

**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 Members will recall that this application was deferred from the March Area 3 Planning Committee (copy of the report is attached as an annex) for Legal advice on possible refusal on the grounds of lack of parking and the bulk, scale and height of the building being excessive for this location, particularly having regard to the previous appeal Inspector's conclusions on parking provision, and whether there are material difference with the current application that might allow a different conclusion now; full details of the internal layout of the proposed A3 restaurant and refuse storage arrangements; and further examination of whether the proposed delivery/servicing arrangements are satisfactory and practicable.
- 1.2 A report from the Chief Solicitor for Members information is attached in Part 2 of the agenda.

2. Consultees:

- 2.1 No additional consultations received.

3. Determining Issues:

- 3.1 As stated in the original report the construction of a building with a ground floor use providing an appropriate service for the day-to-day needs of the local community with residential above is acceptable in principle.
- 3.2 Following the report of the application to the March meeting the applicant has requested that the proposal be considered on the basis of the ground floor of the building being used as an A1 general retail use rather than an A3 restaurant use. This use is now in accordance with the previous application and so the Inspectors comments that there is adequate parking provision on the site are still valid as there has not been a material change between the two applications.
- 3.3 The principal consideration is therefore the suitability of the design of the building. The Inspector stated that the design of the previous scheme was "monolithic" because of its excessive height, bulk and scale. As stated in the original report it is considered that the amended design overcomes these concerns as the building

is more domestic in scale and the appearance has been enhanced with the addition of architectural detailing and articulation in the elevations to break up the mass of the structure.

- 3.4 Additional information has been sought regarding refuse storage and the proposed delivery/servicing arrangements has been requested. Comments on this information will be provided in the supplementary report.
- 3.5 In light of the above considerations and those raised in my original report from March 2009, I am satisfied that the proposal is acceptable.

4. Recommendation:

- 4.1 **Grant Planning Permission** in accordance with the following submitted 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, 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.

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 LA_{max} (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. 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.
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@tmhc.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. 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.

Contact: Robin Gilbert