

West Malling **568192 157918** **5 November 2010** **TM/10/03041/FLX**
West Malling And
Leybourne

Proposal: Extension of time limits for planning permission
TM/08/00441/FL: Erection of two semi-detached houses
Location: Bridge House 31 Police Station Road West Malling Kent ME19
6LL
Applicant: Mr Kevin Feeney

1. Description:

- 1.1 Planning permission was granted for the “erection of two semi-detached houses” under reference TM/08/00441/FL on 22 April 2008. A Condition was attached to the grant of planning permission which required that development commenced within 3 years of the date of the permission. The planning permission is therefore extant.
- 1.2 This application seeks to extend the time limit for the implementation of this permission.
- 1.3 The development as previously permitted comprises a pair of 2 storey semi-detached 2 bedroom dwellings with associated car parking (1 no. space per dwelling) and the provision of private garden land.

2. Reason for reporting to Committee:

- 2.1 Changed circumstances since the earlier permission and as the application is locally controversial.

3. The Site:

- 3.1 The application site comprises the rear private garden of No. 31 Police Station Road, together with an access road which runs from Police Station Road and provides vehicular access to the flatted residential developments known as Victoria Place and Victoria Court, which comprised the former Magistrates Court. A 2 storey flatted property is located to the west of the application site (Abingdon Mews), with the railway line located to the north within a cutting.
- 3.2 31 Police Station Road is an attractive detached period dwelling set back several metres from the back edge of the pavement along Police Station Road, with a sizeable rear garden bounded by a red brick boundary wall.
- 3.3 Police Station Road comprises a mixture of residential properties, including terraces of dwellings which are located both parallel and perpendicularly to the Road, flatted developments (such as Victoria Place and Victoria Court) and detached and semi-detached dwellings.

3.4 The site is located within the confines of West Malling, and is located within the West Malling CA.

4. Planning History:

TM/75/10348/FUL Application Withdrawn 5 September 1975

Change of use of private house to Dental Surgery.

TM/82/10880/FUL Application Withdrawn 10 March 1982

Ground and first floor extensions.

TM/84/11101/FUL grant with conditions 6 January 1984

Alterations and extensions including garage.

TM/94/01637/FL grant with conditions 12 July 1994

Extension to garage.

TM/08/00441/FL Approved 22 April 2008

Erection of two semi-detached houses.

5. Consultees:

5.1 PC: No objection.

5.2 KCC (Highways): No objection. (*DPTL: It should be noted that KCC (Highways) comments were received prior to the alterations to PPG13 (see below), and accordingly further comments have been requested from KCC (Highways). These will be reported to Committee as part of a Supplementary Report.*)

5.3 DHH:

- Environmental Protection: I would re-iterate my colleague's earlier comments in relation to the original application, namely: "*The results of the noise and vibration assessment by AAD dated 14th January 2007, are noted. As the results show that the day and nighttimes NEC's for the site are A & B respectively I would recommend the following condition to maintain aural amenity: No development shall be commenced until details of a scheme of noise attenuation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be at least 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 levels will exceed 40 LAeq dB in bedrooms or 48 LAeq dB in living rooms with windows open the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation. Mechanical ventilation shall also be provided to bedrooms having openings into 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 and shall be retained at all times thereafter". I understand that this was reflected in Condition 9 of Planning Permission 08/00441/FL;

- Waste Management Services: Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the nearest point to the public highway on the relevant collection day;
- Housing Standards: No comments.

5.4 Private representations (26/0X/13R/0S) and CA Press and Site Notice: 13 no. letters were received objecting to the proposal on the following grounds:

- Proposal comprises backland development which contravenes planning policy;
- No direct access to site, and use of access drive to flatted development will cause congestion;
- Police Station Road is relatively narrow and the additional traffic associated with the provision of additional dwellings will cause further difficulties in terms of the passing and movement of vehicles along this highway;
- The movement of additional vehicles along the gravel drive will disturb residents;
- Victoria Court and Victoria Place comprise retirement developments, and the provision of dwellings which are not subject to a Condition which restricts occupancy by age may harm residential amenity;
- The proposal will lead to overdevelopment;
- The private garden areas of both Bridge House and the dwellings will be too small;
- Occupiers of Victoria Court and Victoria Place were unaware of the extant planning permission when purchasing their properties.

6. Determining Issues:

- 6.1 The national planning guidance relevant to this application is contained in PPS1, PPS3, PPS5, PPG13, PPG24. TMBCS Policies CP1, CP12, CP15, and CP24 would apply, as would MDE DPD: CC1, CC2, SQ1, SQ6, SQ8.
- 6.2 National Government guidance on the extensions of time limits for planning permission states that *“the development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. Whilst these applications should, of course, be determined in accordance with S. 38(6) of the Planning and Compulsory Purchase Act 2004, LPAs should, in making their decisions, focus their attention on Development Plan Policies and other material considerations which may have changed significantly since the original grant of permission”*.
- 6.3 Since the original grant of planning permission, there have been the following changes in national planning guidance and Development Plan policy:
- PPS3 (Housing) has been replaced by a later version of this Statement (July 2010). This newer version has removed private garden land from the definition of “Previously Developed Land” PDL and thus the associated presumption in favour of redevelopment (other factors being equal), removed the national indicative minimum density for housing and also ensured that previous national upper limits on domestic parking were no longer overriding;
 - PPG13 (Transport) has been replaced by a later version of this Guidance (January 2011). In announcing this change the government has made it clear that *“Ministers are today removing national planning restrictions put in place in 2001 that required councils to limit the number of parking spaces allowed in new residential developments...”*
 - In respect of parking, the Kent Design Guide Review: Interim Guidance Note 3 was published on 20 November 2008, and was adopted by TMBC for the purposes of the assessment of parking in development control on 19 November 2009 – while this pre-dates the most recent changes noted above, the IGN3 document is itself founded on a localised research base;
 - PPG15 (Planning and the Historic Environment) has been replaced by PPS5 (Planning for the Historic Environment) (2010), albeit the general thrust of the guidance regarding CAs is carried through to current guidance;
 - A number of the saved policies within the TMBLP have been replaced by policies in the MDE DPD (April 2010), albeit the general thrust of these DPD policies are similar to those in the TMBLP;
 - The KMSP expired on 06 July 2009;

- The SEP was adopted (May 2009), and the Government has indicated its intention to revoke it within the next year. Notwithstanding this, there are not any policies of direct relevance to the application in the SEP.
- 6.4 The recent changes which have been made, by the Coalition Government, to PPS3 (Housing) in respect of use of garden land for development were made to protect against development which the new Government considered to be inappropriate and harmful. There is now no presumption in favour of the redevelopment of this site as PDL although the wider assumption of acceptability of redevelopment with in built-up areas remains in play.
- 6.5 It is considered that the proposed erection of the pair of semi-detached houses in the form and design as previously approved will not, in itself, be inappropriate or harmful to the character of the area. I agree with the conclusions of the (arboricultural) report. No significant trees are proposed to be removed and trees adjoining should be protected as described in the report.
- 6.6 At the time of the original planning application, the redevelopment of the Magistrates Court had already been consented, and was in the process of being constructed. Accordingly, regard was had to this during the consideration of the original application.
- 6.7 This development has now been completed and is seemingly fully occupied. Accordingly, the area to the western side of Police Station Road in the vicinity of the application site itself is characterised by buildings located just off the back edge of the highway, with further development located to the rear (west) of this frontage development.
- 6.8 Therefore, the positioning of a pair of semi-detached houses in the location proposed will reflect the arrangement upon the site immediately to the south, and will not appear incongruous or out of keeping with the character of the CA.
- 6.9 Accordingly, the extension of the permission will not be contrary to current national guidance as set out in PPS3 (or indeed PPS5) subject to what is said below with reference to parking.
- 6.10 The design of the dwellings was accepted as being in keeping with the adjacent residential properties (including those consented at the Magistrates Court) and 31 Bridge House at the time of assessment of the original application. I have reached a similar conclusion having assessed the proposal having regard to the completed redevelopment of the Magistrates Court:
- views of the pair of semi-detached dwellings from Station Road will be constrained to a relatively small length of the road, given the positioning of the frontage buildings (Victoria Place) as part of the Magistrates Court redevelopment and 31 Police Station Road;

- the proposed dwellings are attractively designed, and reflect the traditional architecture of the buildings located on the former Magistrates Court, and existing detached dwellings such as 17 and 31 Station Road, together with the roof form and eaves and ridge height parameters of dwellings in the locale;
- 6.11 There has been no change in terms of the positioning of windows to either the flat on the northern flank of Victoria Court, or the eastern elevation of Abingdon Mews (located to the west of the application site), and accordingly the same conclusion is reached in respect of impact on residential amenity as that in the original application: that the proposal results in only very limited overlooking with no significant loss of light and overshadowing which results in no loss of residential amenities.
- 6.12 There have been no changes in material considerations (including alterations to Development Plan policy) in respect of arboriculture, noise, or waste management which indicate that the proposal should no longer be treated favourably.
- 6.13 However, there have been changes to national and local guidance in respect of vehicle car parking standards. The Notes to Editors which accompanied the changes to PPG13 (03 January 2011) set out that “by ending this requirement [to use maximum parking standards for residential development] Councils will have the freedom to decide how many parking spaces they want to see in new development in their area”. In the Statements from Ministers, specific reference was made to the deletion of national guidance on restricting the maximum number of parking spaces, and the expectation that Councils should follow suit. This is reflected in the recent changes to PPG13 and earlier reworking of PPS3 which have removed reference to maximum parking standards.
- 6.14 Policy SQ8 of the MDE DPD requires that development proposals should comply with parking standards which will be set out in a Supplementary Planning Document. While there is as yet no SPD, the local parking policies standard to be adopted for Development Control purposes is now as set out in the Kent Design Guide Review: Interim Guidance Note 3 Residential Parking, which was adopted in November 2009 by TMBC (i.e. following the original grant of planning permission).
- 6.15 This details that for village locations, the *minimum* number of car parking spaces for a 1 or 2 bedroom dwelling is 1.5 spaces per unit. The accompanying note details that “lower provision may be considered if vehicular trip rate constraints are to be applied in connection with a binding and enforceable Travel Plan”. As noted above, the IGN3 standards are borne out of the results of Countywide survey work by KHS which has generally shown that in terms of user satisfaction the suppression of parking standards as applied at the time of the earlier permission on this site has been far from successful and for that reason the Government has acted to allow higher standards to be applied once more.

6.16 Police Station Road, particularly the southern end, is subject to intense parking pressure, and any deficiency in on-site parking is likely to exacerbate such pressure. Given the deficiencies in on-site parking and in the absence of a Travel Plan, it is considered that the extension of time limit to implement the grant of planning is not in accordance with national planning guidance and Development Plan policy detailed above, and accordingly it is recommended that permission be refused.

7. Recommendation:

7.1 That permission to extend the time limit for the implementation of planning permission TM/08/00441/FL **Be Refused** for the following reason:

1. The absence of adequate parking facilities due to an insufficient number of on-site vehicle parking spaces would be contrary to the principles of Policy SQ8 of the Tonbridge and Malling Borough Managing Development and the Environment DPD, the adopted Interim Guidance Note 3 and the guidance in Planning Policy Statement 3 and Planning Policy Guidance Note 13.

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