

1.6 This application has been submitted following, and in direct response to, the refusal of planning permission TM/10/01437/OA, the final version of which proposed 11 no.3 bedroom houses with associated access and parking facilities. This application was refused for the following reason:

- *“The proposed development would be an over intensive development of this site, which has an inherently open character and which lies at the point of transition between the terraced frontage housing to the north west and the lower density housing to the south east. This would be to the detriment of the built environment, amenity and character of the existing settlement and is therefore contrary to Policy CP24 of the Tonbridge and Malling Local Development Framework Core Strategy 2007.”*

2. Reason for reporting to Committee:

2.1 Controversial planning history.

3. The Site:

3.1 The site is located within the rural settlement confines of Burham village. The north-eastern boundary fronts onto Rochester Road. The site was previously occupied by the now demolished Fleur de Lys PH. The site has an area of approximately 0.22ha with a shallow slope running from north east to south west across the site. The site features no trees of merit.

3.2 The site has residential development on three sides and allotments to the rear. Rochester Road is characterised principally by terraced properties although newer development to the south east of this site is made up of detached houses with a built form that contrasts with the predominantly linear character of development in the village.

4. Planning History (most relevant):

TM/10/01437/OA	Refuse	25 March 2011
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Outline Application: Demolition of existing public house and redevelopment of site with 11 no.3 bedroom houses with associated access and parking facilities

5. Consultees:

5.1 PC: Burham PC are happy with the effect on the street scene. We do however have concerns with the style and amount of parking. We feel that if this is approved in this form, it could have serious implications for parking within this small development. Subsequently, Burham PC has commented that they have concerns over parking and the size of gardens.

- 5.2 KCC (Highways) (amended plan): No objections to the proposals in respect of highway matters. I am satisfied with the dimensions shown on the amended plan meet with Kent Vehicle Parking Standards. I believe that the design of tandem parking will cause no detriment to highway safety; vehicles have the ability to turn within the site curtilage and join onto Rochester Road in a forward gear. I have no objections subject to the imposition of conditions.
- 5.3 DHH: Contaminated Land: The submitted report presents a review of available desk top data, a walkover survey, conceptual site model and a qualitative risk assessment. It does not identify any on-site or off-site potential sources of contamination and therefore does not find any potentially complete source-pathway-receptor linkages. On the basis of available data and information, the site is not identified as a site of potential concern nor is any adjacent site. To safeguard the situation in the event that significant deposits of made ground or indicators of potential contamination are discovered during development, I suggest the imposition of the following condition:
- (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.
- (b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.
- (c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

- 5.4 Private Reps & Article 13: Representations on the amended plan are awaited and any that are received will be set out within the Supplementary Report.

6. Determining Issues:

- 6.1 The overall principle of development of this site for residential purposes was not cited as a reason for refusal of the previous application, given that the site lies within the village confines of Burham and is defined as Previously Developed Land. Rather, it was the amount and density of the development proposed at that time which was considered to conflict with the prevailing character of the surrounding built environment, to its overall detriment. In these respects, TMBCS policy CP24 requires 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 a locality. This is supported by policy SQ1 of the MDE DPD (2010) which states that all new development proposals should protect, conserve and where possible enhance:

- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
- the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.

6.2 One of the key points to consider, therefore, is whether this proposal adequately overcomes the reason for refusal on the previous scheme, as set out in paragraph 1.6 above. I consider that the reduction in the number of units now proposed (from 11 to 8) has sufficiently reduced the density of the development, (from 54 to 36 dph approximately) which is undoubtedly welcomed. Additionally, the nature of the accommodation now proposed, being semi-detached and detached properties, and their specific layout within the site has allowed the buildings to better assimilate with their immediate surroundings. It also assists in creating a more open character to the site, which was a particular characteristic noted within the previous reason for refusal. I therefore consider that the amount, layout and scale of the proposed development would be in character with the locality, as previously identified. In particular, I consider that this scheme satisfactorily achieves a transition between two parts of the village with noticeably different characteristics.

6.3 I am also satisfied that the specific layout of the dwellings within their respective plots will ensure that the surrounding residential properties will not be adversely affected by the development, for example through overshadowing, loss of outlook or loss of privacy.

6.4 I am aware that the highways implications of the development continue to raise some local concern. This is reflected in the representations made by the PC, although no formal representations have been made by any private individual during the consultation process to date. However, the development does utilise existing access points to the site and, given the size of the public house and its car park that previously occupied the site, would have a similar potential for traffic generation.

6.5 I am also aware that the level and nature of car parking provision proposed have caused concern locally. As some Members will be aware, the Borough Council has adopted the Kent Design Guide Interim Guidance Note 3 (IGN3) and KCC SGP4 for the purposes of the assessment of parking in Development Control, pending the preparation and adoption of standards under MDE DPD policy SQ8. This was the subject of a detailed report to PTAB on 18 November 2009. As was pointed out in that report, neither SPG 4 nor IGN3 has been adopted pursuant to an adopted Development Plan, with the necessary stages of public consultation, and this necessarily limits the weight that can be attached to these documents.

Nevertheless, as *guidance* they represent the most up-to-date and practical information for the basis of decisions, and IGN3 in particular is borne out of practical experience of recent development across Kent.

- 6.6 IGN3 provides guidance principally on appropriate levels of parking provision (such as the number of parking spaces associated with different forms of development) whilst SPG4 contains advice on matters such as the appropriate size for individual parking spaces and garages. In village locations such as this, IGN3 suggests that three-bedroomed and four-bedroomed houses should be provided with two allocated and individually accessible parking spaces each. A footnote says that these spaces are “best provided side by side, or in another independently-accessible form. Tandem spaces are often under-utilised”. If garages are provided, they are to be considered in addition to this level of provision, although the guidance also says that an assessment should be made of the likelihood of any garages that are provided being used as such. Additional provision of visitor parking is sought on-street at the rate of 0.2 spaces per unit. In this regard, the document advises that “a design-led allowance for on-street parking will normally be the best way to cater for visitors, and additional vehicles owned by residents, where there are no on-street restrictions in place”. With regard to vans, IGN3 comments that these are increasingly a common sight in residential areas and that modern working practices often necessitate the parking of vans at home.. It is suggested that parking bay dimensions should be modelled on vans rather than cars.
- 6.7 SPG4 advises that the preferred size for a car parking bay is 5.0m long by 2.5m wide and that for a light goods vehicle is 7.5m by 3.5m. Driveways that are provided as an alternative to a garage should have the same dimensions as the preferred size of a car parking bay. The width of end spaces abutting an enclosed boundary should be increased to 2.7m. The preferred size (internal dimensions) for a garage for a single car is 5.5m long by 3.6m wide. This is larger than might historically have been the case because (it is said) garages provided for individual dwellings are unlikely to be used for the parking of a vehicle unless sufficient spaces is also incorporated within the garage for storage. It is also commented that, where it can be demonstrated that cycle parking is provided elsewhere, the width of the garage can be reduced.
- 6.8 On the most recently-submitted plan for the current proposal, units 2, 3, 5, 6 and 7 are each shown to be provided with two parking spaces dimensioned at 5.5m by 3.0m in tandem form, in front of a garage measuring 5.5m by 3.6m externally. Unit 1 has a garage of the same size with one parking space in front and a second external space in the rear garden, accessed from the rear. Units 4 and 8 each have a garage in a separate block measuring 5.5m long by 6.0m wide, plus one parking space each (in the case on unit 4, to the rear and, in the case of unit 8, to the front). The parking spaces are therefore both longer and wider than the “preferred” size set out in SPG4. This, I consider, is a sensible approach given that the majority of these spaces are to be located between the side walls of one

dwelling and its neighbour. However, I note that the proposed dimensions are also wider than the 2.7m which SPG4 suggests is appropriate for “end spaces abutting an enclosed boundary”. IGN3 suggests that parking bays should be designed to accommodate vans as well as cars. Although I recognise that providing for van parking can be a problem in some areas, many vans are not necessarily significantly wider than a private car, especially where the van is used habitually as a means of transport to work. Given the limited status of IGN3, as mentioned above, and the fact that it is guidance that has not been subject to wide public consultation, I do not consider it would be appropriate to seek to apply this element of the document universally; experience shows that Inspectors are reluctant to apply significant weight to policy of this nature unless there are specific local or site-specific circumstances that can be demonstrated to warrant it. I do not consider that this site is readily distinguished from any other in respect of the need to provide for van parking.

- 6.9 The garages, where proposed within curtilage, are shown as being 5.5m by 3.6m externally, whereas SPG 4 advocates these as internal measurements. It is not suggested anywhere that a garage of these dimensions is incapable of accommodating a car but rather that the additional space is required in order to encourage the use of the garage by making appropriate provision also for domestic storage within the garage. However, in this instance, the garages are provided in addition to the two external parking spaces sought under IGN3. I do not consider, therefore, that the marginal shortfall in the size of the proposed garages would carry any significant weight, when viewed in the context of the situation overall. In the case of units 4 and 8, which have only one external parking space each, the garage is provided in a separate block, outside the curtilage, and for this reason there is less risk of the use of the garage being usurped by domestic storage.
- 6.10 Concern has been raised regarding the use of tandem parking within the site. However, in this instance the use of tandem parking should not be resisted given that the dwellings are (bar one) accessed off a private drive. In the one instance where this is not the case (unit 1) the car parking spaces are not in tandem form. The alleged resistance to making full use of tandem parking spaces often centres on difficulties associated with manoeuvring into and out of the spaces, and this issue is likely to be minimised where access is from a private drive, as opposed to an adopted highway with significant amounts of through traffic. This roadway is now proposed to be a shared surface which will also improve manoeuvrability. There is therefore adequate space for a vehicle to manoeuvre within the private drive without any need to reverse onto Rochester Road, meaning that there are no objections to the parking formation on highway safety grounds. The ability of any individual householder to use tandem parking on a purely logistical basis is an entirely different matter and not something that should be prescribed through the planning system, being instead a matter for the market to determine.

Notwithstanding this view, the amount of tandem parking has now been reduced through a revised layout plan which is welcomed in light of the concerns expressed.

- 6.11 I am therefore satisfied that the level of car parking proposed to serve the residential development is acceptable and furthermore that adequate turning provision for vehicles exists within the site.
- 6.12 Policy CP17 of the Tonbridge and Malling Core Strategy says that, in the rural areas of the Borough, affordable housing provision will be sought on all sites of five or more dwellings at a level of 40% of the number of dwellings provided. However, both this policy and the adopted Affordable Housing SPD make it clear that this level of provision is the starting point for negotiations and that it needs to be assessed on a site-by-site basis, taking account of matters such as the viability of the development, and the location and character of the site. This matter was addressed during the assessment of the 2010 planning application and the stance was taken in that case that, given the current economic climate, requiring a level of on-site provision would not be viable or appropriate. There has been no fundamental change in circumstances and I therefore consider it would be appropriate to adopt the same approach with this application, namely that it would be more appropriate to seek a commuted sum in place of on-site affordable housing provision, with such a contribution being required through a legal agreement. This approach is supported by the adopted policies. The applicant has submitted updated evidence in this respect which will inform subsequent negotiations should Members be minded to grant outline planning permission.
- 6.13 Given the apparent marginal viability of the development and the Council's key priorities, it is considered that the provision of affordable housing should have precedence over seeking contributions from this development towards other facilities, such as public open space. It is therefore appropriate in this instance not to seek other contributions requested by other bodies in order to secure the maximum contribution towards affordable housing.
- 6.14 I therefore conclude that this scheme has successfully overcome the previous concerns and equally raises no further issues or causes for concern. As such, the proposal is acceptable in terms of relevant adopted planning policies and the following recommendation is put forward:

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Design and Access Statement dated 06.04.2011, Planning Statement dated 28.04.2011, Contaminated Land Assessment dated 06.04.2011, Environmental

Statement dated 06.04.2011, Location Plan dated 07.04.2011, Survey dated 07.04.2011, Email dated 24.06.2011, Site Layout 1585-GA-1001 D dated 24.06.2011, subject to the following:

- The applicant entering into a Section 106 Planning Obligation to secure commuted payments towards the provision of affordable housing.

Conditions:

- 1 Approval of the details of the appearance and the landscaping of the site (hereinafter called the “reserved matters” shall be obtained from the Local Planning Authority.

Reason: No such approval is given.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 3 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 4 The details submitted in pursuance to Condition 1 shall be accompanied by details and samples of materials to be used externally 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.

- 5 No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.

Reason: To ensure the safe and free flow of traffic.

- 6 The access drive shall be constructed no steeper than 1 in 14.3 for the first 4.5 metres from the edge of the highway and no steeper than 1 in 8 on any other part.

Reason: To ensure the safe and free flow of traffic.

- 7 The use of the access shall not be commenced until turning facilities have been provided within the curtilage of the site and these facilities shall be retained thereafter free from any obstruction.

Reason: In order that a vehicle may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

- 8 The accesses 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.

- 9 The buildings shall not be occupied nor the use commenced until the area shown as parking space on the approved plans has been drained and surfaced and that area shall not thereafter be used for any purpose other than the parking of vehicles.

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

- 10 The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles. (P009)

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

- 11 The details submitted in pursuance of condition 1 shall be accompanied by a scheme of landscaping and boundary treatment which shall include a tree survey specifying the position, height, spread and species of all trees on the site, provision for the retention and protection of existing trees and shrubs and a date for completion of any new planting and boundary treatment. The scheme as approved by the Authority shall be implemented by the approved date or such other date as may be agreed in writing by the Authority. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others 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.

- 12 The refuse collection point shown on plan number 1585-GA-1001 E hereby approved shall be retained for such use at all times.

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

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

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

(c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

- 14 An assessment of potential risk from indoor radon and a scheme for radon protection measures, if and where necessary, shall be submitted and approved by the Local Planning Authority.

Reason: In the interests of amenity and public safety.

- 15 The details submitted in pursuance of condition 1 shall be accompanied by details of the slab levels of the building and section drawings through the site 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 or visual amenity of the locality.

- 16 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 any building other than those that are explicitly approved under any Reserved Matters application, submitted pursuant to this Outline application, 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.

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 disposal to be dealt with on site.
- 3 The applicant is also advised to take particular account of the climate the development is likely to experience over its expected lifetime and consider the scope for maximising cooling and avoiding solar gain in the summer through, for example, the layout and orientation of the buildings and landscaping. The applicant is urged to have regard to the Government's 'Code for Sustainable Homes' and Kent County Council's 'Kent Design Guide' for further details on the range of measures that could be considered.
- 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.
- 5 The applicant is encouraged, through the design of the development, to minimise the future energy consumption of the proposal. Where practicable, consideration should be given to measures including the installation of photovoltaic cells and the appropriate use of Sustainable Urban Drainage Systems (SUDS).
- 6 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to the Legal Services Partnership Manager, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or contact Trevor Bowen, Principal Legal Officer, on 01732 876039 or by e-mail to trevor.bowen@tmbc.gov.uk. 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.

Contact: Emma Keefe