

West Malling
West Malling And
Leybourne

24 July 2018

TM/18/01755/FL

Proposal: Erection of a detached 2 storey dwelling to the rear of 61 Offham Road
Location: 61 Offham Road West Malling Kent ME19 6RB
Go to: [Recommendation](#)

1. Description:

1.1 Planning permission is sought for the subdivision of the existing residential curtilage and construction of a new detached dwelling. Access to the new dwelling is proposed via the existing access, which serves the host dwelling and the existing detached dwelling to the rear. The proposed dwelling is two storey and has been designed to reflect the gabled dwellings on the north side of Offham Road. The scheme proposes two vehicle parking spaces to serve the existing dwelling, and two vehicle parking spaces to serve the proposed dwelling.

2. Reason for reporting to Committee:

2.1 At the request of Cllr Luker and Cllr Shrubsole owing to concerns regarding access, parking provision, design, siting and orientation.

3. The Site:

3.1 The site lies within the confines of West Malling and within a designated Conservation Area. The dwellings to the north west of the site comprise semi-detached dwellings. The dwellings immediately to the west and south of the site comprise Victorian terraced dwellings. Two detached dwellings set in large plots are sited to the east.

3.2 The site is level and accessed via a private driveway which serves the host dwelling and the detached dwelling to the rear. The site is bounded by close boarded fence and is laid to grass with a number of fruit trees.

4. Planning History (relevant):

TM/89/10902/FUL grant with conditions 10 October 1989

Two storey rear extension.

TM/10/03283/FL Approved 26 January 2011

Single storey and two storey rear extensions; infill front porch; render to dwelling; and associated alterations

TM/17/00070/TNCA

No Objection

13 February 2017

T1 - T7 Lime trees to raise lower crown by approx 6m, removing epicormic growth and reducing the crown by 20%

5. Consultees:

5.1 PC: Object, overdevelopment of a previously developed site, loss of green space, concern about access and egress onto what is already a busy and congested road, the strong objections of neighbours are noted.

5.2 KCC (H&T): No objection subject to planning conditions

5.3 KFRS: Insufficient details to show access arrangements (amended details received 08.10.18)

5.4 KCC (Heritage): Recommend a watching brief

5.5 Private Reps: 26 + site + press notice/0X/22R/0S. Objections raised on the following grounds:

- The access road has insufficient vision splays, the access road is very small and unsuitable
- Unwelcome additional traffic onto Offham Road especially as 12 new dwellings have been allocated in the draft local plan
- Overdevelopment of green field site in a CA. The proposed dwelling would be cramped and too close to the site boundaries
- Scale, bulk and height of the dwelling is inappropriate, out of character in a CA, not sympathetic in design
- Loss of privacy, overlooking, loss of seclusion
- Noise and disturbance from additional vehicle movements
- Loss of parking to existing dwelling. Parking problems already on Offham Road
- Trees are to be removed, loss of wildlife
- Reflect on local property values
- Insufficient detail to validate application
- If granted, permitted development right should be removed to prevent further extension owing to the proximity of the site boundaries

- No surface water sewer is available
- Block the views of the existing dwellings, particularly of the wider CA and church
- Backland development which could set a precedent
- The amended details do not alter the original objections in terms of undesirable backland development which will result in a cramped layout and will result in overlooking, loss of privacy, be visually intrusive and detrimental to the character of the CA.

6. Determining Issues:

- 6.1 The application seeks to erect a new dwelling within the confines of the existing settlement. As Members will be aware TMBC cannot presently demonstrate a five year supply of housing. Whilst this will be addressed through the local plan, it has clear implications for decision making in the present. Members will also be aware that a new version of the NPPF was published in July of this year. Overall, the general thrust of government guidance has not altered and the presumption in favour of sustainable development still falls to be applied in the absence of a five year supply of housing. The precise wording which sets out the “presumption” is now contained at paragraph 11(d) of the NPPF and states that, in effect, because the Council cannot demonstrate an up to date five year supply, much of the development plan is considered to be out of date for the purposes of determining applications which propose new housing development.
- 6.2 The development plan must remain the starting point for determining any planning application, as statutorily required by s38 (6) of the Planning and Compulsory Purchase Act 2006, which is overtly reiterated at paragraph 12 of the NPPF. The consequence of this must be an exercise to establish conformity between the development plan and the policies contained within the NPPF as a whole and thus ultimately the acceptability of the scheme for determination.
- 6.3 In all respects, the NPPF seeks to maximise opportunities for the supply of housing in appropriate locations that can contribute towards supply and maintain and enhance the vitality of existing communities. Policy CP12 of the TMBCS states that (inter alia) housing development will be permitted within the confines of rural service centres including West Malling. The concentration of new housing within identified and established settlement confines such as this therefore accords with both local and national policy.
- 6.4 Moreover, it should be recognised that the new version of the NPPF now overtly sets out that where there is an existing shortage of land for meeting identified housing needs (i.e. where an LPA cannot demonstrate an up to date five year supply) it is especially important that planning decisions avoid homes being built at low densities and ensure that development makes optimal use of the potential of

each site (paragraph 122). It goes on to state that applications should be refused where it is considered that proposals fail to make efficient use of land.

- 6.5 However, paragraph 11(d) of the NPPF sets out that planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development. Footnote 6 then sets out what those policies are and includes policies for seeking to protect designated heritage assets (in this case the Conservation Area). It is therefore necessary to establish firstly whether the scheme accords with restrictive policies in this respect before establishing whether the presumption applies.

Impact on designated heritage assets:

- 6.6 As noted above the site lies within a CA, with St Mary's Church to the south east of the site. It is therefore necessary to pay special attention to the desirability of preserving or enhancing the character or appearance of this area – particularly the views in and out of the CA, in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). Regard must also be paid to paragraph 192 of the Framework which requires local planning authorities, in determining planning applications, to take account of the need to sustain and enhance the significance of heritage assets and understand the positive contribution they make, and recognise the need for new development to make a positive contribution to local character and distinctiveness.
- 6.7 The site is located to the rear of the host dwelling and therefore the proposed dwelling will have no direct visual relationship with the street scene. Whilst the appearance of the CA would change by virtue of introducing additional built form and through subdivision of the plot, this is highly localised and would cause no overt harm to the character or appearance of the CA at this point.
- 6.8 I am aware that St Marys Church lies to the south east of the application site, but owing to the considerable separation distance and absence of any direct visual relationship the site does not fall within the setting of this listed building and therefore there would be no impact arising in this respect.
- 6.9 The proposal also proposes the creation of two vehicle parking spaces to the rear of the host dwelling. The spaces would be visible from the street scene and therefore have a potential impact on the CA. The parking spaces are to be created immediately to the front of the host dwelling, enabling an area of garden to be retained which will provide a visual buffer and sufficiently ensure there would be no harmful visual impact on the wider CA.
- 6.10 Consequently the proposal meets the relevant restrictive policies in the NPPF that seek to protect designated heritage assets and therefore the presumption in favour of sustainable development re-emerges to be applied, when considering the tests for its application as set out above.

6.11 With this having been established, it is necessary to consider whether the specific detail of the scheme is acceptable. In this respect, policies CP24 of the TMBCS and SQ1 of the MDE DPD require development to be well designed and through its scale, density, layout, siting, character and appearance respect the site and its surroundings. It should also protect, conserve and where possible enhance the character and local distinctiveness of the area, including its setting in relation to the pattern of the settlement, roads and surrounding landscape. These policies reflect the requirements of relating to high quality development when read as a whole. These are the key policies for consideration in the assessment that follows.

Visual amenity:

6.12 Policies CP24 of the TMBCS and SQ1 of the MDE DPD require development to be well designed and through its scale, density, layout, siting, character and appearance respect the site and its surroundings. Development should also protect, conserve and where possible enhance the character and local distinctiveness of the area, including its setting in relation to the pattern of the settlement, roads and surrounding landscape.

6.13 The proposal seeks to subdivide the existing residential plot. The site lies within an area of mixed character. The dwellings immediately to the south of the site comprise Victorian terraced dwellings in narrow plots. The dwellings to the north west comprise semi-detached dwellings of attractive gabled appearance, and the host and dwellings to the east comprise large detached dwellings set in regular plots. The application site, being a long plot with a larger square area to the rear, lends itself to subdivision to mirror the shape of the sites to the east. Consequently the subdivision will have no unacceptable impact on the prevailing pattern of built development in the locality.

6.14 The proposed dwelling has been designed to mirror the style of the semi-detached dwellings on the north west side of Offham Road. The dwelling has been designed with steeply pitched gables and finial details.

6.15 The proposed dwelling has been designed with two storeys. The host dwelling and dwelling immediately to the east are two storey dwellings, and therefore the introduction of a similar structure is appropriate to the wider setting of the site. The site is of adequate size to accommodate the dwelling whilst leaving space to provide onsite parking, refuse storage and garden space.

6.16 The site contains a number of fruit trees which will need to be removed to accommodate the works. The trees offer little amenity value due to their small size and position within the site. The trees cannot be seen from the public domain and on this basis their removal is acceptable. However the proposal seeks to retain the three mature trees at the site boundaries and this is to be welcomed and can be adequately secured by condition.

Residential amenity:

- 6.17 The proposed dwelling has been designed to minimise its impact on the residential amenity of the host and adjacent dwelling. No first floor windows are proposed to the east and west elevations, save a bathroom window to the east elevation which is to be obscure glazed. This can be ensured by planning condition. A planning condition restricting the insertion of any additional first floor windows is also recommended and this will ensure no loss of privacy to the adjacent neighbouring dwellings. First floor windows serving bedrooms are proposed to the north and south elevations. However the separation distance between the proposed dwelling and the dwellings to the south is over 21m, and the staggered relationship between the proposed dwelling and the existing dwellings to the north west will ensure no unacceptable impact on the residential amenity of the adjacent dwellings in terms of privacy.
- 6.18 Similarly, the proposed dwelling has been designed in a cross shape to concentrate the bulk of the structure in the centre of the site. This has sufficiently mitigated the impact of the proposed dwelling on the outlook and setting of the immediate neighbouring dwelling to the east.
- 6.19 It is acknowledged that the use of the existing access driveway would increase if it were to serve an additional dwelling. This would have a potential impact on the residential amenity of the existing users, particularly the host dwelling. However the minimal increase in vehicle movement associated with a single additional dwelling would not generate sufficient harm to warrant a refusal of planning permission on this basis.

Highway safety and parking provision:

- 6.20 The scheme proposes to widen the existing access driveway and provide two off street parking spaces to serve the new dwelling, and two to serve the host dwelling. The provision of 2 parking spaces for each unit meets the standards set out within IGN3 and is acceptable.
- 6.21 The proposal seeks to remove the existing side extension to the host dwelling to increase the width of the access driveway. The increased width of the driveway would be 3.7m, increasing to 4.8m in front of the host dwelling. The increase in width has been designed to meet the standards required to provide access for emergency vehicles. I am aware of the concerns of local residents regarding the narrowness of the existing access, however KCC H+T raise no objection stating that there are no grounds on which a highway/transport reason for refusal could be sustained when considering the specific test of severity set out in the NPPF.

Archaeology:

6.22 The site lies within an area of archaeological potential associated with Early Prehistoric remains. In addition, owing to the location of the site, there is further potential for medieval archaeological remains. It is therefore necessary to attach a planning condition which requires a watching brief to be undertaken should any features of archaeological interest be discovered.

Conclusions:

6.23 In light of the above, I consider that the proposed development accords with the relevant provisions of the development plan and meets the requirements of the NPPF. As a result I recommend that, subject to the imposition of conditions, planning permission be granted.

7. Recommendation:

7.1 **Grant planning permission** in accordance with the following submitted details: Design and Access Statement dated 24.07.2018, Location Plan dated 24.07.2018, Location Plan Showing access dated 24.07.2018, Site Plan P010 C dated 24.07.2018, Proposed Floor Plans P020 C dated 24.07.2018, Proposed Elevations P030 C dated 24.07.2018, subject to the following conditions,

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 above ground 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 visual amenity of the locality.

3. No above ground development shall take place until details of slab levels have been submitted to and agreed in writing by the Local Planning Authority. The details to include a scaled drawing showing the proposed dwelling in relation to the existing dwellings to the east and west. The works shall be carried out in strict accordance with those details.

Reason: To ensure the scale of the development is compatible with the character of the site and its surroundings.

4. No above ground development shall commence until full siting and elevational details of the bin store have 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.

5. Prior to the first occupation of the dwelling hereby permitted a scheme of landscaping and boundary treatment shall be submitted to and approved by the Local Planning Authority. The scheme shall include the retention of the trees as shown on the plan referenced HH.KENNY.01PP received 8 October 2018. 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 dwellinghouse hereby permitted shall not be occupied until the area shown on the submitted plan referenced HH.KENNY.01PP received 8 October 2018 as vehicle parking and turning areas to serve both the existing and proposed dwellings has been provided, surfaced and drained. The areas shall be constructed of porous materials or provision made to direct surface water run-off from the hard surface to a permeable or porous area or surface within the site. Thereafter the areas 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.

7.
 - a) If during development work, significant deposits or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed in writing with the Local Planning Authority and it shall thereafter be implemented by the Developer.
 - b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought on site should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.
 - c) A closure report shall be submitted by the Developer relating to a) and b) above and any other relevant issues and responses such as any pollution incident during the development.

Reason: To prevent unacceptable risks from pollution.

8. If during construction works items or features of archaeological and historic importance are discovered, all development shall cease. It will then be necessary for the applicant, or their agents or successors in title, to secure the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be submitted to Local Planning Authority immediately on discovery of any historic item or feature.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

9. The window on the first floor of the east elevation serving a bathroom shall be fitted with obscure glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the room is occupied and shall be retained thereafter.

Reason: In the interests of the residential amenity and privacy of adjoining property.

10. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed at the first floor level of the building other than as hereby approved.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining property.

Informatives

1. 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. 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 applicant is encouraged to ensure that all vehicles and machinery associated with construction are parked within the site and not on the public highway in such a manner as to create an obstruction.
3. The disposal of waste by incineration is contrary to Waste Management Legislation and could lead to justified complaints from local residents. It is thus recommended that no bonfires are lit at the site.
4. The applicant is encouraged to ensure that the hours of construction, including deliveries, are restricted to Monday to Friday 07.30 - 18.30 hours, Saturday

08.00 - 13.00 with no work undertaken on Sundays or Public/Bank Holidays.

5. Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service 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.

Contact: Maria Brown