

**Trottscliffe**                      **564116 160453**    **28 May 2015**                      **TM/15/01758/OA**  
Downs And Mereworth

Proposal:                      Outline Application: Construction of a 5 bedroom single dwelling  
Location:                      Downsvie 8 Green Lane Trottscliffe West Malling Kent ME19 5DX  
Applicant:                      Dan Dryden

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**1. Description:**

- 1.1 Outline Planning Permission is sought for the erection of a five bedroom detached dwelling in the garden of Downsvie, 8 Green Lane, Trottscliffe. All matters are reserved (access, scale, appearance, layout and landscaping). Accordingly, the proposal seeks to determine purely whether the principle of development of a dwellinghouse in this location is acceptable. However, an illustrative site layout has been provided for information.
- 1.2 The application has been amended during the course of the application to include a tree survey and report. The tree survey and advice from Officers has resulted in the indicative footprint of the dwelling being reduced and moved back from the front boundary of the site to accommodate those trees shown to be retained.

**2. Reason for reporting to Committee:**

- 2.1 The application was called to Committee by Councillor Mrs Ann Kemp due to the controversial nature of the proposal and due to its location on the edge of built confines and potential impact on openness of Green Belt.

**3. The Site:**

- 3.1 The site lies at the end of Green Lane within the settlement confines of Trottscliffe and is formed by a relatively large side garden of Downsvie, 8 Green Lane. The site is well screened from the road by hedging and trees which give some privacy to the plot. To the east and south lies open countryside which is designated as Green Belt and the Area of Outstanding Natural Beauty (AONB) includes the village confine and the adjoining countryside. Directly in front of the site lies Green Lane, which is a private street and directly north lies the host dwelling of 8 Green Lane.
- 3.2 The site has some specimen trees which add to the visual amenity of the locality, including a Scotts Pine and Weeping Willow. The sites measures approximately 18m x 27m.
- 3.3 Although details of access have been reserved there is a clear access into the site from Green Lane which could be adapted to serve the new plot and 8 Green Lane.

#### 4. Planning History (relevant):

TM/83/10056/OLD    Application Withdrawn    12 November 1983

Regulation 4 application by Tonbridge and Malling District Council for erection of 8 replacement dwelling units with ancillary car parking.

TM/84/10956/OLD    grant with conditions    23 May 1984

Eight replacement dwellings with access and parking.

TM/99/01282/FL    Grant With Conditions    20 August 1999

conservatory

TM/05/00058/FL    Grant With Conditions    28 February 2005

Two storey side extension

#### 5. Consultees:

- 5.1 PC: Objection. Members believe that the proposals represent inappropriate development within an AONB. The visual impact of the bulk, scale and proposed materials for the new dwelling is of concern. Members feel the proposed dwelling is not in keeping with the nearby properties and are therefore concerned about the impact upon the street-scene and the general setting. The proposed dwelling is located next to the bridleway MR185 and public footpath MR189 and Members believe that the scale and bulk of the proposed dwelling will affect the views for users of the local amenities. Members would have liked to have seen a planning statement as they believe the proposals would mean the removal of several mature trees which would also have a significant impact upon the visual amenity.
- 5.2 KCC PROW Unit: Public Right of Way MR185 Bridle Way runs along the southern boundary of the site and should not affect the application.
- 5.3 KCC Heritage: the site of the application lies a few metres to the south of a possible Roman building. Roman building remains have been identified from the ploughed surface of the field and several metal artefacts have been located by metal detectorists. The medieval church and manorial complex of Trosley Court lies to the East and this may be the focus of an Anglo-Saxon community. Remains associated with early medieval activity, pre-historic or roman activity may also survive on this site. It would be especially important to clarify if there were any structural roman remains on this site and, as such, I would recommend a condition requiring a field investigation.

5.4 Private Reps (7/0S/3X/2R + Site and Press Notices): Five neighbours have written in concerning the application, 2 raising objection and 3 raising concerns.

Comments received in summary:

- Highway Safety
  - Green Lane is a private road with MR185 running along it. It is therefore popular with ramblers and horse riders.
  - Increase in number of vehicles along Green Lane which is narrow with no passing places.
  - Additional traffic would pass close to Listed Buildings with no foundations.
  - Construction traffic and parking. No on site turning for construction traffic.
  
- Principle
  - When the “Airey Houses” were demolished and replaced with 1-8 Green Lane a scheme for 12 houses had previously been refused.
  - T&M Housing Association have tried to build on the amenity land to the rear of 1 & 2 Green Lane but this was refused, we believe due to access problems and the (then) inadequacy of Green Lane.
  - Building here would set a precedent for building on the “amenity area” to the rear of 1&2 Green Lane or the fields to the south.
  - In June 2010 the government implemented the decision to decentralise the planning system to give Local Authorities the freedom to prevent overdevelopment of neighbourhoods and garden grabbing. Gardens were to be removed from the definition of “previously used land” (brownfield land).
  - The land adjoining No.8 is Green Belt and AONB and the garden area should be classified as such. *[DPHEH – for clarification the site does not fall within the Green Belt]*
  
- Amenity
  - The redevelopment of 1-8 Green Lane for 5 houses and 3 bungalows won a design award. One bungalow has since been converted into a house and No.8 itself has had a two storey side extension. Additional infilling would be detrimental to the amenity of other residents in the area.

- Loss of trees and harm to AONB.
- A 5 bedroom house is too big for the plot. A three bedroom house would be more appropriate.
- All trees should be removed from the site.
- Other matters
  - Condition of Green Lane which has been damaged by the development of Sunny View. Recent repairs to the surface of the road have been substandard. Any permission should require the developer to repair the carriageway to a sufficient standard.
  - Possible impact of electricity supply.

## **6. Determining Issues:**

- 6.1 The site lies within the built confines of Trottiscliffe where Policy CP13 of the TMBCS 2007 states that development “will be restricted to minor development appropriate to the scale and character of the settlement.” The application seeks permission for a single detached dwelling which would be appropriate to the scale and character of the settlement in my view. The development of the southern half of the garden serving No.8 Green Lane would still provide a large garden to serve the extended dwelling at No.8. In my opinion the plot is of a sufficient size to accommodate an infill dwelling which would make best use of land within the confines of the village. The density equates to 21dph.
- 6.2 I note one objector’s reference to the definition of brownfield land and the removal of garden land from it. It is correct that gardens have been omitted from the definition of “previously developed land”. However that does not preclude development on any garden land. The National Planning Policy Framework 2012 (NPPF) states at paragraph 53 that “*Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.*” Therefore, gardens can be developed provided there is no harm to the local area and is supported by local planning policies. As stated above, the amended indicative layout results in a proposal which would, in my view, sit comfortably within the plot whilst still allowing for No.8 to retain a large garden. The proposal would not be back-land as it would front the highway and complete this somewhat dis-used corner of Green Lane. I therefore consider that by complying with Policy CP13 of the TMBCS in turn the proposal complies with Paragraph 53 of the NPPF. I do not therefore consider the proposal would cause harm to the local area through the loss of garden land.
- 6.3 Whilst details of layout and scale have been reserved, the application includes an indicative layout and tree survey with accompanying report. A more

comprehensive set of elevations and 3D images have been omitted from the proposal following the reduction in the illustrative width and depth of the proposed dwelling. The Reserved Matters stage of any two stage approval is an appropriate time to negotiate on the design of the proposal. I consider our local policies and the NPPF provide sufficient criteria to ensure the design of any new dwelling is of a high quality and responds to local vernacular and the streetscene.

- 6.4 I note the concerns of residents in relation to highway impact from increased vehicles serving the dwelling once constructed. Whilst Green Lane is a narrow road with limited visibility in places, the creation of one additional dwelling would only marginally increase the overall number of trips to and from the lane on a daily basis. Typically there would be 8 movements on an average day. The proposal would not result in a severe impact on highway safety and, accordingly the proposal accords with the Framework.
- 6.5 The road is private and, accordingly, any need to make good to the surface is outside of the control of the LPA as this is a civil matter between the owners of the road and those who have right of access/duty to repair.
- 6.6 A tree survey has been submitted and it is proposed that the Weeping Willow on the frontage and the Sycamore and Scots Pine to the rear are retained. Root protection zones during construction of the illustrated dwelling have been set out and could be conditioned on any approval. It is my view that retention of important trees on the site is an essential feature for this rural location and will assist in the development sitting comfortably within its setting and wider streetscene. In this respect the proposal would accord with Policy CP24 of the TMBCS.
- 6.7 The PC have raised objection to the principle of a new dwelling within the AONB. There is no policy basis for objection to a new dwelling purely on the grounds that it lies within the AONB. Policy CP7 of the TMBCS seeks to preserve the natural beauty of the landscape within AONB's and paragraphs 109, 113 and 115 of the NPPF set out similar safeguards. Provided the proposal is well designed and appropriate for its site and the surroundings, which would be for consideration at Reserved Matters stage in this instance, the proposal would, in turn not harm the natural beauty of the wider AONB thereby complying with these relevant policies.
- 6.8 Any permission on this site would not set a precedent on other land within Green Lane as any application would be assessed on its own merits. It should be noted that the "amenity land" to the rear of 1 and 2 Green Lane does fall within the village confines, however, the land to the south and east of the application site lies within Green Belt.
- 6.9 In relation to the objection received on the basis of proximity of traffic to Listed Buildings with poor foundations, if the applicant purchases the site and has right of access over Green Lane then they may access the site for construction. This is a civil matter and not a material planning consideration, however I do note the concern.

- 6.10 The KCC PROW unit has been consulted on the application and does not consider the proposal would give rise to conflict between users of the bridle way and the development of the site.
- 6.11 KCC Heritage have highlighted that the site lies in an area where finds have been unearthed in close proximity and, accordingly, they recommend a condition to safeguard below ground archaeology.
- 6.12 In light of the above considerations I am satisfied the principle of development of this site can be considered acceptable at Outline stage. Details of layout, access, scale and appearance are reserved and would be considered at a later stage. However I am confident that the site can accommodate a five bedroom dwelling as indicated on the submitted (amended) layout plans. I therefore recommend approval subject to conditions.
- 6.13 The applicant has recently amended the application to include the private access road within the red line area as required. In turn, the applicant has completed Certificate C to notify known and unknown owners of the access road which includes the need to publicise the application in the local paper. As a result, the LPA must consult additional neighbours and also post a further Article 15 Site Notice. This report therefore seeks to obtain the Committee's resolution to Grant Outline Planning Permission, subject to no objections raising new matters being received, thereby delegating the issuing of the decision to Officers.

## **7. Recommendation:**

- 7.1 **Delegate authority to the DPHEH to grant Outline Planning Permission** as detailed Tree Report received 29.07.2015, Tree Protection Plan DV/TPP/003 received 29.07.2015, Tree Removal Plan DV/TRP/002 received 29.07.2015, Tree Plan DV/TSP/001 received 29.07.2015, Letter received 31.07.2015, Floor Plan received 31.07.2015 **Subject to:**

- no objections being received raising new material land use considerations in response to the Statutory Notices regarding the change in the red line application site
- the following conditions:

### **Conditions**

- 1 Approval of details of the layout and appearance of the development, access to and within the site, the landscaping of the site, and the scale of the development (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority.

Reason: No such approval has been 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 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.

- 4 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of

- a) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
- b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- 5 The details submitted in pursuance of condition 1 shall be accompanied by a scheme of landscaping and boundary treatment which shall include 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.

- 6 The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12

months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

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.

- 7 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.

- 8 The details submitted in pursuance of Condition 1 shall show land, reserved for parking or garaging in accordance with the adopted County Parking Standards. None of the buildings shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking area.

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

- 9 The details submitted in pursuance of Condition 1 shall show details of foul and surface water drainage. The scheme as approved by the Authority shall be implemented prior to occupation.



Reason: In the interests of amenity and ground water.

### **Informatives**

- 1 The applicant is advised that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Please contact West Kent PROW, 8 Abbey Wood Road, Kings Hill, West Malling, ME19 4YT, telephone 03000 414145 or email [michele.snodingl@kent.gov.uk](mailto:michele.snodingl@kent.gov.uk)
- 2 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.
- 3 Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the nearest point to the public highway on the relevant collection day.
- 4 During the demolition and construction phases, the hours of noisy working likely to affect nearby properties (including deliveries) should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.
- 5 Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. I would thus recommend that bonfires not be had at the site.
- 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 Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](mailto:addresses@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: Lucy Harvey