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**Report of 23 March 2006**

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**Snodland**                      **569881 161551**                      **24.10.2005**                      **TM/05/03207/FL**  
Snodland West

Proposal:                      Two no. new dwellings to the rear  
Location:                      95 Birling Road Snodland Kent ME6 5EA  
Applicant:                      Mr And Mrs Schwieso

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**1. Description:**

1.1 This full application proposes the construction of two detached houses to the rear of 95 Birling Road, a detached bungalow on the east side of the road. The development would utilise the existing access to the north side of the property to serve the development. Each property is served by three parking spaces. The properties themselves are single aspect with principal windows facing out over the recreation ground and primarily bathroom windows on the upper floor facing towards the adjacent gardens.

**2. The Site:**

2.1 The application site consists of the rear garden of 95 Birling Road, which rises gently from east to west. This land is currently laid to grass with boundary treatments consisting of a mix of hedge, trees and fencing. The site is within the urban settlement confines as defined in the TMBLP 1998. The site is boarded by rear gardens of properties in Orchard Way to the east and those of Orchard Way and Birling Road to the south. The majority of the northern boundary adjoins the recreation ground. The dwellings proposed have a maximum height of 6.5m and would be faced in a mix of render and yellow stock bricks.

**3. Planning History:**

3.1 None relevant.

**4. Consultees:**

4.1 TC: Strongly object. This does not conform to the Kent Design Guide. It is a backland development which will cause loss of amenity to neighbours. There is a health and safety issue of extra traffic (no turning circle) and a loss of trees. No change to these comments on amended plans.

4.2 KCC (Highways): Comments on amended plans. Satisfied that the area shown, at the front of the site, as parking and turning for the existing dwelling is acceptable. Two bays serving middle dwelling to be set back additional 2m. No boundary treatment between bays 1 and 3 serving new dwellings. Area to remain open and communal. Any traffic calming to be within site. Access to be constructed as a vehicular crossover with the pedestrian route being the primary one. Subject to these changes no objections subject to conditions.

4.3 DHH: Comments on amended plans. Refuse storage provision adequate. Site needs to be assessed for potential contamination.

4.4 Private Reps: 9/0X/22R/0S + Art 8. 22 letters of objection received raising the following issues:

- Properties too large and overbearing.
- Overdevelopment of site.
- Out of keeping with surroundings and 'low density' nature of surrounding development.
- Gardens too small for size of dwelling proposed.
- Development does not accord with Kent Design or government strategic plans for the area.
- Previous applications on the site have been refused.
- Development would set a precedent and lead to further development.
- Result in a loss of light and sunlight and would lead to overlooking and a loss of privacy to surrounding properties.
- Adverse impact on garden extension at neighbouring house.
- Unacceptable increase in traffic.
- Unsuitable access, dangerously close to public footpath serving recreation ground.
- Access not suitable for emergency vehicles and lorries.
- Involves the construction of a new road.
- Result in a reduction in security to neighbouring properties.
- Loss of garden would have an adverse impact on the peace and tranquillity experienced in neighbouring gardens in this semi-rural location.
- Loss of trees and garden would lead to a loss of wildlife.

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27 name petition received raising the following objections:

- Out of character with the dwellings already established in this area of Snodland.
- Prove overbearing and encroach upon the privacy and quality of life of the neighbouring properties in Birling Road and Orchard Way
- Place users of the recreation ground at greater risk by building a private road next to a public footpath.
- Encourage other speculators to buy properties in the area with the view to developing further dwellings in the garden which will devalue neighbouring properties and alter the character of this part of Snodland forever.

Seven further letters of objection received on amended plans raising the following points:

- Minor changes do not overcome concerns.
- No change to the safety of the access.
- Do not overcome concerns regarding overshadowing.
- Loss of privacy due to overlooking from ground floor windows.
- Plots are too small for houses proposed.
- Not part of the governments strategic planning.
- Possibility of bats roosting on the site.

## **5. Determining Issues:**

- 5.1 The main issues in this case are the principle of the development, the impact on the surrounding area and the highways impact.
- 5.2 The site is within the urban boundary of Snodland and as a matter of broad principle there is a presumption in favour of residential development on the site. The area is not defined as a low density residential area nor an area of special character in the TMBLP. Government Strategic Plans do not identify small scale 'windfall' development sites such as this. Government guidance on residential development in general is contained within Planning Policy Guidance Note No. 3 'Housing'. This promotes the potential for maximising development on sites within existing urban areas in order to make best use of land.

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- 5.3 With regard to the density of the development, government guidance encourages Local Planning Authorities to make efficient use of land and encourage developments of a density of between 30 to 50 dwellings per hectare. The development proposed has a density of 25 dwellings per hectare. Whilst it is acknowledged that this is slightly lower than the guidance suggests given the shape of the site and the potential impact a development of a higher density could have on the surroundings, the number of units is considered to be acceptable in principle.
- 5.4 The site is surrounded by development that has no defined style or character. The existing dwellings in the locality are a variety of one and two storey and detached and semi-detached. A wide range of materials is also used in the surrounding area. A similar form of development has recently been carried out at 65 Birling Road on the northern side of the recreation ground with no adverse impact on the general character of the area. The general layout of buildings accords with Kent Design, which does not preclude “backland” development as a matter of principle – rather, it is important to look at the actual impact the development would have on the locality. There are no minimum standards for plot sizes set out in either Kent Design or the TMBLP.
- 5.5 The proposed layout comfortably exceeds the minimum privacy distance of 21m between habitable room windows as set out in Kent Design and so there would not be a privacy issue in relation to the surrounding properties. The dwellings have been designed to have all first floor habitable room windows facing away from the properties to the south and the east with only bathroom, landing or high level rooflights facing that way. Privacy would be further protected by the retention and enhancement of the existing boundary screening at ground floor level. The location of the dwellings within the site would preclude potential development on adjacent sites by blocking access through to the relatively lengthy rear gardens of properties fronting Birling Road, to the south of the site.
- 5.6 The orientation of the development and the height of the dwellings proposed would ensure that no overshadowing would result to the surrounding properties. The works conform with BRE sunlight and daylight tests. There would be no additional impact on the garden extension to 15 Orchard Way. The existing trees adjacent to the boundary would already overshadow this area in the late afternoon and, given the height and siting of the proposed buildings in relation to the boundary, it is considered that there would be no added impact.
- 5.7 With regard to the highways issues, the alterations to the existing access to serve the dwellings are considered suitable. The application does not propose the creation of a new road or access. The access would not have an adverse impact on safety of the footpath to the recreation ground as the works proposed would replace the existing high hedge between the site and the footpath with a 1.1m fence. This would enable clearer vision for users of both accesses. The access is

suitable to support three dwellings and this level of development would not result in an unacceptable increase in traffic in the vicinity. The access is of a suitable design for use by emergency vehicles if required.

- 5.8 Three parking spaces are indicated per dwelling in accordance with KCCVPS. The minor adjustments to the parking layout requested by Kent Highways have been forwarded to the applicants, and a revised plan is anticipated. Concerns have been raised regarding the noise and disturbance to neighbouring properties from the use of this access and the parking spaces proposed. Given the number of spaces proposed it is considered that any impact would be minimal as the scale of the development is not such that it would lead to constant movement.
- 5.9 Regarding the other issues raised by local residents, it is not considered that the works would lead to a loss of security to the site as it is proposed to retain and enhance the existing boundaries of the site. There is existing access to the side of 95 Birling Road that enables access to the rear of the plot at present. The works would not lead to a loss of wildlife as it is proposed to retain the trees to the boundary of the site. This would also apply to bats that apparently roost in the trees. As the trees are not to be removed the development would not have an adverse impact on them. Nevertheless, it is for the developer to ensure compliance with the legislation relating to habitat protection, including under the Wildlife & Countryside Act.
- 5.10 Overall it is considered that the proposal would not have an adverse impact on the character of the area, the residential amenities of the surrounding properties or the traffic in the area. On this basis the proposal is considered to be acceptable.

## **6. Recommendation:**

### **6.1 Grant Planning Permission, subject to:**

- the receipt of an amended plan incorporating the revisions to parking layout requested by Kent Highways, acceptance delegated to DPT;
- 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 all 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.

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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.

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 existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A to E (inclusive), of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto. \*

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining properties

- 6 The first floor windows on the south 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 room is occupied and shall be retained thereafter. \*

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

- 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 any elevation of the buildings other than as hereby approved, without the prior written consent of the Local Planning Authority. \*

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining 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 The access shall not be used until vision splays of 2m x 2m x 45° between the driveway and the back of the footway have been provided. The area of land within these vision splays shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.

Reason: In the interests of highway safety.

- 10 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking 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 parking space.

Reason: Development without provision of adequate accommodation for the parking or garaging 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 a 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 No development shall be commenced until details of the finished floor level of the ground floor of all the proposed buildings have been submitted to and approved by the Local Planning Authority. The submitted levels shall be shown in relation to a readily identifiable and verifiable datum. The buildings shall be constructed at the approved levels.

Reason: In the interests of the amenity of neighbouring residential properties and the locality in general.

#### Informatives:

- 1 With regard to the construction of the pavement crossing, the applicant is asked to consult The Highway Manager, Kent Highways, Joynes House, New Road, Gravesend, Kent, DA11 0AT. Tel: 08458 247 800.
- 2 Surface water from private areas is not to discharge onto the public highway
- 3 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate number(s) to the new property/ies. To discuss the allocation of numbers you are asked to write to the Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or telephone Trevor Bowen, Principal Legal Officer, on 01732 876039. To avoid difficulties, 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.



- 4 To reduce the severity of domestic property fires and the number of injuries resulting the Fire Officer recommends that consideration should be given to the installation of a sprinkler system in all new properties.

Contact: Robin Gilbert