
Report of 8 November 2007

Aylesford
Aylesford**572899 158814 14 September 2007 TM/07/00289/FL**

Proposal: Erection of two new dwellings
Location: Brassey Community Centre Station Road Aylesford Kent ME20
 7QR
Applicant: The Brassey Trust

1. Description:

- 1.1 Members will recall that consideration of this application was deferred at the APC3 May meeting in order for the applicant to provide a Flood Risk Assessment (FRA) for the site; and a streetscape and elevation plans showing the effect of the mitigation measures proposed through the FRA on the height and appearance of the proposed dwellings. This information has been provided by the applicant and circulated for consultation.
- 1.2 In addition, the applicant has more recently supplied an additional plan showing the northern elevation of the proposed dwellings, as facing the listed building Rosalinds Cottage; and an additional written statement.
- 1.3 A copy of my May report, and associated supplementary report, are attached as Annexes.

2. The Site:

- 2.1 The application site comprises the domestic garden of Rosalinds Cottage. Site boundaries adjoin the railway line to the south, the Crossing Keepers Cottage to the west, Rosalinds Cottage to the north and Medway Court to the east. The application site also includes the existing access point to Station Road, and the proposed access to the bridge approach of Station Road along the eastern boundary.
- 2.2 Both Rosalinds Cottage and Crossing Keepers Cottage are listed buildings. The site lies within a Conservation Area, Area of Archaeological Potential and a flood plain.

3. Planning History:

- 3.1 As per my May report.

4. Consultees:

- 4.1 PC: No objection.

- 4.2 EA: The Environment Agency recognises that there is already planning permission granted for one new dwelling at this location. This permission would result in a lower ground floor level than is now considered suitable.
- 4.2.1 The new application, although resulting in two additional dwellings will significantly raise the ground floor level, and on balance, the Agency believes this is a more preferable solution.
- 4.2.2 We would agree that incorporating a secondary defence at this location and time not appropriate especially when the ground floor is raised to a level in excess of 5.9ODN.
- 4.2.3 We would advise that the dwellings are constructed with a solid floor construction and do not include a void. The Environment Agency does not consider that the small volume of flood water displaced will be significant in tidal flood conditions.
- 4.2.4 Due to the position of the dwellings in relation to the river we would strongly advise that the residents do connect to the flood warning service and that an appropriate emergency plan is formulated. We would therefore ask for the following condition to be applied should the LPA decide to approve this application.
- 4.2.5 Condition: The residents should connect to the Flood Warning Service. Reason: To ensure the residents receive any flood warnings at the earliest possible time.
- 4.2.6 Condition: The applicant shall submit an emergency plan to the LPA and no occupation of the dwellings should take place until this emergency plan is approved by the LPA. Reason: To ensure the safety of future occupants.
- 4.2.7 Please refer to our previous letter for further requested conditions and advice regarding drainage and potential contamination.
- 4.3 KCC Heritage: Earlier advice (May report) repeated.
- 4.4 KCC Highways: The submitted drawing number 09 Rev B shows amendments to the layout. It has resulted in both of the two new dwellings being repositioned. This in turn has resulted in a redesign of the parking and turning associated with the new dwelling adjacent to the Keepers Cottage. Using turning circles the parking and turning arrangements seem acceptable.

5. Determining Issues:

- 5.1 The determining issues are set out in my previous main and supplementary reports to the APC 3 meeting in May 2007. Deferral was recommended to request further information from the applicant, particularly requiring the submission of a FRA and streetscape/plans showing the visual effects of any proposed flood mitigation measures, as detailed in paragraph 1.1 above.

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- 5.2 The key issues pertaining to flooding, onsite parking and manoeuvring and whether the proposal will adversely affect the setting of the adjoining listed buildings, the character and appearance of the CA and the amenities of neighbouring residential properties will be discussed in detail in a supplementary report that will be provided prior to the APC 3 meeting. This will be issued following further clarification which is now being sought.
- 5.3 The Tonbridge and Malling Borough Core Strategy was adopted on 25 September 2007. The development plan for the application site therefore now comprises the Regional Spatial Strategy for the South East (RPG9 as amended), the Kent and Medway Structure Plan 2006 (KMSP), the Tonbridge and Malling Borough Core Strategy 2007 (TMBCS) and the saved policies from the Tonbridge and Malling Borough Local Plan 1998 (TMBLP).
- 5.4 Policy P4/11 of the TMBLP 1998 was “saved” by GOSE. It is now superseded by policy CP24 of the TMBCS 2007. Policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of an area. These issues were discussed in some detail in my report to the May meeting.
- 5.5 Policies P4/1 (Listed Buildings), P4/4 (Development affecting Conservation Areas), P5/3 (Maximising residential accommodation), and P7/18 (Vehicle Parking) of the TMBLP 1998 have not been saved and are not superseded by any policies within the TMBCS 2007. These policies are therefore no longer relevant to these applications.
- 5.6 With regard to Listed Buildings, the relevant policy remains QL8 of the KMSP 2006 and PPG 15: Planning and the Historic Environment; for Conservation Areas, the relevant policy remains QL6 of the KMSP 2006 and PPG 15; with regard to maximising residential accommodation, the relevant policy remains HP2(C) of the KMSP 2006; and in relation to vehicle parking, the relevant policy remains TP19 of the KMSP 2006, KMSP 2006 Supplementary Planning Guidance (SPG4):Vehicle Parking Standards and PPG 13: Transport. These issues were discussed in some detail in my report to the May meeting.

6. Recommendation:

- 6.1 Recommendation to follow in supplementary report.

Contact: Kathryn Stapleton

SUPPLEMENTARY REPORTS**AREA 3 PLANNING COMMITTEE****DATED 8 November 2007**

**Aylesford
Aylesford****TM/07/00289/FL****Erection of two new dwellings Brassey Community Centre Station Road
Aylesford Kent ME20 7QR for The Brassey Trust**

DPTL: Members will recall from the report circulated on the 30 October that further discussion of the key issues surrounding this application and a subsequent recommendation was to follow in the supplementary report. All comments made below should be read in light of the comments made in my previous reports to Committee.

The key outstanding issues on the application relate to flooding, on site parking and manoeuvring and whether the proposal will adversely affect the setting of the adjoining listed buildings, the character and appearance of the CA and the amenities of neighbouring residential properties.

In relation to on site parking and manoeuvring, Kent Highways have assessed the amended site layout and parking arrangements and conclude that they are acceptable.

With regards to flooding, the Environment Agency has assessed the FRA provided by the applicant and raises no objection, subject to the imposition of several conditions. The Finished Floor Level / slab level (FFL) proposed by the applicant and agreed as acceptable by the EA is: 5.98m ODN. It is noted that this is an increase over the level of 5.3m ODN agreed for the previously approved dwelling under TM/03/00035/FL and TM/04/01887/RD. The basis for this required increase in level is the change in policy with the introduction of PPS 25: Flooding, which provides an updated basis for the calculation of increases in flow levels, incrementally rising over time as expected climate change effects result in a cumulative increase; and now requires projection of flow level increases over the lifetime of a building. In the case of a dwelling this lifetime is deemed to be 100 years. Previous policy required the calculation of flow levels over an approximate 50 year period, and a different and lesser assessment of the overall effects of climate change.

In addition to the FRA, the applicant has provided a streetscape and amended plans detailing the physical changes to the building elevations and siting necessitated by the recommendations accepted by EA in the FRA. It is noted that to achieve the required FFL of 5.98m ODN, the two proposed dwellings will be required to be sited on raised foundations with a slab level of an effective height of up to 1.8m above ground level (bearing in mind that the ground does slope slightly). Siting a two storey building on a 1.8m high, solid foundation has the potential to result in some significant adverse effects on the setting of the listed buildings, the character and appearance of the CA and the amenities of neighbouring residential properties.

I note that given the raised slab level, an increased footprint is also required to provide access to the front of the dwellings, including external stairs. I note that the proposed concrete access faces the Listed Building, Rosalinds Cottage, and to a lesser extent the side elevation façade faces the adjoining Listed Crossing Keepers Cottage. From the plans provided by the applicant, part of the raised concrete access will be screened by a raised landscaping mound, which will mitigate some of the adverse visual effects on Rosalinds Cottage. However, the unattractive structure will still be visible from both of the adjoining Listed Buildings.

It is noted that the dwelling previously approved under TM/03/00035/FL was located very close to the boundary with Crossing Keepers Cottage. The dwellings now proposed appear to have been sited and oriented so as to minimise adverse effects on adjoining properties. However, given the raised floor level and the effect this has on increasing the height and dominance of the dwellings in relation to Crossing Keepers Cottage and Rosalinds Cottage, I consider that the proposal will adversely affect the character, amenity and setting of these Listed Buildings.

Raising the FFL to 1.8m above ground level, results in the setting of the ground floor at effectual first floor level, and the first floor at effectual second floor level. This will result in detrimental adverse effects on the privacy and overlooking of all adjoining properties which could not be mitigated by fencing/screening. In my previous main report to the May meeting, I discussed the effect of overlooking from the western and northern elevations of the dwellings from proposed first floor windows, and concluded that where there was likely to be an effect, a condition requiring obscure glazing could be appropriately imposed. Given the increase in levels, and the existence of (ground floor) living room windows at a raised height, I do not consider that issues of privacy and overlooking can be appropriately addressed by a condition requiring obscure glazing. Such a condition would be not be conducive to securing good living conditions for the residents of the proposed dwellings.

As discussed in the supplementary report to the May meeting, there are other material considerations that *could* balance out any character and amenity issues. Those other material considerations include the planning history of the site; that there is an extant planning permission for a dwelling on the site whose footprint would be larger than that of the combined footprint of the two new dwellings now proposed (raised access and steps excluded); that this scheme is more likely to facilitate funding for the ongoing maintenance and refurbishment of several listed buildings than the currently permitted scheme. It is noted that the applicant has not provided justification for the proposal by way of detailed supporting figures.

In conclusion, although the FRA has identified mitigation measures which would overcome any adverse effects relating to flooding, I consider that these mitigation measures will in turn create undue adverse effects on the setting of the adjoining listed buildings, the character and appearance of the CA and the amenities of neighbouring residential properties. Accordingly, I consider that the proposal is now contrary to the

relevant policies (see paragraphs 5.2 of my main report to the May meeting; and paragraphs 5.3 to 5.6 of my main report to the November meeting) which seek to ensure that development is of a quality that enhances the local environment.

AMENDED RECOMMENDATION:

Refuse Planning Permission for the following reasons:

- 1. The site is included within a designated Conservation Area and within the grounds of a Listed Building, and the proposed development by virtue of its raised slab level height would detract from the visual amenities of the Area, the character, setting and appearance of which it is desired to preserve and enhance, and also detract from the setting of the Listed Building. Accordingly, the proposal is contrary to PPG 15, policies QL1, QL6 and QL8 of the Kent and Medway Structure Plan 2006, and policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.**
 - 2. The development by virtue of its raised slab level height would be unduly visually dominating and cause a serious loss of privacy for the occupants of adjacent dwellings because of overlooking and is contrary to policy QL1 of the Kent and Medway Structure Plan 2006 and policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.**
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Report of 24 May 2007

Aylesford
Aylesford**572899 158814****20 April 2007****TM/07/00289/FL**

Proposal: Erection of two new dwellings
Location: Brassey Community Centre Station Road Aylesford Kent ME20
 7QR
Applicant: The Brassey Trust

1. Description:

- 1.1 The proposal is for the erection of two new dwellings on part of the site of the Brassey Community Centre, Station Road, Aylesford. The proposed dwellings are two storey comprising kitchen, dining, living room, hall, toilet and utility on the ground floor, and 3 bedrooms with one bathroom and one ensuite bathroom at first floor level. The dwellings are to be on separate plots with individual outdoor patio and private garden areas and associated car parking and turning space also provided.
- 1.2 The dwellings are sited adjacent to Rosalinds Cottage in what is currently the garden area of the cottage. One of the proposed dwellings is also sited adjacent to Crossing Keepers Cottage which is located to the west of the application site.
- 1.3 Access to the western dwelling will be via the existing access from Station Road that serves the Brassey Community Centre, Rosalinds Cottage and Crossing Keepers Cottage. Access to the eastern dwelling will be via a re-opened crossing point on the bridge approach of Station Road, adjacent to the eastern boundary of the application site adjoining Medway Court.
- 1.4 In the supporting statement, the applicant has outlined the need for the proposal based on raising funds for The Brassey Trust, a registered charity, to allow for the continuation of the Trust's activities and fund the refurbishment and maintenance of its properties.

2. The Site:

- 2.1 The application site comprises the domestic garden of Rosalinds Cottage. Site boundaries adjoin the railway line to the south, the Crossing Keepers Cottage to the west, Rosalinds Cottage to the north and Medway Court to the east. The application site also includes the existing access point to Station Road, and the proposed access to the bridge approach of Station Road along the eastern boundary.

2.2 Both Rosalinds Cottage and Crossing Keepers Cottage are listed buildings. The site lies within a Conservation Area, Area of Archaeological Potential and a flood plain.

3. Planning History:

TM/01/02362/FL Refuse 22 January 2002

Two new dwellings.

TM/02/01500/FL Refuse 26 July 2002

Erection of bungalow.

TM/03/00035/FL Grant With Conditions 27 March 2003

Dwelling.

3.1 It is noted that planning permission, reference TM/03/00035/FL, for the erection of a two storey, 4-5 bedroom dwelling was granted in 2003. An appeal was submitted in relation to the imposition of some of the conditions (i.e. those requiring submission and approval of details and samples of external materials and joinery, approval of slab levels, prohibition of sleeping accommodation at ground floor level, the provision of parking and turning areas prior to commencement of use, provision of an imperforate fence along the southern site boundary, and obscure glass in windows). The appeal was allowed in so far as the wording of several conditions was amended through the appeal, but all conditions whether in amended or original form were retained.

4. Consultees:

4.1 PC: No objection.

4.2 KCC Heritage: No objection. The site of the application lies towards the southern extent of the medieval town of Aylesford. Remains associated with the extent of the medieval settlement may be revealed during groundworks and I recommend a condition be placed on any forthcoming consent: requiring an archaeological watching brief to be undertaken.

4.3 EA: Comments not yet received. Any comments received will be reported on in the supplementary report.

4.4 KCC Highways: No objection. Subsequent to the initial submission of the application, further details relating to parking provision, manoeuvring and access layout were provided and consulted on. The Highway Authority's comments relate

to two applications on the Brassey Community Centre site: this application, and TM/07/00274/FL relating to the conversion of Rosalinds Cottage into two residential units. Comments relevant to this application are detailed below.

- 4.4.1 The submitted plans show proposals to construct two new smaller houses rather than one large detached house as approved under a previous planning application. The application site is located close to the village centre, but in this location I would expect the full parking provision of two spaces per unit. The geometry of the road and parking restrictions do not permit conveniently located alternative parking. The application site benefits from an approval for a four bedroom dwelling. I am of the opinion that the construction of two, three bedroom dwellings is unlikely to result in a demonstrable unacceptable increase in traffic generation.
- 4.4.2 The application site is currently accessed via an existing shared entrance. The proposals show the creation of a new driveway accessed from Station Road bridge approach which would be shared by one of the proposed units and the Rosalinds Cottage conversion which is the subject of a separate planning application (TM/07/00274/FL).
- 4.4.3 Access Bridge Approach Road: I am now aware that historically there has been an operational vehicle entrance at this location approved under a previous application. As the vehicle dropped kerbs are still in place and I am unaware of any material changes in circumstances I would accept the reopening of this access. The plan shows the reopened access to be 4.8m wide for at least the first 9.0m – that is acceptable to accommodate two-way traffic. The existing vehicle drop crossing will need to be widened to accommodate the additional width of driveway. The applicant will need to liaise with the Highway Manager regarding these works. All works to be done to his specification and satisfaction.
- 4.4.4 Amendments have been made to the access drive and the on site parking arrangements that I find acceptable. In order to accommodate the needs of all vehicles entering the site the turning head at the end must be available to all vehicles.
- 4.4.5 I would therefore support this proposal.
- 4.5 DHH: The environmental health issues raised by this application are railway noise and possible site contamination.
- 4.5.1 Subject to the provision of an imperforate 1.8m high fence to the whole of the site boundary with the railway land to the south of the site, I am satisfied that an appropriate aural climate will be secured in relation to both the houses and the gardens. Provided that the applicant is willing to provide this barrier, I do not wish to object to this application.

4.5.2 To safeguard the situation with regard to the use of the external amenity areas I recommend that any consent that might be granted be subject to the standard contaminated land condition.

4.6 Private reps: (22/0X/1R/0S) + Art 8. One letter of objection received raising the following issues:

- We are worried about vehicle movements that include delivery, dustman and visiting friends etc. This is because the Brassey Centre which is located next to this site has the same vehicle and pedestrian access and we are concerned as the hall is booked to cater for all groups and gets lots of use from young children and their parents who all use this entrance.
- The proposed Station Road access seems to be less than 3 metres in width from the listed pill box and the boundary to our land. Are you allowed to permit planning consent even when the applicant has not got enough land to cater for the Highways Act that relates to access on new build properties for vehicles and pedestrians including disabled?
- We are also concerned of being overlooked by the front elevation windows to the property. They seem to be looking straight in and across our garden.
- From the overview drawing the applicant has submitted, they show a red line around the boundary. This is not precise as they have included my land and neighbouring Network Rail land.
- Due to being in a Listed Building and Conservation Area will all the trees be allowed to stay, as there are a large number of pretty trees in this location?
- There is a great deal of nature on and around this site and I even have newts in my pond, that is located in the region of 8 metres from the proposed site.
- Will the applicant provide the necessary protection of dust etc if works begin to protect our pond and building?

5. Determining Issues:

5.1 The site is located within urban confines where the principle of development of this nature is acceptable, as provided for in HP2(C) of the KMSP 2006 and P5/3 of the TMBLP 1998. As mentioned above, a previous application for a large two storey, 4-5 bedroom dwelling was granted in 2003. The main issues are whether the current proposal will adversely affect the setting of the adjoining listed buildings, the character and appearance of the CA, the amenities of neighbouring residential properties and the safety and functioning of the public highway.

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- 5.2 The key policies to consider in relation to the proposal are policies QL1 and QL6 of the KMSP 2006, and policies P4/4 and P4/11 of the TMBLP 1998. Policy QL1 outlines that the design of development should respond positively to the scale, layout, pattern and character of the local surroundings and not be detrimental to the built environment, amenity or character of settlements, while policy QL6 sets out that the primary planning focus in Conservation Areas is to preserve or enhance their special character or appearance. TMBLP policies P4/4 and P4/11 essentially follow similar lines to the KMSP policies by requiring consideration of scale, mass, form, layout, siting, height, quality of design and materials and their impacts on adjacent buildings and the surrounding area, with particular regard to the preservation or enhancement of the character and appearance of Conservation Areas. Also relevant are KMSP policy QL8 and TMBLP policy P4/1 which state that proposals which would adversely affect the setting of a listed building will not be permitted, and TMBLP policy P7/18 which requires the provision of off-street parking.
- 5.3 The curtilage of Rosalinds Cottage is large and in my opinion is capable of accommodating the two proposed dwellings with associated parking and outdoor areas. The site is set back and well screened from the road and adjacent railway line and in my opinion the proposed increase in density will not alter the character of the area as seen from public space.
- 5.4 The proposed buildings are compact in form and mass and of similar scale to the adjacent Crossing Keepers Cottage and Rosalinds Cottage. It is noted that the combined floor area of the two proposed dwellings is 220 square metres with a volume of 810 cubic metres which is 76 square metres and 65 cubic metres less than the two storey, 4-5 bedroom dwelling previously approved. It is noted that the previous application for two dwellings on the site (TM/01/02362/FL) was refused on the basis that the proposal would constitute overdevelopment of the site compromising the settings of the adjacent listed buildings and be out of character with the Conservation Area, contrary to policies P4/1 and P4/4 of the TMBLP. I note that TM/01/002362/FL was for two, two storey semi detached dwellings located very close to the boundary with Crossing Keepers Cottage. Although two storey, the height of the buildings now proposed are in keeping with the roofline of Rosalinds Cottage with the roof design incorporating steeply pitched roofs and gables similar to the features of Rosalinds Cottage. Furthermore, I consider that any potential effects relating to the bulk of the buildings and cramped development of the site are dissipated by the siting and separation maintained between the buildings.
- 5.5 Clearly the development of the two dwellings will alter the surrounding space and setting of the listed buildings, but I do not consider that the change in the character of the site would be such as to cause harm to the setting of the listed buildings. As discussed above, the scale of the buildings is appropriate and in keeping with the adjacent listed buildings, and the siting of the proposed dwellings away from the listed buildings and the maintenance of open space around the buildings will not

dominate their setting. The character of this part of the Conservation Area is diverse in terms of the style, density and character of the existing buildings, therefore I do not consider that this development would harm the character of this part of the Conservation Area.

- 5.6 The general design of the proposed dwellings is not dissimilar to the adjacent buildings with steeply pitched roofs, gable and dormer detailing incorporated into the design. The detail of the building including materials and fenestration will be important given the location within the setting of listed buildings. Ragstone is a characteristic of Rosalinds Cottage and Crossing Keepers Cottage and ideally this should be used for the construction of the new dwellings. However, the applicant has stated that buff bricks and plain tiles/slate will be used. Conditions requiring the submission and approval of material samples are considered appropriate.
- 5.7 It is noted that the dwelling previously approved under TM/03/00035/FL was located very close to the boundary with Crossing Keepers Cottage. The dwellings now proposed appear to have been sited and oriented so as to minimise adverse effects on adjoining properties, and results in a much smaller dwelling located significantly further away from this listed building. Accordingly I consider that any adverse effects on the residential amenity of the occupiers of Crossing Keepers Cottage resulting from visual dominance, outlook and sunlight and daylight will not be significant. The closest dwelling to Crossing Keepers Cottage is sited approximately 15.5 metres away, and due to windows at first floor level there is the potential for adverse effects relating to privacy and overlooking. It is noted that two bedroom windows are proposed on the western elevation at first floor level. Alternative windows, albeit small ones, are available to both bedrooms. However, the privacy and amenity of neighbouring properties can be safeguarded by a condition requiring obscured glass in certain windows of the dwellings.
- 5.8 To a lesser extent the proposal may result in overlooking to the adjoining Rosalinds Cottage located 12.7 metres to the north however it is noted that one bathroom window which is likely to be obscured glass, and one bedroom window which is offset from Rosalinds Cottage are at first floor level on the northern elevation. Furthermore, it is noted that the bedroom window on the northern elevation overlooks a parking and turning area and will not have a direct view of the private garden area of Rosalinds Cottage. A similar situation exists for the dwelling located in the south eastern corner of the site in relation to Rosalinds Cottage. Given the setback and offset nature of the windows of the proposed dwellings, I do not consider that any adverse effects resulting from overlooking will be more than minor. Given the setback and screening, I do not consider there to be any adverse overlooking effects to the adjoining site to the east.
- 5.9 Policy P4/4 refers to boundary treatment within a Conservation Area. The proposed dwellings are located immediately adjoining the southern boundary and close to the trees/shrubs on the boundary with the railway line. The trees and shrubs provide a screen to the railway line but I am of the opinion that minor

trimming back of the tree canopy will not harm the trees and will not harm the character of the Conservation Area. The application includes outdoor areas that are likely to be landscaped. Given the location within the Conservation Area and the setting of the listed buildings, I consider it appropriate to require the submission and approval of a scheme of landscaping and boundary treatment for the site.

- 5.10 One of the proposed dwellings is to be accessed via the existing shared crossing fronting the railway approach on Station Road, with the second unit accessed by a reopened vehicle crossing located adjacent to the eastern boundary of the site on the bridge approach of Station Road. Historically there has been an operational vehicle entrance at this location approved under a previous application. As the vehicle dropped kerbs are still in place and I am unaware of any material changes in circumstances I would accept the reopening of this access. The plan shows the reopened access to be 4.8m wide for at least the first 9.0m – that is acceptable to accommodate two-way traffic. The Highway Authority has assessed the traffic effects of the proposal in combination with a second application relating to the site – TM/07/00274/FL for the conversion of Rosalinds Cottage into two residential units. It is considered that the proposed parking provision of two spaces per dwelling with associated turning area is sufficient and that the proposal will not result in an unacceptable increase in traffic generation. Accordingly I consider that the proposal is acceptable in terms of P7/18 of the TMBLP.
- 5.11 Private reps raised concerns about the width of the access point from Station Road past the ‘pill box’ to the proposed dwelling. At its narrowest point this access is approximately 2.4m wide and while this may not accord with the Highway Authority’s standards, the Highway Authority has assessed the proposal and is satisfied that the proposed access is acceptable.
- 5.12 In keeping with their comments on the previous application, TM/03/00035/FL, DHH consider that a satisfactory aural environment can be achieved on the site by the erection of a 1.8m high imperforate fence on the railway boundary. Given that the proposed dwellings are located several metres further from the railway line than the dwelling previously approved, I consider that the proposal is unlikely to result in more significant adverse effects and the imposition of the same condition is appropriate. Given the proximity of the site to the railway line, DHH also recommend the imposition of the standard land contamination condition. As this is an intensified use that will result in disturbance of soil on the site, I consider that this condition is also appropriate.
- 5.13 Comments from EA are outstanding. EA commented on the previous application, TM/03/00035/FL raising concerns about the need for floor levels to prevent the ingress of flood water and requiring that no sleeping accommodation shall be provided on the ground floor. Conditions relating to these issues were

recommended, and supported on appeal, and I consider it appropriate to impose the same conditions on this application. However, EA's comments will be discussed in the supplementary report.

5.14 Private reps have raised concerns about the potential for wildlife, particularly newts, to be present on the site given their existence in the vicinity of the site. I have discussed the proposal with Natural England who have confirmed that they have several records of the Great Crested Newt being present in Aylesford area. Great Crested Newts are protected under Section 9 of Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Given the potential for Great Crested Newts and other protected species to be present in the area and the level of protection afforded by legislation, I consider it appropriate to require a walkover wildlife survey to be submitted to the Local Planning Authority prior to the commencement of any development on the site.

5.15 Therefore, I consider that the proposed residential dwellings are appropriate in scale, mass, form, height and siting and will not have an adverse effect on the character of the Conservation Area or the setting of the adjoining listed buildings; and that adequate access, parking and turning provision is proposed and environmental health, flood plain and wildlife issues can be dealt with by conditions.

6. Recommendation:

6.1 **Grant Planning Permission** in accordance with the following submitted details: Floor Plan 02 dated 25.01.2007, Floor Plan 03 dated 25.01.2007, Floor Plan 04 dated 25.01.2007, Elevations 05 dated 25.01.2007, Elevations 06 dated 25.01.2007, Elevations 10 dated 25.01.2007, Elevations 11 dated 25.01.2007, Elevations 12 dated 25.007, Floor Plan 13 dated 25.01.2007, Report dated 25.01.2007, Design and Access Statement dated 25.01.2007, Site Plan 01 dated 20.04.2007, Block Plan 07 dated 20.04.2007, Letter dated 01.03.2007, subject to compliance with 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 samples of all materials to be used externally 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 samples.

Reason: To ensure that the development does not harm the character and appearance of the adjoining listed buildings or the visual amenity of the locality.

3. No development shall take place until details to a scale of not less than 1:5 of all windows and external joinery including fascia details 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 adjoining listed buildings or visual amenity of the locality.

4. The dwellings hereby permitted shall not be occupied until the area shown on the submitted site layout as vehicle parking space has been provided. Thereafter this space 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 it.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

5. 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.

6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

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

7. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation

is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification 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.

8. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details of the slab levels of the dwellings, and the development shall be carried out in accordance with the approved details.

Reason: In the interests of flood prevention.

9. At no time shall sleeping accommodation be provided on the ground floor of the buildings hereby approved.

Reason: In the interests of safety in the event of flooding.

10. Before any works commence on site, a walkover ecological survey of the site, or any part thereof identified by the Local Planning Authority shall be carried out by a qualified ecologist to determine how the site is used by Protected Species. Details of the survey and an assessment of the impact of the proposed development and any appropriate alleviation measures shall be submitted to and approved by the Local Planning Authority before any works on site are commenced. Such measures shall then be implemented concurrently with the development or in accordance with a programme first agreed with the Local Planning Authority.

Reason: To ensure that any protected species on the site are satisfactorily protected.

11. A 1.8 metre high imperforate fence shall be erected along the entire southern boundary of the site prior to the first occupation of either of the dwellings hereby approved and shall be retained at all times thereafter.

Reason: In the interests of the aural amenity of the occupiers of the dwellings.

12. The bathroom and bedroom windows at first floor level on the west elevation of the proposed dwelling adjoining Crossing Keepers Cottage shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the extension is occupied and shall be retained thereafter.

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

13. 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

at first floor level in the north and west elevation(s) of the proposed dwelling adjoining Crossing Keepers Cottage 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.

14. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the north elevation of the proposed dwelling located in the south eastern corner of the site 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.

15. 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.

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 Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or contact Trevor Bowen, Principal Legal Officer, on 01732 876039 or by e-mail to trevor.bowen@tmbc.gov.uk. 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. With regard to the construction of the pavement crossing, the applicant is asked to consult The Highways Manager, Kent Highways, Joynes House, New Road, Gravesend, Kent, DA11 0AT. Tel: 08458 247 800.
3. The applicant is reminded of the need to liaise with the Local Authority regarding refuse storage and collection and the Fire Service regarding emergency access.
4. Surface water from private areas is not to discharge onto the public highway.
5. The applicant must liaise closely with the Highway manager prior to and during the construction phase to ensure that safety is maintained at all times and to reduce the impact on the free flow of traffic in the vicinity. Suitable on site wheel washing facilities are likely to be required to prevent mud and debris being deposited on the public highway.

Contact: Kathryn Stapleton

SUPPLEMENTARY REPORTS

AREA 3 PLANNING COMMITTEE

DATED 24 May 2007

**Aylesford
Aylesford****TM/07/00289/FL****Erection of two new dwellings at Brassey Community Centre Station Road
Aylesford Kent ME20 7QR for The Brassey Trust**

EA: The Environment Agency's records indicate that the site lies within a Zone 3 tidal flood risk area, this is a High Risk area with a statistical 0.5% chance of flooding occurring in any one year. We are also aware that surface water flooding occurred on this site during 2004 as a result of the surcharging of drains, this was exacerbated by failure of an outfall structure to the River Medway. It is understood that remedial works have been undertaken to resolve the surface water drainage problems.

We are aware that this site benefits from an existing planning permission for a residential dwelling at this site, permission being granted in 2003. It should be noted that PPS25 has been published since that time and residential development is considered to be a More Vulnerable land use and should only be permitted within High Risk flood areas if the Local Authority considered that the application can pass both the Sequential and Exception Tests. In addition, a suitable Flood Risk Assessment should be submitted in support of planning applications within flood risk areas.

Considering the planning permission which was granted back in 2003, taking into account the flood risk information available at that time we recommended that a finished floor level of 5.92mAOD should be achieved for normal living accommodation. All sleeping accommodation should then be set a further 300mm above this level, i.e. at 6.22mAOD. It is understood that a final finished floor level of approximately 5.3mAOD was agreed for the planning permission, this being some 300mm above the level of the adjacent railway embankment. Taking into consideration PPS25, residential development should be considered against a 100 year design life and therefore should account for the predicted degree of climate change within this timeframe. With this in mind, the Environment Agency would be looking for floor levels to be set higher than those in the existing permission should the Local Authority be minded to approve this application. It should also be noted that although defences currently offer protection to this area, from data on the crest levels of these defence embankments they are unlikely to offer the required degree of protection for the lifetime of the development without being raised.

With the above in mind, the Environment Agency is obliged to raise an objection to this proposal at the present time. A FRA suitable to the nature and scale of this proposal should be submitted, this should detail the nature of the risk to flooding and all measures proposed to mitigate against this risk.

Additional conditions relating to drainage details have been recommended should the LPA be mindful to grant planning permission.

DPTL comment: Further to receipt of the response from the Environment Agency, I have advised them that this application was to be recommended for approval at this meeting. The EA has reiterated its concerns and indicated that, in their opinion, the absence of a Flood Risk Assessment would on its own be sufficient to justify a refusal. They also say that they would seek to have the application referred to GOSE were the Borough Council to resolve to grant permission prior to these issues being resolved.

However, there is also a very clear indication that the EA considers that it may be possible to resolve their concerns, albeit that the route to achieving this is through the submission and consideration of a Flood Risk Assessment.

I believe there are other material considerations that are capable of outweighing the flood risk issues, on this particular occasion. Those other material considerations include the planning history of the site; that there is an extant planning permission for a dwelling on the site whose footprint would be larger than that of the combined footprint of the two new dwellings now proposed (thus providing a "betterment" in terms of loss of potential flood storage capacity); that this scheme is more likely to facilitate funding for the ongoing maintenance and refurbishment of several listed buildings than the currently permitted scheme; and that the proposal for conversion of Rosalinds Cottage will in itself provide for a more secure future for this listed building.

However, in the light of the EA's continuing concerns, and given the very recently issued advice in PPS25, I consider that there is little choice but to defer consideration of this application in order to give an opportunity for further consideration of these matters in the light of a Flood Risk Assessment, which will need to be prepared and submitted by the applicant.

AMENDED RECOMMENDATION:

DEFER