommended the use of a condition requiring details of landscaping to be submitted to and approved by the Council if permission is granted. An informative can also be used to encourage the

applicant to retain or replant hedging along the north and west as part of a submitted landscaping scheme.

6.22 For the reasons specified in my previous report, I recommend that planning permission be granted.

## **7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 12.12.2008, Letter dated 29.12.2008, Design and Access Statement dated 12.12.2008, Location Plan 1711/01/- dated 12.12.2008, Letter dated 26.01.2009, Street Scenes 1711/04/A dated 10.03.2009, Floor Plans And Elevations 1711/03/C dated 10.03.2009, subject to the following:

### **Conditions / Reasons**

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. 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. 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.

4. 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.

5. No development shall take place until details of the finished floor and ridge levels of the dwelling 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.

6. 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 building 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.

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 east (flank) elevation of the building , 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.

8. 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.

9. No development shall be commenced until full details of a scheme of acoustic protection of habitable rooms having windows that will be exposed to a level of road traffic noise in Noise Exposure Category B or C as set out in Policy P3/17 of the Tonbridge and Malling Borough Local Plan have been submitted to and approved in writing by the Local Planning Authority. The scheme of acoustic protection 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 LAmax (slow) time weighting.

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.

10. 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.

### **Informatives**

1. The applicant is advised that in relation to the requirements of condition 8 (a), initially, a desk top study and a walk over survey undertaken by a suitably qualified person would be sufficient to identify the likely scope and nature of any

possible contamination within the site. Subject to the conclusions of the initial desk top study and walk over survey, further ground investigation may be required.

2. 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](mailto: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.
3. The applicant is advised that the landscaping scheme as required by condition 3 of this planning permission should include proposals to retain or replant as much of the existing boundary hedge as possible.

Contact: Matthew Broome