



access to the site is from Brook Lane and a large hardstanding area lies in front of the garage.

- 3.2 The buildings in the local area are either large detached structures such as the petrol filling station, the Britannia Windows oastbarns or the 2.5 storey Freemasons Arms. The residential properties in Lakeside and a section of Brook Lane, up to the junction with Lakeside, comprise blocks of terraced properties and are either 2, 2.5 or 3 storey houses. There is however one pair of two storey semi-detached dwellings in Lakeside behind the application site.

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

TM/07/00547/FL      Refuse      10 May 2007

Demolition of existing dwelling and garage and erection of a purpose built block containing 9no. one bedroom flats with associated parking and amenity areas

TM/08/00074/FL      Refuse      17 April 2008

Demolition of existing house and garage and erection of a block of 8no. apartments

TM/15/01431/FL      Refuse      22 July 2015

Demolition of an existing detached house and garage and the erection of a block of 8 no. single bedroomed flats with associated parking and amenity facilities

#### **5. Consultees:**

- 5.1 Town Council: Objection due to overdevelopment, overbearing to properties at side and back, dangerous access, insufficient visitor parking and substandard accommodation.
- 5.2 KCC (H+T): The application proposes to replace the existing access with one slightly to the west onto Malling Road. This access would be of sufficient width and good visibility is available. It is not expected that these proposals will lead to a significant increase in traffic accessing the site, and there is no crash history along this section of road or at the junction of Malling Road and Brook Lane. For these reasons I do not wish to raise objection on behalf of the local highway authority subject to planning conditions or informatives relating to construction works, suitable discharge of surface water, the provision and permanent retention of parking and turning space and closure of the existing access.
- 5.3 Private Representations + Site Notice: 7/0X/0R/0S
- 5.4 At the time of preparing the report no representations had been received from neighbours.

**6. Determining Issues:**

- 6.1 This application is considered in relation to the following Core Strategy policies and relevant paragraphs of the NPPF. These include policy CP1 (sustainability), CP11 (development within the built confines of Snodland), and CP24 (standard of development). Relevant policies from the MDE DPD include SQ1 (high quality design) and SQ8 (Highway safety).
- 6.2 In summary these policies recognise that new development can be accommodated within the built settlement confines of Snodland and the re-use of previously developed land should be promoted. High quality design is encouraged which should reflect the local distinctiveness of the area and respect the site and its surroundings in terms of materials, siting and appearance. New development should not result in harm to residential amenities of neighbouring properties and should not significantly harm highway safety.
- 6.3 In addition to the policy context it is necessary to have regard to the recent planning history for this site, including two previous appeal decisions and a similar approval for 8 flats in 2008. This planning history forms a key material planning consideration in the assessment of this case and is outlined as follows:
- 6.4 Planning application TM/07/00547/FL proposed the demolition of Dene Hall and the erection of a block of 9 x 1 bedroom flats with parking. The application was refused on the grounds that the building would create an undesirable form of development harmful to the character of the area, would represent a prominent feature in Malling Road and would involve the provision of parking places in close proximity to the neighbouring property resulting in noise disturbance.
- 6.5 This application was the subject of an appeal where the Inspector concluded that the development was unacceptable because the siting, size and scale of the building would represent a bulky and excessively dominant form of development out of keeping with its surroundings. Additionally the noise and disturbance arising from the use of the car park would have given rise to unacceptable nuisance to neighbouring residents. The appeal was dismissed.
- 6.6 A second application was submitted under TM/08/00074/FL, this time to erect a block of 8 x 1 bedroom flats with parking. This was refused for similar reasons to the 2007 application and was also the subject of an appeal.
- 6.7 In this case, the Inspector noted that the building would be set back from the road frontage, the overall roof height would be minimised and some articulation would be incorporated into the design of the elevations. The Inspector did not regard the appearance, scale or massing of the building as being incongruous or excessive in bulk for this site and noted that the area lacked any discernible uniformity in design. For these reasons the Inspector concluded that the introduction of this development would not cause any material harm to the character and appearance

of the area. The Inspector also concluded that the block would not appear unduly out of place or dominant and the appeal was allowed.

- 6.8 As noted planning application TM/15/01431/FL was refused by Members in July 2015. The proposal was refused by virtue of its height and lack of articulation which would result in a building that would appear overbearing to the surrounding properties and incongruous to the general character of the street scene.
- 6.9 The current application proposes a scheme that would be the same as that allowed at appeal in 2008 for application TM/08/00074. The plans show a two storey building with further accommodation in the pitched roof space. The building would be set down within the site so that the slab level would be lower than the levels of the two adjoining roads.
- 6.10 Three x one bedroom flats would be provided on each of the ground and first floors with two further units within the roof space. The building would be positioned roughly parallel with the southern boundary. The building would be served by two staircases, four dormers in the northern roof slope and various roof lights in the southern roof space.
- 6.11 Five of the car parking spaces would be provided adjacent to the eastern boundary of the site with the other three positioned between the building and the north western boundary. Landscape planting would be provided around part of the southern and north western boundaries.
- 6.12 Since the 2008 application was considered the policy context for determining such applications has remained largely similar with the exception of the introduction of the NPPF in 2012. This broadly encourages sustainable forms of development whilst seeking to ensure that any development is appropriately designed and safeguards the character and amenity of the area. Housing applications should be considered in the context of a presumption in favour of development and should encourage the use of previously developed land.
- 6.13 The main issues to be considered are whether the proposal will detract from the visual amenity of the locality, whether it harms the residential amenity of nearby dwellings and whether the proposal would result in hazardous highway conditions.
- 6.14 The proposed building has been designed to incorporate traditional pitched roofs with the northern roof slope broken up by small pitched roof dormer windows. Double and single storey elements would also be included to articulate the design of the building. The building would be finished in a mix of painted render and brickwork. It is considered that the resulting block of flats would have an aesthetically pleasing appearance.
- 6.15 The proposal would include a number of windows in the eastern and southern elevations which could potentially result in overlooking and loss of privacy. The windows in these elevations can be conditioned to ensure that they either have a

raised lower cill height or would have fixed panels of obscure glazing. This should ensure the privacy of the occupants of Lakeside and the adjacent property in Brook Lane.

- 6.16 In association with the proposed development a revised noise assessment has been submitted due to a change in the legislative framework for assessing noise in planning applications. This appraisal again makes an assessment of the current noise climate (largely as a result of the adjoining roads) and recommends mitigation measures to ensure that acceptable internal noise levels can be achieved. This information is generally acceptable although specific details will be required of the proposed acoustically screened mechanical ventilation system to be used.
- 6.17 IGN3 states that within sustainable urban locations one space for a one bedroomed flat is considered to represent an acceptable level of parking. The current proposal would provide a total of eight spaces which therefore meets the identified standards. It is noted that the access width would be of sufficient width and that good visibility would be available. It is not expected that the proposal would lead to a significant increase in traffic accessing the site. KCC (H+T) raise no objection to the application subject to a number of safeguarding conditions or informatives.
- 6.18 It is acknowledged that there has been a change to the visual appearance of the proposed building and that the site occupies a key corner location in the approach to Snodland. Some general landscaping areas are shown on the submitted plan and further details will be required of the proposed species and number of plants. There are no important trees on the site but the introduction of suitable shrub planting the visual amenities of the locality will be enhanced.
- 6.19 To date no representations have been received from local residents although the Town Council raise objection to the scheme. The comments of the Town Council have been given careful consideration but the proposed scheme, which would be the same as that allowed at the 2008 appeal, is considered to represent a satisfactory form of development in this instance. It is noted that it would be unreasonable to recommend refusal in this instance given that there has been no material change in the policy context, with the exception of the introduction of the NPPF, which generally supports this type of development.
- 6.20 As has been recognised in the past, this site is capable of accommodating a 2.5 storey building without resulting in overdevelopment or an overbearing impact. The design continues to be considered as acceptable in this urban location and the building would be appropriate in this location without standing out as a dominant feature in Malling Road.
- 6.21 In conclusion the proposal would provide an acceptable solution given that it would be the same as the previously accepted principle of a block of flats on this site. The standard of accommodation to be provided would be satisfactory, subject to

the imposition of safeguarding conditions. It is therefore recommended that planning permission is granted.

**7. Recommendation:**

**7.1 Grant Planning Permission** in accordance with the following submitted details: Topographical Survey SOD-TOPO-101 01 dated 13.08.2015, Letter dated 13.08.2015, Noise Assessment dated 13.08.2015, Location Plan dated 13.08.2015, Proposed Plans and Elevations 07-45-01 REV E dated 13.08.2015,

**Conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

3. The use shall not be commenced, nor the premises occupied, until the area shown on the approved plan as vehicle parking, loading and off-loading and turning space has been 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 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on that area of land or in such a position as to preclude its use.

Reason: Development without provision of adequate accommodation for the parking, loading, off-loading and turning of vehicles is likely to lead to hazardous conditions in the public highway.

4. No development shall be commenced until:

(a) a site investigation has been undertaken to determine the nature and extent of any contamination, and

(b) the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted

(c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and

(d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity and public safety.

5. 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.

6. 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.

7. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the any elevation(s) of the building 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 interests of amenity and privacy of adjoining property.

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (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 interests of the amenity and privacy of adjoining property.

9. The first floor windows on the east elevation shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the rooms are occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

10. The bottom sill of the first floor windows and roof lights in the south elevation shall be a minimum of 1.8m above the internal floor level. This work shall be effected before the rooms are occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

11. The development shall be constructed at the level indicated on the approved drawing.

Reason: In the interests of amenity and privacy.

12. The noise mitigation measures proposed within the Noise Impact Assessment dated 17 April 2015 shall be implemented prior to first occupation of the dwelling to which it relates and shall be retained and maintained at all times thereafter. Specific details of the proposed acoustically mechanical ventilation system to be used will be required for approval prior to the development hereby approved commencing and shall be carried out concurrently with the development.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

13. The access 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.

14. No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

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

15. 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.

16. The premises shall not be occupied until the existing vehicular access to the site has been closed permanently.

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

### **Informatives**

1. 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@tmhc.gov.uk](mailto:addresses@tmhc.gov.uk). To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
2. The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the

severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.

3. 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. It is the responsibility of the applicant to ensure before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
5. You are advised to discuss issues concerning the installation of noise insulation between sensitive uses (such as bedrooms) and the communal areas of the proposal, (in particular the stairwells and bedrooms adjacent to kitchen/lounges), with your Building Control consultant.
6. 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 0730-1830 hours, Saturday 0800 to 1300 hours, with no such work on Sundays or Public and Bank Holidays.
7. 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. It is therefore recommended that bonfires are not held at the site.

Contact: Hilary Johnson