

4. Planning History:

TM/72/11197/OLD grant with conditions 14 July 1972

Sun lounge.

TM/76/10710/OLD Refuse 16 January 1976

O/A residential development with new access.
(previous application MK/4/73/905)

TM/80/10949/FUL grant with conditions 17 April 1980

First floor extension.

TM/82/10601/FUL grant with conditions 29 January 1982

Single storey side/front extension to form kitchen.

5. Consultees:

5.1 PC: Continues to strongly object and consider the proposal would result in intensification of the use of the existing access, creating additional hazards to traffic. The proposed sightlines at the junction of Downderry Way with Bradbourne Lane are inadequate and do not meet the minimum requirements of current standards and would create unacceptable additional hazards of traffic. The proposal would result in over intensification of the site and would result in the loss of amenity and privacy for the current residents. It is noted that there is no main drain for that side of Downderry Way and that currently septic tanks are in use. The arrangements for the disposal of sewage are considered unsatisfactory. Reference is also made to conflicting information from Southern Water.

5.1.1 Reference has also been made to the width of Downderry Way and construction vehicles and rights of way. This would, however, be a private matter between the parties concerned.

5.2 KCC (Highways): It is stated that in the case of Downderry Way the visibility distance available at its junction with Bradbourne Lane is 40m to the south and 15m to the north, measured from a point 2m back from the edge of the highway. This distance is adequate to the south, however, it is 3m short of the recommended distance to the north.

- 5.2.1 Downderry Way currently gives access to approximately 9 houses and 10 garages. The additional traffic generated by two dwellings is not a significant intensification of use. The crash record indicates that there have been no recorded injury crashes at the junction of Downderry Way/Bradbourne Lane within the last 3 year period. I am mindful that the visibility splay is slightly short to the north from Downderry Way. Given the low level of traffic generated and the crash record, I do not consider that this proposal would be detrimental to highway safety and I do not wish to raise objection.
- 5.3 Southern Water: The proposed foul drainage details are satisfactory. A section 106 connection application under the Water Industry Act is required for the new connections. The use of soakaways for surface water disposal will require consent from the Environment Agency.
- 5.4 Environment Agency: No objection subject to a condition stating that if contamination is found during development then no further development shall be carried out until a remediation strategy is agreed and implemented.
- 5.4.1 The proposed soakaways are acceptable from a Groundwater Protection point of view but they will need to be constructed as shallow as possible and no deeper than 3m below ground level. A number of measures need to be noted in relation to the infiltration of surface water into the ground; these can be covered by an informative. Lastly, if the proposal to discharge foul sewage to the mains sewer alters, then the Environment Agency would need to be reconsulted.
- 5.5 Private Reps: Representations have been received from 18 households and various objections raised:
- The entrance to Downderry Way is on the brow of a hill with poor visibility. Extra traffic could create traffic hazards and damage further the condition of the road. The proposal is considered to represent a danger to pedestrians due to lack of pathways and street lighting. There is considered to be a lack of visitor parking within the site.
 - The proposed design is not in keeping with the bungalows on the other side of the road. There is concern about the siting of the refuse enclosure adjacent to the neighbouring property.
 - It has been pointed out that there is no mains drainage system in the road.
 - The loss of the bay tree at the front of the site is regrettable as it is in good condition.

- Neighbours have also referred to other non-planning matters that cannot be taken into account. These include obstruction of a private right of way and disruption of everyday life during the construction works, reversing delivery vehicles and the need for the developer to repair any damage to the road and re-surface it.

6. Determining Issues:

- 6.1 This site falls within the defined urban confines of Ditton, being surrounded by residential properties in a mix of styles/sizes. Policy CP11 states that development will be concentrated within the confines of the urban areas (including Ditton). The land was the subject of a housing allocation for many years. The principle of residential development in this urban location is therefore acceptable and in accordance with the general aim of policy CP11.
- 6.2 Policies CP1 (sustainable development) and CP24 (high standard of development) recognise that new development must result in a high quality sustainable environment and should be balanced against the need to protect and enhance the natural and built environment. Residential amenity and water quality should be preserved and wherever possible enhanced. Where practical new housing development should include a mix of house types and should be concentrated at the highest density compatible with the local built and natural environment.
- 6.3 The NPPF encourages the use of “previously developed land” for new residential development. However, residential curtilages are specifically excluded from the definition of previously developed land and there is no presumption that the whole of a curtilage may be developed. Part of the current application site is therefore not previously developed land.
- 6.4 In the light of the above policy context, it is necessary to have regard to the nature of the site and the characteristics of the area. Downderry Way currently incorporates a mix of property size and styles, some on spacious plots and others on narrower or more confined sites. The land slopes down from north to south with the immediately adjoining site to the south having recently been developed with two storey family sized houses, in a similar way to the proposal under consideration at No. 6. As can be seen therefore there is a mix of property styles and sizes on different sized plots.
- 6.5 The application proposes a density of 15 units /hectare. This represents a fairly low density and less than that generally considered in some urban areas. In this instance, however, the density reflects the character of the area and is considered to be acceptable.
- 6.6 No. 6 is in a poor state of repair and there are no objections to its demolition and replacement with accommodation of higher construction and efficiency standards. The proposed dwellings are of a satisfactory design and sympathetic to the

character of the area which comprises a mix of larger detached two storey houses, bungalows and chalet properties. With regard to residential amenities the layout within the site respects the privacy of each plot.

- 6.7 The proposed dwellings have been designed to avoid direct overlooking and maintain a level of privacy for neighbouring properties. Clearly there will be a change in outlook for surrounding properties in Downderry Way, London Road and Bradbourne Lane, although a similar situation arose when No. 45 Bradbourne Lane was developed. In the event that planning permission is granted a condition will be required to ensure the slab levels are appropriate to this location.
- 6.8 From the above it is clear that this site, which falls within the urban confines of Ditton, is acceptable for residential development and that the proposed form can be achieved without harming the existing density or character.
- 6.9 Reference has been made to planning history in the area. Historically this site has been allocated for residential use since the Medway Gap Town Map. It was envisaged that the access would be via the adjoining site at Ditton Place. In 2000, planning permission was refused to demolish No. 4 Downderry Way and to erect five houses on land to the rear of Bradbourne Lane. The reason for refusal stated that on balance the proposal would result in intensification of the use of the access, create additional hazards to traffic with inadequate sight lines at the junction of Downderry Way and Bradbourne Lane.
- 6.10 In addition, application MK/4/72/1020 for outline planning permission for the residential development of a 5.2 acre site with access off Bradbourne Lane was dismissed at appeal. At that time, the Inspector concluded that Downderry Way would be unsuitable for carrying traffic due to its narrowness and construction.
- 6.11 When first submitted the agent indicated that all land the subject of the application was under the applicants ownership. It was brought to the Council's attention by residents that the adjoining access was under separate ownership. As a result, it was necessary for the agents to serve notice on the owners of the relevant land. As a result of this procedure it has been indicated that landowners are not willing to enable access to be provided to additional houses on the plot. This is a private matter between the parties concerned and the Local Planning Authority is obliged to determine the application regardless of this information.
- 6.12 As a result of neighbour notifications, No. 7 Downderry Way indicated their title included part of Downderry Way. The applicants agents provided title deeds stating they had a right of way. The proof of ownership was, therefore, unclear. A land registry search was carried out by the Council, which revealed the piece of the access way in question did not form part of any registered estate. It was concluded that whilst ownership was not registered and was inconclusive, the agents had demonstrated sufficiently that they have a right of way.

- 6.13 With regard to the issue of highway safety, it has been noted by KCC that Downderry Way is a private street accessed from Bradbourne Lane, an unclassified carriageway. With regard to visibility splays, it is stated that the distance to the south is acceptable whilst to the north it is 3m short of the recommended distance. The additional traffic generated by two extra dwellings is not considered by the Highways Engineer to represent a significant intensification of use. It was concluded that the proposal would not be detrimental to highway safety and no objection is raised.
- 6.14 The KCC Highways Engineer has noted that the application refused in 2000 related to the introduction of four additional dwellings served from Downderry Way whilst the current application relates to two additional dwellings. Moreover, the technical guidance for the assessment of visibility at road junctions has changed since 2000, the relevant documents now being Manual for Streets and Interim Guidance Note no 2. In accordance with his revised guidance and as noted above, the visibility at the Bradbourne Lane junction is acceptable to the south, but 3m short to the north. The additional traffic generated by two new dwellings is within the daily variation of traffic movements to be expected along Downderry Way. This level of development is not likely to generate a significant increase in traffic movements. The KCC Highways Engineer has concluded that a recommendation for refusal would not be appropriate in this instance.
- 6.15 Initially insufficient information was provided about the drainage proposed to be installed for the development including the (then proposed) septic tank, soakaways and maintenance regimes. There is a presumption that connection to the Public Sewer should be the first considered method of sewage disposal and the nearest sewer is situated 84m away to the west.
- 6.16 The application has subsequently been amended and it is now proposed that a pumping unit will be installed measuring 1.5m in diameter and 2m deep with a storage capacity of 3500 litres. Technical specifications have been received for the pumping station showing a control kiosk and beacon light which will indicate if there is a problem and this has been added to the revised drainage plan. The applicants state that during discussions with Southern Water they have indicated that they will adopt the pump and associated drainage and take responsibility for any failures. The position of the unit is said to be such that in the event of a pump failure the unit can be emptied by lorry until the pump is fixed.
- 6.17 The applicants' agent has provided a copy of a response from Southern Water (dated 31 May 2013) stating that a proposed connection to the foul sewers via an existing manhole had been approved. In a response to the Local Planning Authority on 20 June 2013, however, Southern Water stated that foul drainage details were not acceptable. Southern Water would not enter into an agreement to adopt the sewers or consent to communicate with the public sewage system. In a third letter dated 28 June 2013 Southern Water stated that the foul drainage details are satisfactory and a section 106 connection application under the Water

Industry Act would be required. A fourth letter (dated 1 July 2013 and relating to the latest details received 28 June 2013) confirmed the comments made in the letter dated 28 June 2013. The above correspondence would indicate that Southern Water are now satisfied with the submitted foul drainage details.

- 6.18 From an environmental health point of view it has been confirmed that provided Southern Water are content with the proposal and have agreed to take over responsibility for the pumping station and sewerage, then previous objections have been withdrawn.
- 6.19 Comments have also been made about the hours of working during the demolition and construction phases and the need to avoid bonfires to dispose of waste. These matters can be covered by informatives.
- 6.20 It should be noted that Downderry Way is a private street and not maintained by the Highway Authority. The road currently has no pathway or street lighting and this situation would not change with the current application. This could not be used as a reason for withholding planning permission for the proposed development in this instance.
- 6.21 The applicants' agent has confirmed that the boundary fence will be retained if in good condition and replaced if required.
- 6.22 The landscaping proposals for the site are generally considered to be acceptable, although additional climbing plants adjacent to the fences would be of benefit. None of the trees at the site are worthy of a Tree Preservation Order, although the bay tree at the front of the site is quite a good specimen.
- 6.23 The bin storage arrangements for the proposed properties are generally acceptable. With regard to Plot 2, it has been confirmed that the refuse and recycling bins have been relocated to avoid a kitchen window on the side of the adjacent property.
- 6.24 This application has been the subject of lengthy and detailed consideration, given the sensitive nature of the site and the means of access via a private road. Whilst the overall principle of development in an urban area is clearly in accordance with adopted policy CP11, the detailed form of the proposal has required careful consideration, in the interests of existing residential amenities. It is now concluded that there are no objections to the removal of No. 6 Downderry Way and that the site is capable of accommodating three dwellings in the form shown. The layout and design shown would have regard to the character of the area without resulting in overdevelopment.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Archaeological Assessment dated 10.01.2013, Landscape Statement dated 20.12.2012, Design and Access Statement dated 20.12.2012, Planning Statement dated 20.12.2012, Drawing DETAIL OF GARDEN SHED dated 20.12.2012, Drawing DECORATIVE BRICK BAND dated 20.12.2012, Drawing FENCE DETAIL dated 20.12.2012, Location Plan dated 20.12.2012, Site Plan 12/449/01 D dated 26.6.2013, Elevations 12/449/02 dated 20.12.2012, Elevations 12/449/03 dated 20.12.2012, Elevations 12/449/04 dated 20.12.2012, Site Layout dated 20.12.2012, Letter dated 30.05.2013, Drainage Layout 12/449/05B dated 26.6.2013, Letter dated 13.03.2013, Certificate B dated 30.01.2013, Details SEPTIC TANK dated 30.01.2013, Tree Survey dated 10.1.2013, Letter dated 13.3.2013, Email dated 21.6.2013, Pump information 21.6.2013, Letter dated 26.6.2013, Information dated 26.6.2013, 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 all materials to be used externally have been submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality and in accordance with paragraphs 17, 57, 58, 61 of the National Planning Policy Framework 2012.

3. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in any elevation of the dwellings 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 interest of amenity and privacy of adjoining property and in accordance with paragraphs 17, 57, 58, 61 of the National Planning Policy Framework 2012.

4. 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 roof of the building 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 interest of amenity and privacy of adjoining property and in accordance with paragraphs 17, 57, 58, 61 of the National Planning Policy Framework 2012.

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 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.

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

Reason: In order to secure a satisfactory standard of development and in accordance with paragraphs 17, 57, 58 and 61 of the National Planning Policy Framework 2012.

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. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
- (a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
 - (b) No fires shall be lit within the spread of the branches of the trees.
 - (c) No materials or equipment shall be stored within the spread of the branches of the trees.
 - (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
 - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
 - (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

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

10. None of the buildings shall be occupied until the drainage works have been completed in accordance with the approved plans.

Reason: In the interests of pollution prevention.

11. The access hereby approved shall be provided and maintained on both sides with a 2m vision splay to the site boundary with no obstruction over 600mm.

Reason: In the interests of highway safety and in accordance with paragraph 35 of the National Planning Policy Framework 2012.

12. If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing

how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To comply with the National Planning Policy Framework, to protect groundwater because the site is located within the principal aquifer and the site is within a source protection zone.

Informatives

1. During the demolition and construction phase, the hours of working (including deliveries) shall be restricted to 0800-1800 Monday to Friday, 0800-1300 hours on Saturdays with no work on Sundays or Public/Bank Holidays.
2. The disposal of waste by incineration could lead to justified complaints from local residents and should be avoided. The disposal of demolition waste by incineration is contrary to Waste Management Legislation.
3. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
4. The proposed soakways will need to be constructed as shallow as possible and must be no deeper than 3 metres below ground level.
5. The following points should be noted wherever infiltration devices for surface water drainage are proposed at a site:
 - Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water should drain directly to infiltration device entering after any pollution prevention methods.
 - No infiltration device should be sited in or allowed to discharge into land impacted by contamination or land previously identified as being contaminated.
 - There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base or infiltration device and the water table.
 - A series of shallow infiltration device are preferable to deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.

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