

**East Malling &
Larkfield**
Larkfield South

570397 158350

5 December 2008

TM/08/03646/FL

Proposal:	Demolition of existing building and construction of 2 no. 1-bed flats, 10 no. 2-bed flats and commercial space on the ground floor
Location:	The Spotted Cow 742 London Road Larkfield Aylesford Kent ME20 6BG
Applicant:	Blackstone New Homes

1. Description:

- 1.1 This full application proposes the demolition of the existing vacant public house building and the construction of a single building with 10 no. two bedroom and 2 no. one bedroom flats with a commercial unit on the ground floor. The development proposes 14 parking spaces to the rear for the residential accommodation and 7 spaces to the side of the building for the commercial unit. A delivery area is proposed to the front of the site.
- 1.2 The application follows the refusal under delegated powers and subsequent dismissal on appeal of an application for 14 flats with a commercial unit at the ground floor. The Inspector considered that a three and four storey building would be too large and out of keeping with the domestic scale of the surroundings and that the development would be detrimental to highway safety due to the lack of provision for deliveries and servicing for the commercial unit.
- 1.3 This new application attempts to overcome the Inspector's concerns by reducing the height and the bulk of the building and also by providing a delivery area to the front of the site to enable the commercial unit to be serviced.

2. Reason for reporting to Committee:

- 2.1 Requested by Cllr Oakley given the planning history on the site and the bulk and massing of the proposed building.

3. The Site:

- 3.1 The site is on the north side of the A20 London Road and is currently occupied by a vacant pub. The existing building is a two storey detached structure with a hipped roof and bay windows. It is located towards the eastern side of the site being set back from the road frontage with an in/out vehicle access arrangement. There are a few young trees around the edges of the site. The site area is stated in the application as being approximately 0.1 hectare.

- 3.2 The premises are adjoined by a variety of building styles and uses. These include the historic listed building known as Wealden Hall to the south-west and the functional supermarket building on the corner of New Hythe Lane to the west. Older style residential premises are found along the A20 as well as more recent housing to the north.
- 3.3 Immediately to the west is an older style two storey building in use as an estate agent. This building adjoins the common boundary and has two clear glass windows in the eastern side elevation. Projecting from the rear of the frontage building is a two storey structure running along the boundary. This accommodates a retail premises and small coffee shop. To the north-west is a fairly modern Methodist Church, of irregular footprint and being approximately one and a half storeys in height.
- 3.4 To the east is another more recent building of flat roof design, approximately two storeys in height. These premises are in use as a car showroom with display area along the site frontage. At the rear of the site is the surface car park associated with commercial premises in New Hythe Lane.

4. Planning History:

TM/07/03556/FL	Refuse – appeal dismissed	13 December 2007
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Demolition of existing building and construction of 14 no. flats and commercial (retail) space

5. Consultees:

- 5.1 PC: Consider this is an improvement on the previous scheme. They would however prefer to see the existing building retained and renovated. The external appearance on this important main road site will be crucial and any building needs to have low maintenance materials and the colour will be important. The PC questions the viability of having shops on this site as locally it has been difficult for retail units to be let. The PC still has concerns over the bulk and mass of the building together with its height, having regard to the size of the site.
- 5.2 KCC (Highways): In light of the Inspector's comments and the fact that a delivery/servicing area is now proposed to the front of the site, no objections subject to conditions.
- 5.3 DHH: No objections subject to conditions regarding refuse, air quality, noise mitigation and contaminated land.
- 5.4 KCC Estates: Developer contributions required for provision of Libraries, Youth and Community and Adult Social Services in the area.
- 5.5 PCT: Developer contributions required towards healthcare provision.

5.6 Private Reps: 28/0X/0R/0S + site and press notice: No comments received.

6. Determining Issues:

- 6.1 The site is located within the defined retail area of Martin Square/Larkfield as set out in Policy R1 of the Tonbridge and Malling Development Land Allocations Development Plan Document. This area forms the district centre of Larkfield. This policy states that the ground floor of buildings in this area should provide an appropriate service for the day-to-day needs of the local community. The use of upper floors for residential use is also permitted, subject to no adverse effect on the functioning of the centre or the retail unit. The ground floor of the building proposed is stated as being commercial and is stated on the application forms as being for an A3 restaurant use. The principle of the development is considered to accord with this policy and to be acceptable in this position.
- 6.2 Given that the principle of the development is acceptable, the main considerations with this application are whether the Inspector's reasons for dismissing the previous appeal on the site have been overcome in the revised scheme.
- 6.3 The principal concern with the building previously proposed was its overall bulk and scale compared with the surrounding buildings. The building now proposed is reduced in size from four to three storeys with the upper storey being partially set into the roof to bring the overall height down to 10.6m maximum from 11.4m. The building has also been reduced in depth by 1m to 20m, with the width remaining at 22.5m. The alterations to the design of the building have, however, considerably reduced the overall bulk and perceived massing of the building by breaking up the front elevation to include three gables with a lower pitched roof element between. The side elevations have been broken up by dropping the eaves height down over the upper storey of the block to reduce the perceived height of the end wall. The general design is more domestic in scale and appearance than the previous proposal and is more in keeping with the general character of the surroundings and the domestic scale of the adjacent buildings.
- 6.4 The revision in depth to the building and the revised design of the front elevation have enabled the creation of a delivery area within the site incorporating a one-way route across the front of the site. This facility would reduce the need for vehicles to stop on the public highway adjacent to the traffic light controlled junction with New Hythe Lane and also the bus stop. Adequate parking is provided to the rear of the site for the residential element of the development and parking is available to the side for parking for the commercial use.
- 6.5 Concerns were raised in connection with the previous application in relation to the potential impact of traffic noise and air quality on the development. The Inspector was satisfied that these were details that could be controlled by condition and, following the submission of reports addressing these two issues, DHH is happy with this approach.

- 6.6 Requests have been made for developer contributions by KCC towards Libraries, Youth and Community and Adult Social Services in the area. KCC have not though provided an estimate for the cost of the works that these contributions would be used for and have instead asked for contributions based solely on the number of units proposed. Members may be aware that this type of approach was heavily criticised by the Inspector who dealt with the recent appeal relating to Sovereign House in Tonbridge. It is not considered that this approach allows a judgement to be made on whether the contributions are fair and reasonable for the development proposed and because of this it does not accord with Government advice regarding developer contributions. It is therefore not considered appropriate to request the contribution.
- 6.7 The PCT has requested contributions for future healthcare provision. The PCT has used the same model for requesting contributions that was found to be fundamentally flawed at the Sovereign House appeal for similar reasons and there is therefore no justification to seek this contribution.
- 6.8 Overall, the proposal is considered to overcome the previous reasons for refusal and the Inspector's reasons for dismissing the appeal. The development is therefore considered to be acceptable.

7. Recommendation:

- 7.1 **Grant Planning Permission**, in accordance with the following details; Letter dated 05.12.2008, Design and Access Statement dated 05.12.2008, Planning Statement dated 05.12.2008, Air Quality And Odour Survey dated 05.12.2008, Noise Assessment dated 05.12.2008, Location Plan 2359 050 dated 05.12.2008, Proposed Plans 2359 100 dated 05.12.2008, Elevations 2359 200 dated 05.12.2008; and subject to the following conditions:

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.

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 be commenced until full details of a scheme of acoustic protection of habitable rooms having windows that will be exposed to a level of road traffic noise in Noise Exposure Categories B, C or D as set out in Policy P3/17 of the Tonbridge and Malling Borough Local Plan have been submitted to and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than 30 LAeq dB in bedrooms and 40 LAeq dB in living rooms with windows closed. Additionally, where the internal noise levels will exceed 40 LAeq dB in bedrooms or 48 LAeq dB in living rooms with windows open, the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation. Mechanical ventilation shall also be provided to bedrooms having openings into facades that will be exposed to a level of road traffic noise in excess of 78 L_{Amax} (Slow) time weighting. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

Reason: To safeguard the aural amenity of the occupiers of the dwelling(s) hereby approved.

4. 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

5. 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.

6. No building shall be occupied until the area shown on the submitted plan as a turning area and delivery 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 and delivery facilities is likely to give rise to hazardous conditions in the public highway.

7. Prior to the development hereby approved commencing, details of the slab level of the proposed building shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.

Reason: In the interests of the visual amenities of the area and in order to secure a satisfactory standard of development.

8. 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.

9. No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

10. The use shall not commence until full details of a scheme of mechanical air extraction from the commercial premises, including arrangements for the continuing maintenance of this equipment and any noise attenuation measures required in connection with the equipment, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully installed before use of the kitchen commences and shall thereafter be maintained in strict accordance with the approved details. No cooking of food shall take place unless the approved extraction system is being operated.

Reason: In the interests of the amenities of nearby properties.

11. No development shall take place until details of a scheme of mechanical ventilation to ensure adequate air quality for the occupants of the development has been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details and shall be retained at all times thereafter.

Reason: To safeguard the amenity of the occupiers of the dwellings hereby approved.

Informatives

1. The applicant is advised to note the provisions of the Control of Pollution Act 1974 with regard to noise and disturbance from construction works. Works should be undertaken between the hours of 7.30am and 6.30pm Monday to Friday; 8am to 1pm Saturday, with no working on Sundays or Bank Holidays. Advice regarding this matter may be obtained from the Director of Health and Housing, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ. Tel: (01732) 844522
2. You are recommended to take full account of the advice given by the Department of the Environment, Transport and the Regions in PPG 23 Planning and Pollution Control. This advice (in Paragraph 14 of Annex 10) indicates that "the responsibility for safe development and secure occupancy of the site rests with the developer." You should note that this Council, acting as Local Planning Authority, has determined the application on the basis of the information available to it - this does not mean that the land is free from contamination.
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 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.

4. The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.

Contact: Robin Gilbert