

**Borough Green**  
Borough Green And  
Long Mill

**561026 157589 26 May 2009**

**TM/09/01246/FL**

Proposal: Creation of one additional two-bedroom flat within the roof void together with associated external alterations to the apartment building being a dormer window and roof lights. Revisions to site layout approved under ref. TM/07/01747/RM to show alternative parking arrangements (retrospective application)

Location: 17 Stone Court Borough Green Sevenoaks Kent TN15 8FE

Applicant: Mr Stuart Allington

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## **1. Description:**

- 1.1 It is proposed to convert the roof space of a recently built apartment building located at the western end (front) of the site. To facilitate the additional apartment, a dormer window measuring 2.2m wide x 2m deep x 1.3m high would be located within the east (rear) facing roof slope of this building. Roof lights would be inserted within the south and west facing roof slopes as well. The apartment would be accessed via the existing communal first floor landing with an additional flight of stairs being inserted above the existing staircase.
- 1.2 It is also proposed to create two additional parking bays parallel to the access road to the rear (east) of the apartment building within an area that has been laid to gravel. A "Cell Web" tree root protection system would be installed within this area to protect the roots of the existing evergreen hedge that runs along the southern boundary of this part of the site.
- 1.3 This revision to the parking arrangements has arisen from an amendment to the approved layout that has occurred on site. The three dropping off areas shown on the approved site layout drawings have not actually been provided. The current application therefore also seeks permission to regularise the situation.
- 1.4 Another parking space was originally shown under this submission to be provided adjacent to the bin store at the northern end of the site. This has been physically provided already. However, following discussions with the applicant, this area of hard standing is now to be returned to soft landscaping as shown on the proposed site layout plan (a lawned area surrounded by a hedge).

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

- 2.1 The application has been called to Committee by two of the local Members because of concerns over car parking and highway safety.

**3. The Site:**

- 3.1 The site is located inside the settlement confines of Borough Green, on the east side of Wrotham Road. The site contains 23 existing dwellings, 6 of which are apartments in the block the subject of this application and the remaining units are 2 and 3 bedroom dwelling houses. It was formally known as 20-22 Wrotham Road.

**4. Planning History:**

TM/04/00801/OA Refuse 7 June 2004

Demolition of existing houses and construction of 6 no. 2 bedroom flats and 16 no. 3 bedroom houses, including altered pedestrian/vehicular access.

TM/05/01796/OA Application Withdrawn 12 July 2005

Outline application for the demolition of existing houses and construction of 16 no. 3 bedroom houses, including altered pedestrian/vehicular access.

TM/05/03570/OA Refuse 7 July 2006  
Appeal allowed 5 January 2007

Outline Application: Demolition of existing dwellings and construction of 6 no. 1 bed apartments, 12 no. 2 bed houses and 4 no. 3 bed houses.

TM/07/01747/RM Approved 19 December 2007

Submission of reserved matters being scale, appearance and landscaping pursuant to condition 1 of outline planning permission TM/05/03570/OA (Demolition of existing dwellings and construction of 6 no. 1 bed apartments, 12 no. 2 bed houses and 4 no. 3 bed houses) and submission of details of refuse storage, slab levels, acoustic protection and external lighting pursuant to conditions 5, 14, 15 and 17 of outline planning permission TM/05/03570/OA.

TM/07/04438/RD Approved 29 January 2008

Archaeological Evaluation submitted pursuant to condition 7 of planning permission TM/05/03570/OA: Demolition of existing dwellings and construction of 6 no. 1-bed apartments, 12 no. 2-bed houses and 4 no. 3-bed houses.

TM/08/00552/RD Approved 16 April 2008

Details of materials pursuant to condition 4 of planning permission TM/05/03570/OA (demolition of existing dwellings and construction of 6 no. 1-bed apartments, 12 no. 2-bed houses and 4 no. 3-bed houses).



- 5.1.4 The size and quantity of windows on the main part of the building, as installed, are significantly reduced from the original proposals. This is due to the practical realities of dealing with the high levels of noise experienced for properties close to the A227. We have concerns that the roof construction and sound proofing insulation are not suitable (just 100mm of Celotex?). The applicant has re-cycled data provided with the original application, but this does not include statistical data for any dwelling space above the first floor. We would expect to see fresh submissions of noise measurements and procedures to minimise the effects of it. We suggest that a further noise assessment be undertaken at high level, specifically adjacent to the proposed window locations on the second floor, before any final decision is taken as to the suitability of materials and glazing systems selected.
- 5.1.5 Supporting document 3, 8.5 Energy Conservation, suggests that due to the orientation of the building, most units will be able to take advantage of passive solar heat gain. Installing windows on the south and west faces of the pitched roof compromises scope for installing solar heating or PV generation as part of climate change mitigation.
- 5.1.6 We note that the specification describes two roof windows on the south elevation, however, the drawings show three! Where else are there inconsistencies?
- 5.1.7 We query as to why parking spaces are being provided for this block of flats? We want to see as much off-street parking as possible provided with new developments. However, when the Inspector looked at this development, she said parking spaces were not needed, as all the residents would commute by train. We look to T&MBC to enforce the Inspector's comments and ensure that none of the residents of this building ever attempt to allow a vehicle to be parked on this site. Any such spaces already provided should revert to protected, grassed areas with immediate effect. Likewise, any allocation for guests of this building's tenants should also be removed.
- 5.1.8 We require confirmation that the total amount of children's play area and open space to be provided on this development will increase proportionately with the number of bedrooms and parking spaces covered under this and previous applications and that, if this space is not made available or the existing provision is diluted, that the S106 payments will also increase proportionately.

In addition to the above, the PC wrote in again with the following comments:

- 5.1.9 The applicant has stated that the flat would make an ideal starter home. It is understood that the Inspector decided the flats should be bought by commuters due to the proximity of the station. It should also be noted that there is no amenity land on site in which young families are able to play.

- 5.1.10 The attention of the members of the appropriate Area Planning Committee is drawn to the concerns of BGPC members; expressed throughout the whole process of this overall planning application for properties formerly 20 - 22 Wrotham Road; and the “piecemeal” method of presentation of the detail of these proposed buildings. It wasn’t until the major part of the construction of the buildings on site was completed that BGPC were provided with the “alleged” final elevation(s) drawing(s) details. [Themselves subject to further subsequent changes].
- 5.1.11 Concern has also earlier been strongly expressed by individual members of the Parish Council (in their private and individual capacities as “near neighbours” ) as to the external appearance of elevations with patently obvious construction within the building designed expressly to achieve (at a later time – i.e. “now”) the insertion of additional domestic living accommodation as is now being requested.
- 5.1.12 In view of the above, it is the opinion of BGPC that this demonstrates nothing but greed on the part of the developer, in an attempt to maximise use of the roof space, without due regard as to who might be future occupants, and the disregard of the possibility of noise transmission to properties on the next lower floor of this building. As such, it is blatant over-intensification and totally unacceptable.
- 5.1.13 Therefore, BGPC raises the strongest possible objection to the approval of this application.
- 5.2 KHS: The proposals create one additional two bedroom flat along with the addition of one parking space that I find satisfactory.
- 5.3 DHH: The applicant should be required as a condition of approval, if given, to submit a noise insulation scheme.
- 5.4 Private Reps: 36/0S/0X/3R. The letters object to the proposal for the following reasons:
- The building has been constructed with the intention of converting the roof void to a dwelling; therefore the roof has not been built in accordance with the approved drawings.
  - The proposal would create additional traffic onto an already busy road.
  - The proposal would create more light intrusion into a neighbouring property, which will intrude upon their privacy.
  - Three storey buildings are out of keeping in the village.
  - The additional roof lights will allow overlooking to a neighbouring property.

**6. Determining Issues:**

- 6.1 Under policy CP 13 of the Tonbridge and Malling Borough Core Strategy 2007, residential development within Borough Green is acceptable in principle. The main issues for consideration therefore relate to highway safety and residential amenity and the impact of the rearranged parking upon the roots of a hedge.
- 6.2 Turning to the issue of highway safety, several factors need to be taken into consideration. When granting outline planning permission on appeal for the development of 22 dwellings within this site (TM/05/03570/OA), the Inspector stated that a car parking provision of 26 spaces was acceptable in this location given its close proximity to the shops, services and public transport in Borough Green. (This provides a ratio of 1.18 spaces per dwelling). The Inspector was aware of the mix of 1, 2 and 3 bedroom dwellings within this development. It must be noted that in considering the level of parking provision at that time, the Inspector took into account that 3 of the 26 spaces were dropping off bays. The Inspector also referred to the then current Government advice contained in PPG 13 (Transport) that stated that developers should not be required to provide more car parking spaces than they wish, other than in exceptional circumstances.
- 6.3 It must also be noted that the Inspector did not take into consideration two parking spaces shown in the original planning application. There were, in fact, 28 car parking spaces shown on the scheme allowed on appeal including the three dropping off areas (being a ratio of 1.27 spaces per dwelling).
- 6.4 Since the time that the outline application was allowed on appeal, Government advice concerning parking for residential developments has changed. PPS 3 does not now prescribe levels of car parking that should be provide for residential developments, but states at paragraph 51 that Local Planning Authorities should develop their own parking standards for their areas. "Manual for Streets" advises in paragraph 8.3.5 that Local Planning Authorities will need to consider what an appropriate level of car parking provision would be for developments. That effectively meant the application for the KMSP related document SPG4 until KMSP ceased to have effect during summer 2009.
- 6.5 It must also be noted that local parking standards have now been adopted by the Borough Council for Development Control purposes (PTAB on 18 November 2009). For 1 bedroom flats, 1 non-allocated, car parking space is acceptable under the recently adopted parking standards, which comprise SPG4 and update, IGN3, for residential uses.
- 6.6 When planning permission was sought under ref. TM/08/03002/FL to convert 4 of the 1-bedroom apartments within this site to 4 x 2-bedroom apartments, the submitted layout showed the provision of an additional parking space (making 29 altogether). It was considered that the parking arrangements shown at that time were acceptable and unlikely to cause demonstrable harm to highway safety (a ratio of 1.32 spaces per dwelling).

- 6.7 Under the currently submitted layout, a total of 28 car parking would be provided to serve 23 dwellings within the site as a whole. This would provide a ratio of 1.21 spaces per dwelling, which is higher than the car parking ratio found to be acceptable by the Inspector when determining the outline application for the residential development within this site (28 spaces for 23 units compared to 26 spaces for 22 units as was originally approved for this site).
- 6.8 Furthermore, under the previously approved schemes, the Inspector counted three 1m wide dropping off areas as being car parking spaces. Whilst these have been removed from the development, the two additional car parking spaces now proposed would measure 6.1m x 2.4m and would enable cars to be parked without encroaching into the access road as would have occurred under the previously approved schemes.
- 6.9 Therefore, whilst an additional dwelling is now proposed, the car parking provision within the site would be greater than that already found to be acceptable by an Inspector determining the appeal concerning the outline planning application for residential development of this site. In light of this, and that the site is located close to the centre of Borough Green with its range of shops, local services and public transport, I consider that the layout of the site as now shown is acceptable.
- 6.10 Kent Highway Services has not objected to any highway related aspect of the proposed development.
- 6.11 The parking solution shown on the submitted drawings would occur within an area of root protection (for the Leylandii hedge located within the neighbouring property at 18 Wrotham Road). It is, therefore, proposed to use a "Cell Web" tree root protection system. This would consist of laying a metal cellular grid, which would be filled with clean material in the root protection area of this site. The existing gravel surface would be reinstated over the Cell Web system, so the appearance of the site would remain unchanged. The Cell Web system is, I believe, adequate to protect the roots of the adjacent Leylandii hedge from damage by cars parked in this area.
- 6.12 Road traffic noise was an issue when considering the outline planning application as the site fell within NEC C as defined in saved Local Plan policy P3/17. However, the Inspector considered that with appropriate mitigation, a satisfactory internal noise environment could be achieved within the apartments. A satisfactory scheme of acoustic protection was subsequently submitted and approved for the existing apartment building. The DHH has requested a scheme of acoustic protection for the new flat, should permission be granted, and this can be required by a condition. The proposed unit will be as acceptable as other units within this building already accepted by the inspector in terms of aural amenity. It is the details of the proposed noise mitigation that need to be considered as the DHH has requested – there is no issue of principle to consider further.

- 6.13 Whilst an additional floor would be created within this building, the external alterations are of a minor nature. I note the comment of the local resident that three storey buildings are out of keeping in the village. However, the proposal does not entail increasing the height of the existing building from that approved by the Inspector. From public vantage points, the visible alterations to the building consist of the proposed roof lights, which reveal only a minor change to the roof form of the existing building. I do not consider, therefore, that the proposed external alterations to the building would harm its appearance or be out of keeping with the general form of development in the locality. The application does not entail changing the size and shape of the roof that was approved, other than by the addition of a rear facing dormer of a modest size, and roof lights.
- 6.14 The proposed dormer window would be located within the rear (east) facing roof slope. This would afford views of the access road and the front elevation of the dwellings on plots 7-10 within Stone Court. Oblique views may be gained from this window of the front garden of the neighbouring property at 18 Wrotham Road. However, a mature Leylandii hedge is located along the common boundary of Stone Court and 18 Wrotham Road (within the boundary of 18 Wrotham Road). This stands at approximately the same height as the eaves level of the apartment building within the application site. The sill height of the proposed roof lights is 1.7m above the floor level of the proposed apartment, which is considered by Government to be sufficient to prevent overlooking into the neighbouring properties. Moreover there is no clear presumption in planning that a sightline from a window should not look into a **front** garden. In light of all of these factors I am satisfied that the proposed development would not cause an unacceptable loss of privacy to the neighbouring residential properties.
- 6.15 I note the comments of the PC that some of the information originally submitted by the applicant as part of this application did not relate to this particular development proposal. However, the applicant has been advised this was an unhelpful and confusing combination of documents and has removed them from the application. All of the documents currently submitted now refer only to the development the subject of this application.
- 6.16 I note the PC comments regarding the issue of additional play space. However, the current proposal is for a stand alone application of 1 additional unit of accommodation, separate to that consented under the outline planning permission for 22 units on this site. The proposed floor area covered by the additional apartment is below the threshold for seeking a contribution towards play space provision under saved policy P8/2 of the TMBLP 1998 or the emerging MDEDPD policy. Accordingly, I do not consider it is not possible to seek an additional contribution towards the provision of play space in this instance.
- 6.17 The PC is concerned that the insertion of roof lights within the south and west facing roof slopes would compromise the ability of future tenants to install solar water heating or Photo Voltaic cells. The proposed roof lights occupy only a small



section of the roof slopes and room would be available to install solar panels or cells in the future. As this is an apartment building, specific planning permission would, in any event, be required for the erection of any externally mounted equipment of this nature and an application for such work would have to be assessed on its individual merits at the relevant time.

- 6.18 Concerning the comments of the PC contained in paragraphs 5.1.9 to 5.1.13 of this report, I would respond as follows.
- 6.19 The end user of the proposed additional dwelling is not a material planning consideration. Flatted developments are not required to have certain level of private amenity space and the site is located close to two public recreation facilities.
- 6.20 The concern in respect of the piecemeal nature of development on this site is entirely understandable but the position is that the applicant is entitled to seek to change the scheme as and when he wishes and the ruling Act actually has a section that facilitates retrospective applications during or after construction and the **resultant** development has to be judged on its individual merits. It is indeed not uncommon for schemes to be revised in this way.
- 6.21 I can confirm that the size, roof pitch and height of the roof of the building as shown in the current submission is the same as that shown in application TM/07/01747/RM (the original scheme for the apartment building). Whether a developer chooses to construct the internal roof structure to a design that in the future would allow for potential alterations is not in breach of planning control and indeed the Act specifically excludes internal alterations from the ambit of planning control (except in Listed Buildings).
- 6.22 The issue of noise transmission between flats is a matter that is controlled under the Building Regulations. The development of the additional flat within the roof void of the existing building is not considered, in itself, to be an over intensification of the site as the external alterations to the building to accommodate the additional apartment and its impacts are minor.
- 6.23 I do recognise that the various changes on this site have caused some frustration locally and in particular to the PC which quite reasonably wishes to be sure precisely what development the local community is to expect. However the planning system does provide for changes to occur during the life of a project and indeed the legislation specifically provides for the submission of retrospective applications. Under such legal circumstances the Council is required to deal with submissions before it.
- 6.24 In light of the above, I consider that the scheme is acceptable and, therefore, recommend that permission be granted.

**7. Recommendation:**

- 7.1 **Grant Planning Permission** This was approved in accordance with the following submitted details: Letter dated 26.05.2009, Design and Access Statement dated 26.05.2009, Email dated 26.05.2009, Location Plan dated 26.05.2009, Floor Plans And Elevations HTS.812.43 dated 26.05.2009, Supporting Statement dated 24.07.2009, Site Plan HTS:812:01 L dated 04.11.2009, Letter dated 04.11.2009, Details CELL WEB dated 06.10.2009, subject to:

**Conditions / Reasons**

- 1 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

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

- 2 No development regarding the provision of the additional flat 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 saved 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 L<sub>Amax</sub> (slow) time weighting.

The approved scheme shall be implemented prior to the first occupation of the apartment hereby permitted and maintained at all times thereafter.

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

- 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 Cell Web root protection system shall be installed in the visitor parking area shown on plan no. HTS.812.01 Rev L within 2 calendar months of the date of this permission and shall be maintained as such at all times thereafter.

Reason: In order to minimise damage to the roots of the adjacent hedge.

- 5 The unauthorised area of hard standing located immediately to the west of the refuse enclosure shall be replaced with the approved soft landscaping as shown on plan number HTS 812.01 Revision L within 2 calendar months of the date of this permission. 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: In order that the development complies with the approved plans and in the interests of visual amenity.

Contact: Matthew Broome