

**West Malling**  
West Malling And  
Leybourne

**568089 157757 17 June 2010**

**TM/10/01045/FL**

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Proposal:                      Erection of three storey building to provide 1 x one bed flat and  
  1 x two bed flat and two car parking spaces  
Location:                      Land Rear Of 71 - 73 High Street West Malling Kent  
Applicant:                     Mr And Mrs Robert Wickham

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**1. Description:**

- 1.1 The application is for a detached three storey building in the rear yard of 71-73 High Street that will comprise two flats: 1 one bedroom flat and 1 two bedroom flat. Two car parking spaces will be provided to the rear/east of the new building in an area that will also form one of the parking areas to serve the proposed Mill Yard development (see para 1.4 below).
- 1.2 The proposed building will be arranged with the one bedroom flat at ground floor and the two bedroom flat arranged over the second and third floors. It is proposed to have windows to three elevations with the main windows on the east elevation facing Mill Yard. Secondary windows are proposed on the west elevation facing 71-73 High Street and two windows including a dormer window at roof level will be on the northern elevation facing the existing building next door. These north-facing windows will serve the stairwell and two access doors are also proposed on this elevation.
- 1.3 The proposed building is to be boarded and stained in a dark colour. The roof is proposed to be slate and windows to be timber casements. All joinery except soffits to be timber. No outside space is proposed.
- 1.4 This application needs to be read in conjunction with application TM/10/00991/FL at Mill Yard, 26 Swan Street, West Malling, which is also on this agenda. This is due to the inter-related parking and access issues.

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

- 2.1 Complex issues to report in respect of this development.

**3. The Site:**

- 3.1 The application site is situated towards the southern end of Mill Yard, which is off Swan Street in West Malling and sited to the rear of 71-73 High Street. The site is within the central area of West Malling which is a district centre and is also within the Conservation Area. The site is also situated within the historic core of West Malling and in an Area of Archaeological Potential.

- 3.2 The application site forms the rear yard of 71-73 High Street which is a Grade II listed building. The site is largely surrounded by an approximately 1.2 metre high red brick wall. The site is currently disused, overgrown and unkempt with a more recent structure/addition to the rear of the main building which is also disused and derelict. This part of the building already has Listed Building Consent for demolition. There are also a number of trees on the site that are self-seeded from the nearby line of trees that adjoin the application site that are a mixture of Cypresses and Holly.
- 3.3 The conifer trees that adjoin the north east corner of the site extend to the east and are covered by a Tree Preservation Order.
- 3.4 71-73 High Street is one of an historic terrace of buildings along the High Street. These buildings are all between two and three storeys in height and most of them are Grade II listed, although a couple are Grade I Listed. Most of these buildings have already been significantly extended with small rear yards serving the commercial uses that occupy the ground floors. There is some residential accommodation on the upper floors. 71-73 High Street has a residential flat on the upper floors and a number of large windows on the rear elevation.
- 3.5 To the west of the application site is the rear of 71-73 High Street and to the north a large commercial building that is 3 storeys in height and weatherboarded. This building has two high level second floor windows on the elevation facing the application site. There is also a single storey addition to the rear of this building and a hardstanding used as car parking. To the east of the site is the remainder of the rear yard to 71-73 and where the Mill Yard redevelopment is now proposed.
- 3.6 To the south of the application site is the rear yard of the adjoining commercial property which is hardsurfaced and used as car parking space. This area will also be redeveloped as part of the Mill Yard proposal. Next to this space is the Tesco building and the adjoining public car park serving both West Malling town centre and Tesco.
- 3.7 Mill Yard is currently a small collection of commercial units with a variety of different occupiers. The buildings comprise traditional single and two storey weatherboarded buildings that are stained black.

#### **4. Planning History:**

TM/59/10685/OLD    Grant with Conditions    22 October 1959

Construction of Bathroom and W.C.

TM/92/00905/R4D    Grant with Conditions    26 August 1992

Reg 4 application: Creation of pedestrian link between Tesco car park and Mill Yard

TM/92/00906/FL      Grant with Conditions      28 October 1992

Construction of car park

TM/10/03287/LB      Approved      12 January 2011

Listed Building Application: Demolition of single storey structure to rear of property

## **5. Consultees:**

5.1 PC: Members had no objection to the proposal but expressed concerns on the following issues:

- Because of the proximity of this development to the historically important Ancient House, site of a medieval garden behind No 71/73 High Street and Malling Abbey they requested that an archaeological survey be carried out before any work commences and during construction work that involves surface excavation (e.g. Foundation trenches, drainage/sewer works etc.). We understand that this is standard practice on sensitive sites.
- Because construction traffic will need to access the site via the short-term car park this is likely to be very disruptive to the life of West Malling as such vehicles will take up valuable parking spaces and cause logjams due to the one-way traffic system in place in the car park. Members therefore wanted access for construction traffic to be managed effectively and suggest that such vehicles arrive, unload and depart from the site by 7.00am.
- Access for emergency vehicles.
- Confirmation that sufficient space is to be provided for refuse bins for the residents of the apartments.

5.1.1 Additional Comments: Members of West Malling Parish Council endorse the suggestions in the letter from KCC's Senior Archaeological Officer dated 30<sup>th</sup> December 2010 and urge that these conditions be implemented promptly.

5.2 KCC Highways: Each flat is being provided with one off street parking space that would accord with the requirements of Interim Guidance Note 3: Residential Parking. Access to the parking is by way of an existing vehicle access off Swan Street and then a private drive. The construction phase will need to be carefully programmed as access to the site for materials and plant appears difficult. The applicant must liaise prior to and during construction phase to ensure that the safety of all users of the public highway is maintained at all times. Appropriate conditions and informative to be imposed.

- 5.3 DHH: Environmental Protection: No development approved by this permission shall be commenced prior to noise attenuation measures being identified by the developer/applicant, submitted to and approved by the LPA. Of particular concern is noise from the various air handling units and the adjacent car park.
- 5.3.1 No development approved by this permission shall be commenced prior to odour attenuation measures being identified by the developer/applicant, submitted to and approved by the LPA.
- 5.3.2 Waste Management Services: General guidance in respect of refuse and recycling is relevant.
- 5.3.3 Contaminated Land: On the basis of available data and information, the site is not identified as a site of potential concern nor is any adjacent site. To safeguard the situation in the event that significant deposits of made ground or indicators of potential contamination are discovered during development I suggest the imposition of an appropriately worded condition.
- 5.4 KCC Archaeology: The site of the application lies within the historic core of West Malling. This settlement may be of early medieval origin although it seems to have flourished mainly as a medieval market town. Its development is probably closely associated with the establishment of the Abbey and to a certain degree the present settlement still reflects the medieval character. West Malling is one of the medieval market towns covered by the Historic Towns Survey for Kent and understanding its development is a key issue. The medieval town probably developed along the High Street and down Swan Street towards the Abbey, so the application site is located within the centre of this medieval settlement.
- 5.3.4 The application site itself is to the rear of 71 -73 High Street which is a Grade II listed building and is considered to probably date from the 15<sup>th</sup> century. There are several other similar listed, historic buildings in close proximity, clearly demonstrating the historic sensitivity of the location of the proposed new building. There are records to suggest another listed building of industrial character may have been located very close to the site, if not on it, but this may have now been demolished. The application site lies within c.50m of the scheduled area of St Mary's Abbey. There is, therefore, a very high potential for medieval and post medieval remains to survive on this site and any new groundworks may have a significant impact on important archaeological remains.
- 5.3.5 In view of the archaeological and historic sensitivity of this site, any new proposals should thoroughly consider the implications of the development, especially the proposed groundworks, on the historic environment resource. Even though this development seems to be quite localised in terms of foundations, there is still a need to present a full assessment and understanding of the archaeological remains surviving on the site, how they might be affected by the proposed

groundworks and how this impact can be mitigated. I have not seen any consideration of archaeological issues in the submitted documents for this application.

5.3.6 It is essential that informed decisions are made as this scheme progresses and I recommend this application is supported by a Heritage Statement, or Archaeological Deskbased Assessment, preferably accompanied by some results of targeted exploratory test pit(s). I recommend this work is done pre-determination.

5.3.7 Following the submission of Additional Information: The Heritage Statement does not seem to mention archaeological issues at all and therefore it does not provide additional information relevant to the potential for buried remains and suitable mitigation.

5.3.8 The Archaeological Deskbased Assessment by Canterbury Archaeological Trust focuses on another site, that of Mill Yard, and its relevance is not specific to this site. The CAT report is also a very "preliminary" assessment and it does not provide any new information over and above the data we hold in this office.

5.3.9 The recently submitted information does include some other additional details of the site and the proposed development which are useful. The site has been developed before and the proposals are clearly focused in a comparatively small area. In view of the footprint size of the proposed development there may be limited options to preserve in situ surviving archaeological remains and preservation by record is likely to be the main option, based on current information. Therefore, although there is potential for medieval and post medieval remains to survive on the site, I suggest archaeological issues can be dealt with by conditions:

*No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.*

*Reason: To ensure that features of archaeological interest are properly examined and recorded.*

*No development shall take place until details of foundations 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.*

5.5 Private Representations: 46/0X/0S/0R + Site and Press Notices: No responses.

**6. Determining Issues:**

- 6.1 The key issues to consider in respect of this application are the impact and design of the proposed building, particularly in respect of the impact on the adjoining listed buildings and their settings, and on the Conservation Area, amenity issues, provision for refuse facilities and car parking, archaeology, acoustic and odour protection and the need to consider construction issues in respect of this development.
- 6.2 The relevant planning policies are CP1, CP12 and CP24 of the TMBCS and policies CC1 and SQ1 of the MDE DPD. Policy CP1 relates to sustainable development, policy CP12 refers to development in rural service centres and CP24 is the general policy in relation to the design of new buildings. The MDE DPD policies refer to the sustainable design of new buildings and the protection and enhancement of townscapes. In addition national guidance in PPS5: Planning and the Historic Environment is also relevant.
- 6.3 In terms of the principle of development in this location, the site is situated in the central area of West Malling and in close proximity to most facilities and transport links, therefore this is a very sustainable location for new residential development. Such a proposal is also in line with policies CP1 and CP12 of the TMBCS in that this is the most appropriate strategic location for new residential development and it is sited on previously developed land.
- 6.4 The design of the building is also considered to be appropriate for its location and the character of the area. It is proposed to have a traditional form and in most respects traditional detailing, in keeping with the adjacent building. However a number of details are unclear at this stage and as such further details to include materials, dormer construction, verge and eaves details will be required by conditions. There is also a need to impose conditions to require weatherboarding to be used instead of cladding, which should also be painted black.
- 6.5 Furthermore, no details have been provided in respect of sustainable design issues and the need to provide 10% renewal energy on site. Although this is a sensitive location, sited within the grounds of a listed building and in a Conservation Area, I see no reason why sensible measures to reduce energy use cannot be incorporated into the building. I also consider the use of solar panels on the southern roof slope would not be completely alien in such a mixed urban environment. Consequently a condition will be imposed to require details of such measures within the design of building. Such conditions, as identified above, will ensure the development complies with policies CP1 and CP24 of the TMBCS and policy CC1 of the MDE DPD.

- 6.6 In respect of the impact of the proposed building on the adjacent listed buildings and in particular 71-73 High Street, I am of the opinion that this is limited. Clearly the proposed building will alter the setting of this listed building. However there is a history of previous development on this site. A separate detached building previously occupied part of this site and was demolished due to disrepair; this was an industrial building/store. Notwithstanding this previous structure, it is clear that most other buildings on the High Street have extensively developed rear yards, that form part of the character and grain of the environment and these are not considered to detrimentally affect the setting of the principal listed buildings within the immediate environment. As a result I am of the opinion that the development of this site will complement the existing structures in the rear yards of the adjoining buildings and would not be out of keeping with the fine grain character of the immediate area which is characterised by high density development. I am therefore of the opinion that this development, taking into consideration the character of the area, will not have a detrimental impact on the character or setting of 71-73 High Street, which has its principal elevation on the High Street. The proposed development therefore complies with guidance in PPS5.
- 6.7 For the same reasons I am of the opinion that this development will enhance the character of the Conservation Area and will result in the reuse of a derelict site that currently detracts from the urban character of this part of the conservation area.
- 6.8 In terms of the loss of trees, there is a limited impact as the trees are of limited amenity value and quality. Most of the trees are self seeded, due to the underused character of the site. I do not therefore consider this loss will have a detrimental impact on the locality or on the character of the Conservation Area.
- 6.9 In terms of the proximity of the proposed development to existing and proposed buildings, the development would be sited 8.5 metres from the rear elevation of 71-73 High Street. This is a fairly close relationship but is characteristic of other relationships that exist between uses and buildings in the zone along the rear of the High Street. There are a number of windows on the adjoining building which serve a commercial and residential unit. A number of windows are proposed on the elevation facing back towards the existing buildings, serving a bedroom at ground floor, bathroom and kitchen at first floor and a bedroom on the second floor. Consequently a condition is suggested to obscure glaze and restrict the opening of these rear /western windows on the proposed development to ensure overlooking is not an issue and to ensure privacy between the two units.
- 6.10 In respect of the distance between this development and the proposed Mill Yard development, there is a distance of 16 metres between elevations and 13 metres between the rear elevation of the proposal and the balcony on the Mill Yard scheme. There are three windows on this rear elevation serving living areas and a bedroom at second floor level, meaning that the potential for inter-looking is at the minimum end of acceptability. However these two developments are interlinked and are likely to become available at a similar time, (due to the construction and

access issues) and therefore the close proximity between the buildings will be clear to any future occupier. It is also reasonable to point out, and bear in mind that, in historic town centres, intimate relationships of this nature between buildings are not only frequently encountered but, also, to a certain extent are an inherent part of their character. On this basis and with the obscure glazing condition to the proposed rear/western elevation I consider an adequate and appropriate level of privacy can still be maintained. Consequently, I would recommend approval as I consider this arrangement still acceptably complies with policies CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD.

- 6.11 Car parking provision is two spaces, one for each of the flats; this is in line with current car parking standards in villages. The public car park close to the site also allows for any additional car parking requirements and visitor parking. KCC Highways is satisfied with this level of car parking provision.
- 6.12 In respect of refuse storage facilities, these are unclear. Therefore a condition needs to be imposed to regularise the agreement of these details before development commences, although it would make sense for an area to be allocated at the northern side of the proposed building. In addition, the Mill Yard development proposal includes a bin collection area close to the vehicular entrance with Swan Street, which it is expected will also be used by the occupants of these proposed units. An appropriate condition will therefore clarify these arrangements.
- 6.13 In terms of Archaeology, KCC has commented extensively on the statement provided. They are satisfied at this stage that due to the previously developed nature of the site, it is less likely that significant archaeology will be discovered. Consequently they are satisfied that appropriate conditions can be imposed to address the potential for archaeological finds on the site.
- 6.14 DHH has identified that it is necessary for acoustic and odour protection measures to be applied and addressed by conditions. Such conditions are required principally due to the close proximity of air conditioning units and also nearby restaurant uses which have the potential to create odour.
- 6.15 In terms of the management of the construction phase of the proposed building, this would not normally be addressed at the planning application stage. However as this is a very restricted site in terms of access for construction vehicles and the close proximity of the public car park, it is felt necessary on this occasion to require details to be submitted in the form of a comprehensive condition that deals with all matters in relation to construction traffic and the management of the site whilst construction work and clearance of the site is taking place. This is necessary due to the potential for serious disruption, particularly to the public car park, during the construction stages and the need to store materials and access the site. This applies equally to the Mill Yard redevelopment proposal.



6.16 In respect of potential contamination of the site, a condition has been imposed to ensure any contamination found is adequately addressed and dealt with through the correct procedures.

6.17 The application is therefore recommended for approval as it is considered to comply with the relevant planning policies identified above, subject to appropriate conditions requiring further details to be submitted as discussed.

**7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details:

Site Plan dated 17.02.2010, Parking Layout 0728-PL01 B dated 17.02.2010, Existing Plans and Elevations 0728-PL01 B dated 17.02.2010, Letter dated 17.02.2010, Letter dated 22.04.2010, Letter dated 20.05.2010, Design and Access Statement dated 20.05.2010, Planning Statement dated 20.05.2010, Letter dated 15.11.2010, Statement HERITAGE dated 15.11.2010, Archaeological Assessment dated 15.11.2010, Arboricultural Assessment dated 15.11.2010, Photograph dated 15.11.2010, Site Survey 0728-PL03 A dated 15.11.2010, Proposed Plans and Elevations 0728-PL02 C dated 15.11.2010, Plan 0728-PL04 dated 15.11.2010, Letter dated 15.11.2010, 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 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. In particular, the proposed cladding shall be comprised of featheredged weatherboarding and painted black and shall not be varied without the prior written approval of the Local Planning Authority

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 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.

- 4 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard landscaping and boundary treatment. 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: To protect and enhance the appearance and character of the site and locality.

- 5 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: To ensure that features of archaeological interest are properly examined and recorded.

- 6 No development shall take place until details of the eaves, verge, and dormer construction details 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.

- 7 The windows on the western elevation shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the building is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

- 8 No development shall take place until details of a bin storage area, its screening and the proposed method of refuse and recycling collection have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details, and the facilities as provided shall be retained throughout the lifetime of the dwellings hereby permitted.

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

- 9 Development shall not begin until a scheme for protecting the proposed buildings from noise and odour from the adjoining commercial buildings, to include noise and odour attenuation measures, has been submitted to and approved by the Local Planning Authority, and all works which form part of the scheme shall be completed before any of the permitted buildings is occupied and shall not be varied without the prior written approval of the Local Planning Authority.

Reason: In the interests of the residential amenity of occupiers of the new development.

- 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 (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted for approval by the Local Planning Authority relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development prior to first occupation of the building hereby approved.

Reason: In the interests of amenity and public safety.

- 13 No development shall take place until details of foundations 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.

- 14 No development shall take place until details of a management plan to address the physical practicalities of carrying out the construction work on this tightly constrained site have been submitted to and approved by the Local Planning Authority. The plan shall specify access routes into the site for construction traffic and contractors' vehicles, areas to be set aside for materials storage and contractors' vehicle parking within the site, including procedures for the day-to-day management of these areas, and measures to protect adjoining properties whilst the development is under way. The development shall be carried out in strict accordance with the details approved.

Reason: In the interests of residential amenity and public safety.

- 15 Prior to the commencement of development, a scheme shall be submitted to the Local Planning Authority for approval to demonstrate that the development hereby approved will adopt and incorporate practicable and appropriate sustainable construction standards and techniques. The scheme shall take account of the need to minimise: waste generation; water and energy consumption; and the depletion of non-renewable resources. The scheme shall also have regard to the target for at least 10% of the energy consumption requirements to be generated from decentralised and renewable/low carbon sources. The approved scheme shall be implemented prior to the first occupation of the building hereby approved, and retained thereafter.

Reason: To comply with the sustainable design and construction requirements identified under policy CC1 of the Managing Development and the Environment Development Plan Document.

**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 Legal Services Partnership Manager, 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.

- 2 The applicant must liaise with KCC Highways prior to and during the construction phase to ensure that safety of all users of the public highway is maintained at all times.
- 3 Tonbridge and Malling Borough Council operates a wheeled bin, kerbside 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 at the collection point adjacent 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 In order to ensure that construction activities on site take place in a manner that respects the aural amenities of the occupiers of nearby properties, the developer is invited to apply for Prior Consent under Section 61 of the Control of Pollution Act 1974. Please contact the Borough Council's Environmental Health Officer, Peter Thomason on 01732 876178.

Contact: Lucinda Green