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TONBRIDGE & MALLING
BOROUGH COUNCIL



EXECUTIVE SERVICES

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AREA 1 PLANNING COMMITTEE - THURSDAY, 23RD OCTOBER, 2014

4. **Development Control and Supplementary Reports (Pages 3 - 18)**

Supplementary reports of Director of Planning, Housing and Environmental Health

Supplementary letter

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Hadlow (Hadlow) TM/14/02774/FL
Hadlow, Mereworth
And West Peckham

Demolition of goat shed and siting of two new temporary buildings onsite, move proposed school fence south into Faulkners Farm courtyard (amended scheme to that previously approved under planning permission TM/14/01114/FL) at Faulkners Farm Ashes Lane Hadlow Tonbridge Kent TN11 9QU for Hadlow College

DPHEH:

I am aware that Mr and Mrs Jones have recently written to some Members of the Planning Committee expressing their objections to the planning application. I have also received a statement from Mr and Mrs Davis outlining their objections and concerns along with a request that it be shared with all Members of the Planning Committee. Copies of both correspondences are attached and are referenced below. A key part of the communication discusses the fact that work has yet to commence on the permanent school.

Since publication of the main Agenda, the College have advised further on the likely programme for bringing forward the permanent school on the College playing fields. The College are awaiting a final decision from the Education Funding Agency (EFA) which is anticipated in mid-November following which they intend to commence building works in January, subject to final costings and contractor agreements.

I would stress again that the application currently before Members for determination solely relates to the new build aspects as set out in my main report and not to any further extension to the life of the temporary planning permission (which expires on 30 September 2015) or to any increase in pupil numbers beyond that already agreed (maximum of 160). Should that become necessary in the coming months, the College would be required to apply formally and any application would be judged on its own merits at that time.

Since publication of the main Agenda, Officers have taken the opportunity to review the conditions set out in the recommendation. In order to avoid any uncertainty regarding what is expected under the terms of Condition 1 (which sets out the expiry of the temporary planning permission), it is suggested that this is amended to refer expressly to the buildings on site in addition to the use of the site for Free School purposes. This is reflected below.

AMENDED RECOMMENDATION

Amend Condition 1:

1. The temporary school use hereby permitted shall be discontinued, the buildings

hatched on plan number DHA/10125/03 B attached to this decision notice removed from the site and the land restored to its former use on or before 30 September 2015 or at the opening of any permanent school at Hadlow College whichever is the earlier.

Reason: In the interests of preserving the open nature and function of the Metropolitan Green Belt.

**Tonbridge TM/14/01411/FL
Castle**

Demolition of single storey building and change of use of part of beer garden to create a new car park on land to the rear of 15 and 17 Shipbourne Road at Land Rear of 15 - 17 Shipbourne Road Tonbridge Kent TN15 3DN for Kent County Council

No supplementary matters to report

**Tonbridge TM/14/01407/CR4D
Castle**

Proposed demolition of existing building and open-sided structure on site and replacement with 14 new residential dwellings together with access, parking, garaging, landscaping and ancillary works at Land To South And South East Of 15 Shipbourne Road Tonbridge Kent for Kent County Council

Private Reps: One further letter has been received on behalf of Skinners Company and Tonbridge School regarding the ability of neighbouring land owners to access their land and the implications for future opportunities. A copy of the letter is attached for Members information. The suggestion is made in this letter that determination of the current application should be deferred to allow for the layout to be amended allowing for access onto land owned by Tonbridge School and *“to consider the potential for a larger, more efficient, better planned development across two sites contributing to the Council’s housing land supply.”*

DPHEH:

Dealing firstly with the additional representation made in respect of land ownership and access arrangements, as summarised above, I would stress that any arrangements regarding suitable access over land is an entirely private matter and must not have a bearing on the outcome of this planning application. It is simply not a material planning consideration that can have any bearing on the outcome of this decision.

Whilst it may be *preferable* for some to consider potential development opportunities for a wider area of land in a more holistic way that in itself is not sufficient grounds to defer determination of this application, particularly given that the area of land within the ownership of Tonbridge School is not itself the subject of any current or immediately

upcoming development plans. The Committee is bound to assess the proposed development as submitted and whilst the applicant may want to engage with adjoining land owners in this respect at some time in the future, they cannot be required to do so by withholding planning permission. Indeed, such a course of action is likely to be seen as unreasonable behaviour by the Council in the event that an appeal was lodged on grounds of non-determination which may be subject to a legitimate claim for costs against the Council.

Having further reflected on the concerns of some of the neighbouring owners regarding the potential impact on daylight/sunlight, Members should be clear that Officers have undertaken detailed calculations as set out by the BRE in order to ascertain any likely impact on the amount of daylight and sunlight and the results indicate that suitable levels of both would be retained to ensure the development is acceptable in these respects. I would stress that this is an objective result based on a specific calculation, not a matter of more subjective judgement.

I appreciate that the nearest neighbours have mentioned that the tests were undertaken without having inspected the internal layout of their properties but the calculations were undertaken by Officers using a "worst case scenario" as our base line - so in making our calculations we have assumed the windows as being either living rooms or bedrooms rather than bathrooms for example which are deemed to be "non-habitable" rooms and therefore afforded less protection in terms of daylight/sunlight.

Bearing this in mind, and when considering that the tests undertaken are based on specific calculations to determine impact, I do not consider that visiting the neighbouring dwellings would assist in the objective assessment of the proposal - it would not tell us more than has already been established through the tests conducted other than what the rooms are used for and as we've already worked on the worst case scenario basis, the conclusions drawn would not be any different.

I appreciate that there is also some concern about how the proposed development might affect the structure of the neighbouring Listed Building. This is not a matter that can be considered within the context of the planning application itself, it is a private matter to be agreed between each of the parties involved and reference may need to be given to the Party Wall Act. I would therefore recommend that additional informatives be included on any planning permission granted to draw attention to this matter.

AMENDED RECOMMENDATION

Additional Informatives:

5. If the development hereby permitted involves the carrying out of building work or excavations along or close to a boundary with land owned by someone else, you are advised that, under the Party Wall, etc Act 1996, you may have a duty to give notice of your intentions to the adjoining owner before commencing this work.

6. 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.

Hildenborough **TM/14/02070/FL**
Hildenborough

Proposed one/two storey rear, two storey side and front porch extension at 7 And 8 Church Road Hildenborough Tonbridge Kent TN11 9JL for Mr S Hooper

Paragraph 5.1 of the main report made reference to the comments originally made by the PC received on 7 July. Subsequent comments were received by the PC on 18 August as a result of the submission of an amended plan correcting the discrepancy originally referred to. These comments are reproduced as follows:

We are pleased to see that the inaccuracy of the plans has been rectified and there is no impact on neighbours from windows overlooking their property. We are concerned that this is overdevelopment of the site and not in keeping with other properties in the road.

DPHEH:

The contents of the later comments made by the PC (reproduced above) have been discussed in the main report. To reiterate, the site lies within the village confines meaning that there is no objection in principle to the construction of extensions of this size. Equally, the size of the plots is sufficient to ensure that the proposed extensions, whilst relatively large, would not amount to overdevelopment.

In terms of the impact on the street scene, there is no requirement set out in policy to ensure that a pair of semi-detached dwellings remains as a matching pair. Fundamentally, a change in the street scene arising from the proposed development would not automatically cause visual harm. The extensions are of an acceptable design and appropriate materials would be used meaning that harm would not arise to the street scene by virtue of the change proposed.

I understand that the neighbour at 9 Church Road is concerned that comments on the planning application made by the Council's in-house Conservation Architect have not been reproduced in the main report. Members will be aware that all Committee reports are written on behalf of the DPHEH and that assessments are often made by a range of Officers with different areas of expertise which then are fed into the final report.

It is not a case that the Conservation Architect is a statutory consultee through the planning process and as such his notes form part of the Department's natural dialogue. These comments were unusually placed in the public arena and in light of the concern raised by the neighbour as a result, I can advise Members that the Conservation Architect made the following written comments in respect of this application:

"I have no building design objections but surely this proposal will have a severe impact on the amenity of the neighbour presenting a two storey wall right on the boundary and cutting light from the east into their garden in the mornings. The drawing I might point out has no dimensions and so we do not even know how big the extension is going to be."

For Members information, liaison between planning officers and the Conservation Architect primarily takes place concerning matters of design and historic fabric in assessing applications for Listed Building Consent and for development within or on the edge of Conservation Areas. In this instance, this communication was instigated by the case officer given the location of the site relative to the neighbouring Conservation Area. It is important to mention that in making his views known to the case officer by way of a written note, the Conservation Architect confirmed that the design of the extensions were acceptable. The subsequent comment regarding the impact of the proposed extension on 9 Church Road was his individual opinion, not based on any detailed assessment of the scheme in light of the relevant planning policies. Moreover, irrespective of that comment, it is the role of the planning officers when advising the Committee to draw on their particular fields of knowledge and apply adopted policy accordingly.

In this case, the policy has been applied correctly and, as set out in the main report, it has been concluded that the proposed development would not reduce the amount of light to the neighbouring dwelling to an extent that would justify a refusal on such grounds. More general matters concerning feelings of overbearing and dominance of built form are more subjective in nature. The fact that the Conservation Architect – whose expertise lies in matters of design and the historic built environment, not making judgements on residential amenity – has expressed one particular opinion that, when having balanced all matters and applied the tests set down by the relevant policy, has not been concurred with in the conclusions drawn in the recommendation before Members does not indicate that an erroneous or selective recommendation has been made.

I am aware that there may be some concern about the possibility of the dwellings, once extended, being converted into a single dwellinghouse. I should clarify that amalgamating the pair of houses into one larger dwelling, either in their current form or once extended (should planning permission be granted for the proposed extensions), would not require any formal approval from the Council. Similarly, any external changes to the front of the buildings to facilitate such a change, such as blocking up of openings, creation of a single front entrance, would not require planning permission as the pair of dwellings lie outside of the Conservation Area. I would however stress that there is no indication that the applicants intend to do this.

The creation of front driveways provided a permeable surface is to be used or provision is made for surface water to run off within the site, falls within provisions expressly set out within the Town and Country Planning (General Permitted Development) Order 1995 (as amended). Again, this means that this aspect of the proposed development would not fall under our control.

The submission of a joint application in this case was found to be the most sensible approach when considering the acceptability of the extensions in the round – because if the extension to No.7 were to be built alone, there would be an impact on the amenities of No. 8 and vice versa. Furthermore, logistically this would allow for a far more straightforward build to take place.

With the above in mind, the only aspects of the scheme that Members are bound to consider in making a decision on this application are the extensions to the dwellings

themselves.

Finally, I am also aware that Mr Jonathan Leeson (planning agent) has recently written to the Ward Members making comments in support of the application and inviting Members to inspect the site before making that decision. A copy of that correspondence is attached and is referenced below. If Members wish to pursue the offer put forward by the agent, they have the option to defer determination to allow for a Members Site Inspection to be arranged which would afford them the opportunity to view the site within the context of its immediate surroundings.

RECOMMENDATION REMAINS UNCHANGED

Copy of email from Mr and Mrs Jones dated 20.10.14

We urge you urgently to rethink your approach to this whole matter before it is too late. This is a school in the ludicrous position of recruiting pupils without a school building. We as residents will suffer the resulting damage to our surroundings, pupils will suffer harm on the highway and in time TMBC as local authority will be made to look ridiculous.

We as affected residents are indeed extremely frustrated for a number of reasons. One major example is the utter contempt with which the applicants treat the planning process, and your inability as planning authority to control their serial modifications of a supposedly final position.

Another example is the repeated misuse of the word 'temporary' in connection with the Faulkners Farm site. This can be seen very clearly in the current application and recommendation from officers. Work on the so called permanent school at Bourne Grange Lane has still not been started. Whatever its financial position turns out to be there is clearly now no chance that buildings would be ready there by 30 September 2015. Therefore the Condition 1* proposed by officers is a complete fantasy on at least two counts and the Faulkners Farm development is not temporary. You already know that the applicants will be back with further 'temporary' proposals for their current pupil roll when the new buildings are not ready next summer. In addition this is a school, therefore they will be recruiting a further intake of pupils any day. No doubt the 'temporary' units would arrive on Faulkners Farm to house these in August 2015, to be followed when the applicants get round to it by a further retrospective planning application.

The problem with this whole process is that different planning standards have been applied to any proposal bearing the label 'temporary'. The site visit on 6 September 2013 and the Area 1 Planning Committee meeting on 12 September 2013 clearly established that school development at Faulkners Farm should not be allowed for reasons of:

- Harm to the Green Belt

- Absence of very special circumstances (incidentally the reasons for this latest proposal quoted by officers in their agenda report sections 1.4 – 1.8 of cost and timetable expediency are self-evidently not very special circumstances)

- Unsuitability of the site and surrounding roads for school traffic, and likelihood of obstruction of the highway

- Harm to residential amenity

For these reasons you declined to grant permission for a school at Faulkners Farm and subsequently granted permission at Bourne Grange Lane. You as members said at the last committee meeting at which Faulkners Farm school buildings were considered that you did not expect to see the same question back again. Yet here it is, and will be at least twice more. Now is the time to call a halt to 'temporary' proposals to which different standards are applied and refuse this application at the Area 1 Planning Committee meeting on Thursday 23 October 2014.

* The temporary school use hereby permitted shall be discontinued and the land restored to its former use on or before 30 September 2015 or at the opening of any permanent school at Hadlow College whichever is the earlier.

Yours sincerely

Tim and Sally Jones

Collyn's
High House Lane
Hadlow
TN11 9RB

Copy of email from Mr and Mrs Davis dated 23.10.2014

It continues to frustrate us that the council cannot seem to do anything to halt the spread of the temporary school.

We understand that retrospective planning is legal but how many more temporary building applications are we going to see submitted by the College. It smacks to us as an attempt to wear the residents down into submission.

Referring back to 26th March of this year and quoting from Emma O'Keefe - her understanding was that the college is seeking to progress with the commencement of development of the permanent school at their earliest opportunity August 2014, she was *assured* this would be the case.

Has she been reassured - has the council *actually* visibly checked how much progress has been made since August 2014?

Where she gave recommendations to grant retrospective planning, she gave a condition that the temporary school use hereby permitted shall be discontinued and the land restored to its former use on or before 30th September 2015 or at the opening of the permanent school at Hadlow College whichever is the earlier.

The big question and a major concern to us all - this condition remains extremely important. What is the council going to do if it is obvious this is not going to be achieved? Despite these buildings being temporary, the continued development of them still causes harm to the surroundings, disturbance to wildlife and an ever increasing disturbance to residents.

Jean & Simon Davis
2 Pittswood Cottages
Ashes Lane
Hadlow
Kent
TN11 0AR

Copy of email from Mr Jonathan Leeson (agent) dated 15.10.2014

Dear Councillors,

I understand you have decided to refer this application for determination by Planning Committee. Whilst disappointed our clients are understanding and accepting of your need to place this particular application before the committee meeting on the 23rd October. In view of this, we thought it might be helpful for you to have a look at the site and the proposals before your meeting. We appreciate that this may not be possible and are happy to take your guidance on this, but thought it would be the courteous thing to. Perhaps you would let us know what you think – thank you.

My clients have met their neighbour at No. 9 Church Rd. on a number of occasions to explain what we have done to allay their concerns. For your information and consideration, I summarise the main changes as follows:

1. The overall bulk and massing of the current proposal has been significantly reduced from earlier applications i.e. the built form has been moved away from the shared boundary between Nos. 8 and 9 Church Rd.
2. We have explained the proposed extensions fall within the 45 degree sight lines from No. 9 Church Rd's rear windows thus complying with Planning Policy.
3. Ensured there are no windows at ground or first floor levels on the flank elevation that could overlook No. 9 Church Rd. thus ensuring and maintaining their privacy and amenity.

Thank you for taking the time to consider these brief points, which we hope are helpful. If you have any queries or would like us to arrange for you to look at the site do please feel free to contact me at any time.

Yours sincerely,

Jonathan Leeson
Smart Architecture Ltd.

Mr Matthew Broome
Senior Planning Officer
Tonbridge and Malling Borough Council
Gibson Building
Gibson Drive
Kings Hill
West Malling
Kent
ME19 4LZ
matthew.broome@tmbc.gov.uk

23 October 2014

By email

14/01407/CR4D

Dear Mr Broome

Objection – Application Reference 14/01407/CR4D

This letter of objection is submitted on behalf of Tonbridge School and The Skinners' Company in respect of planning application reference 14/01407/CR4D for the construction of 14 residential dwellings on land to the south and south east of 15 Shipbourne Road.

In terms of context, the land shown at C and bounded in yellow on plan A at Appendix 1 is owned by The Skinners' Company and held on a lease by Tonbridge School. The land subject to the application is marked at B, whilst the land at D is also in the ownership of The Skinners' Company (on lease to the School). The Skinners' Company is a charitable organisation with a modus operandi of fostering education and training, whilst Tonbridge School is one of the several educational institutions supported by the Company. The land shown at C and D is, locally, viewed as being owned by the Tonbridge School; hence, for ease of reference in this matter, we refer to the School as "owners".

An initial objection to the planning application was lodged by the Bursar of Tonbridge School on 7th July 2014. This outlined concerns in relation to the impact of development on preventing access to neighbouring land owned by the School, and the need for the proposed layout to respond to this, ensuing that a right of access is maintained. This letter of objection provides clarity on this issue and responds to the Council's assessment as set out in the Planning Committee Report (Agenda Item 7).

The land at C lies immediately to the north of the application site, separated by a small strip of scrubland held under a separate ownership and shaded in blue on the plan at Appendix 2. The land at C is largely unused and accessed by footpaths to the east and west, though vehicular access is restricted. The above application therefore represents the last opportunity to provide for appropriate access to the land. Whilst the School and The Skinners' Company do not currently have plans to develop the land, they have

identified it as a potential future opportunity, either for uses ancillary to the School's operation or indeed residential development, in common with the application currently before the Council. The owner of the blue land has indicated their willingness to discuss granting appropriate access rights over this land.

We have seen a copy of Area 1 Planning Committee Report prepared at the request of Cllr Branson in response to local interest generated by the application. Paragraph 6.16 of the Report states that the access arrangements proposed by the applicant would not interfere with the access arrangements serving the neighbouring properties or other adjoining land and that a clear delineation would be made between the existing and proposed accesses. This assessment is not accurate. No access arrangements are proposed to enable access to the land owned by the School, ultimately sterilising any development potential or operational use of the School land. On this basis it is suggested that further work is undertaken by the applicant, working with the School, to ensure that appropriate vehicular access can be provided.

Paragraphs 6.2 and 6.3 of the Committee Report refer to the importance of encouraging the effective use of previously developed land (PDL), drawing on paragraph 17 of the NPPF and policy CP11 of the Core Strategy which both support development of PDL. Moreover the report identifies the broad location of the site as within the urban confines of Tonbridge and a highly sustainable location for residential development. The Committee Report's recommendation to grant consent for the proposed development is therefore contrary to both paragraph 17 of the NPPF and policy CP11 of the Core Strategy.

Development as proposed will unnecessarily sterilise a significant area of PDL, preventing its future reuse. While the application will provide 14 new homes on PDL, it will equally be preventing the reuse of neighbouring PDL. While the future use of the School's land is not yet identified, potential does exist for the site's development for new homes, on a similar scale to that proposed by the applicant. The land could therefore make a positive contribution to the Council's housing land supply in a location the Council considers to be sustainable and close to the town centre.

In light of the above context, the opportunity exists for a far more efficient use of the application site and land owned by the School. Accordingly it is suggested that determination of the planning application is deferred, or if not, refused on the grounds set out above. Deferring the planning application would present two opportunities for the Council, including:

1. Amending the site layout to enable access to the School's land and therefore reuse of PDL in a sustainable location and within the urban confines of Tonbridge; and
2. The potential for a larger, more efficient and better planned development across two sites, contributing to the Council's housing land supply.

On the basis that access arrangement is not secured to the School's land, the School maintain their objection to this planning application. In light of the approach suggested above, the School welcomes the opportunity to meet with both the Council and the applicant to establish a solution to the agreement of both parties.

Yours sincerely

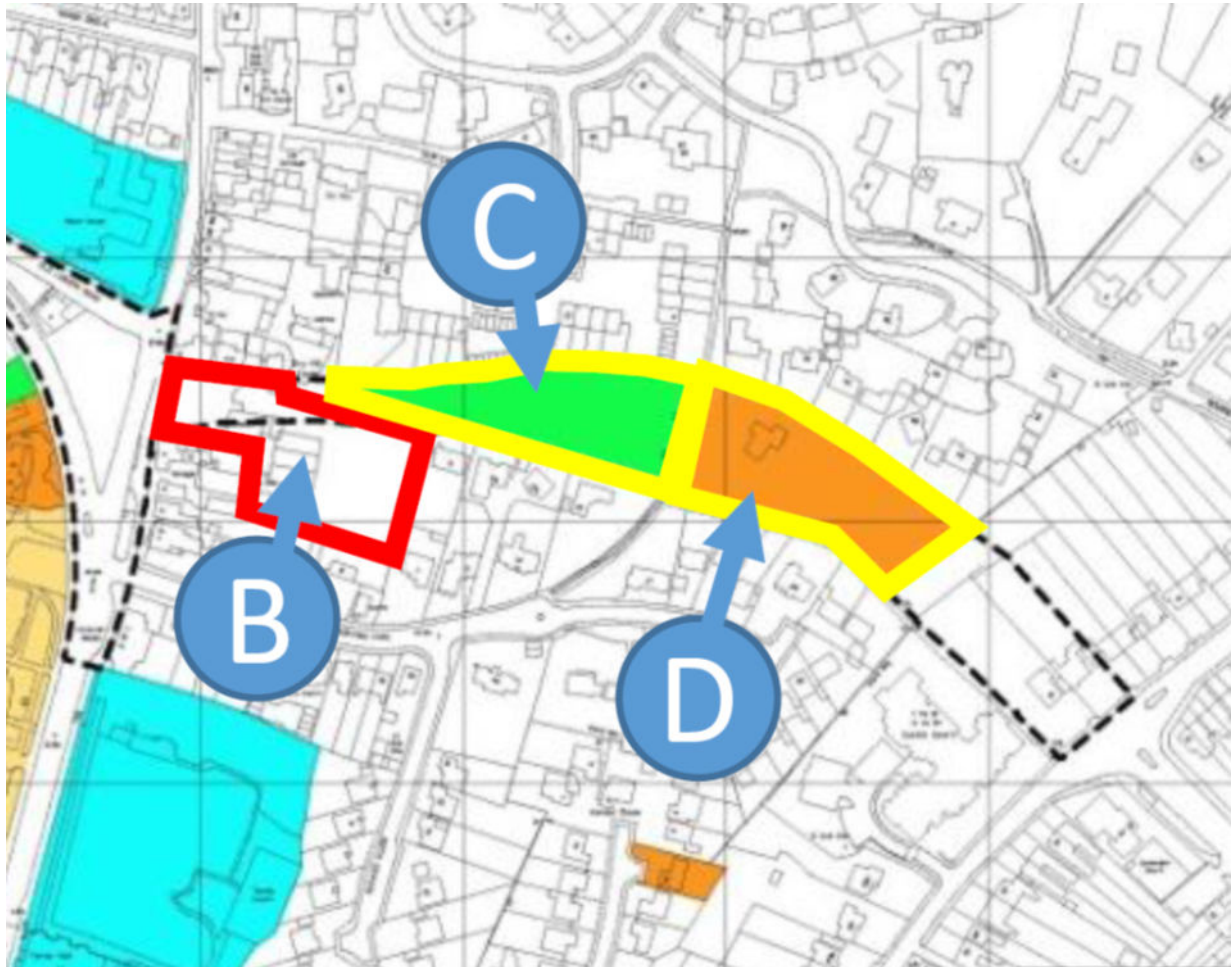


Nigel Durman
Deloitte LLP

cc. Mark Organ, Tonbridge School

cc. John Cook, The Skinners' Company

Appendix 1 – Land Ownership Plan



Appendix 2 – Land Ownership Plan 2



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