
Tonbridge Medway	1 October 2018	TM/18/02222/FL
Proposal:	Rooftop extension to provide 8 additional 2 bed flats	
Location:	Riverbank House Angel Lane Tonbridge Kent	
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1. Description:

- 1.1 The proposed development comprises an alteration and extension to the roof of the existing building and increases its overall height by 1.3m in order to accommodate 8 additional flats within the roof structure. The existing roof contains hipped (sloping) elements surrounding flat roof sections. It is proposed to increase the pitch of the sloping roof sections to create a steeply pitched mansard style of roof that would contain windows to serve the proposed additional flats.
- 1.2 The enlarged roof would be clad with slate tiles, the same as the existing roof materials.
- 1.3 The existing parking arrangements would not be affected by the proposed development. 32 no. car parking spaces are provided within the basement of the building for use by the residential properties.
- 1.4 This application comprises a revised scheme to that refused under planning reference TM/17/02233/FL to extend the existing building vertically by approximately 5m overall with two additional storeys of accommodation. This addition would have accommodated 14 additional flats. The reason for the Council refusing permission was:

“The proposed development, by virtue of its overall height, scale, bulk and massing would appear as an incongruous feature within the immediate locality and would be harmful to the visual amenities of the locality. For these reasons, the proposed development would be contrary to the requirements of policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy SQ1 of the Tonbridge and Malling Managing Development and the Environment DPD 2010 and paragraphs 17, 56, 57, 58, 60 and 64 of the National Planning Policy Framework 2012.”

- 1.5 The appeal against this refusal was subsequently dismissed.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllr Lancaster in light of the concerns expressed by local residents to the proposed development and because the previous proposal to extend this building was also reported to APC1.

3. The Site:

- 3.1 The site is located within the urban confines of Tonbridge, within its central area. The site contains a 3 storey building containing offices at ground floor level and two stories of residential accommodation above (24 no. flats).
- 3.2 The site lies at the northern end of Angel Lane, immediately to the rear of the buildings that front onto the east side of the High Street. The Botany stream lies to the north of the site, beyond which 5-storey apartment buildings are located. The site lies within Flood Zone 3.

4. Planning History (relevant):

TM/15/01736/PDVOR Prior Approval Not 17 July 2015
 Required
Prior Notification of Change of Use of the upper two floors from (Class B1) to 16 no. residential units (Class C3) (Class O)

TM/15/01770/PDVOR Prior Approval Not 17 July 2015
 Required
Prior Notification: Change of use of upper two floors from office (Class B1) to 24 no. residential units (Class C3) (Class O)

TM/17/02233/FL Refuse 27 October 2017
 Appeal dismissed 27 April 2018

Erection of 2 additional floors of accommodation to provide 2 x 1 bedroom, 10 x 2 bedroom and 2 x 3 bedroom flats with roof balconies at fourth floor. The new floors to be arranged over 3rd and 4th floors

5. Consultees:

- 5.1 KCC (H&T): No objections
- 5.2 KCC (SUDS): This is a low risk development as there is no increase in impermeable areas and the drainage for the site will remain the same.
- 5.3 EA: Providing the footprint of the building remains the same as is stated in the FRA, there are no concerns from a flood risk point of view. Undercroft parking must remain to allow unimpeded flow routes in a flood event. The LPA must be confident that access and egress from this development can be achieved in the event of a severe flood.
- 5.4 Private reps: 35/0X/0S/3R: Objections can be summarised as follows:
- The extension will dominate the surrounding buildings and would be harmful to visual amenity

- There is a lack of parking for existing residents which would be made worse by the proposed additional flats.
- There is a lack of health facilities/public amenities in Tonbridge.
- The development would harm the well-being of the existing residents within Riverbank House

6. Determining Issues:

Principle of the development and policy considerations:

- 6.1 As Members will be aware, all planning applications have to be considered on their individual merits and what happened previously on a site will not set a precedent for considering a subsequent application. This application has to be assessed on its individual merits against relevant development plan policies and material considerations but the Inspector's decision regarding the previously refused scheme is, of course, a material consideration.
- 6.2 Since the last application (and appeal) were determined the NPPF has been revised. Overall, in respect of this development, 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, which it is accepted the Council cannot currently demonstrate. 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 such as this.
- 6.3 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 Framework as a whole and thus ultimately the acceptability of the scheme for determination.
- 6.4 Paragraph 11 (d) of the NPPF states that where a 5 year housing supply cannot be demonstrated, planning permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The policies to which this applies are set out in footnote 6 and includes those relating to areas of flood risk, which are particularly relevant to the current proposal as the site lies within Flood Zone 3.
- 6.5 Section 14 of the NPPF deals with matters of flood risk. Paragraph 155 states:

“Inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk...Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flooding elsewhere.”

- 6.6 Paragraph 157 states that all plans should provide a sequential risk based approach to the location of development, so as to avoid, where possible, flood risk to people and property.
- 6.7 The site is located within flood zone 3a which has a high probability of flooding. However, the proposed development, being a vertical extension to the existing building, would not create residential properties that would be prone to flooding. The development would also not increase risk of flooding elsewhere within the locality. The submitted FRA states that the water supply and electrics box will be located above the indicated flood level so residents will have a safe refuge and will not need to leave the building should a flood event occur. Residents of the building will also join the EA's flood warning scheme for the Tonbridge area.
- 6.8 The EA has not objected to the proposed development but advises that the LPA must be confident that safe access and egress can be achieved during a severe flood event. The submitted FRA considers that in a severe event (1 in 100 event plus climate change) the access to the site would be submerged by 200mm of water. The FRA considers this to be ponding and unlikely to have a current to it so would be safe to cross should residents need to evacuate. However, as has been stated earlier, residents will join the EA's early warning system and would be able to leave the building should they need/wish to do so prior to a flood event occurring. Alternatively safe refuge can be provided within the flats as they will be located well above the predicted flood level, as will the utilities servicing them. In light of the above, the development is acceptable in terms of flood risk.
- 6.9 In light of the above considerations, the development is considered to be compliant with NPPF policies concerning flood risk.
- 6.10 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 CP11 of the TMBCS states that development will be concentrated in the confines of urban areas including Tonbridge. Continuing to concentrate new housing development within identified and established settlement confines such as this (and therefore also conforming with development plan policy CP11) wholly accords with this aim.
- 6.11 As such, returning to the need to apply the presumption in favour of sustainable development, the scheme accords with both the development plan and policies contained within the Framework and therefore planning permission should be granted (paragraph 11d).

- 6.12 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. Furthermore, the NPPF now positively advocates the upward extension of buildings. Paragraph 118 states at point (e) that planning decisions should:

“support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene...”

- 6.13 In light of the above, the principle of the proposed development is considered to be acceptable.

Impact on visual amenity:

- 6.14 Policy CP24 of the TMBCS requires all developments to be well designed and of a high quality in terms of detailing and use of materials. Proposals must, through scale, layout, siting, character and appearance, be designed to respect the site and its surroundings.
- 6.15 MDE DPD Policy SQ1 states that, inter alia, proposals for development will be required to reflect the character and local distinctiveness of the area including its historical and architectural interest as well as the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.
- 6.16 Paragraph 122 of the NPPF states that planning decisions should support development that makes an efficient use of land, but take into account the desirability of maintaining an area's prevailing character and setting.
- 6.17 At paragraph 4 of the Inspector's decision, he stated:
- “The proposal would provide an additional two floors of accommodation with a flat roof replacing the existing pitched roof. This would result in a significant increase in the height and bulk that, within the context of Angel Lane and adjacent development, would appear incongruous and discordant.”*
- 6.18 The proposed development seeks to extend the existing building upwards by no more than 1.3m. Whilst the neighbouring buildings in Angel Lane to the south and the High Street to the west are lower than the existing building, the proposed increase in height would not be readily discernible from ground level. Unlike the previously refused scheme, the current proposal would retain a pitched roof, albeit

one that is steeper than the existing one it would replace. The increased roof pitch would alter this aspect of the building, but it would not appear out of keeping with the proportions or character of the existing building. Whilst adding a modest amount of additional bulk to the building, it would not result in an incongruous or discordant development within the street scene.

Impact on residential amenity:

- 6.19 Before considering the impact of the current proposal, it should be noted that the previous (larger) scheme to extend this building was not refused permission on the grounds of harm to residential amenity. The inspector determining the subsequent appeal also considered that development to be acceptable in this regard.
- 6.20 Policy CP1 of the TMBCS states that when determining applications, residential amenity will be preserved. The adjacent buildings to the application site (to the west and south) are not in residential use. The nearest residential properties are located within Sovereign House to the north of the Botany Stream. Given the separation between these two buildings (in excess of 25 metres), and the modest height increase proposed, the development would not cause these neighbouring properties a loss of light or privacy.
- 6.21 Additionally, the building is located a sufficient distance from the nearest commercial activities along the High Street to ensure no adverse noise conditions arise that could affect future residents of the building.
- 6.22 In terms of the potential for the development to affect the existing residents of Riverbank House, I am mindful that the Building Regulations will ensure appropriate means of insulation between the residential units to prevent unacceptable levels of noise transmission.
- 6.23 In most circumstances, noise and disturbance impacts arising from construction works and associated logistics surrounding the construction phase would not be addressed through a planning permission. However, there are particular circumstances where it is appropriate to secure detailed methodologies for means of construction (and, where applicable, demolition) to ensure no adverse impacts arise. I consider that, given the constrained nature of the site and the circumstances involved, in particular the prior occupation of the existing building, the limited size of the site, the proximity to Angel Lane and the flood zone designation, it would be appropriate to require such details to be submitted for formal approval prior to any works commencing on site. This can be secured by planning condition in the event that the Planning Committee was minded to grant planning permission.

Highway safety and parking provision:

- 6.24 As with the issue of residential amenity, the previous application was not refused permission (nor the appeal dismissed) on highway safety grounds or the amount of parking to be provided to serve the development.
- 6.25 The adopted parking standards require a maximum of 1 space to be provided per dwelling in this locality, irrespective of size. In this case the development will be served by the existing parking spaces located at basement level. Whilst these would serve all of the residential units (existing and proposed) the resulting parking ratio of 1 space per dwelling complies with the adopted parking standards for this town centre location. The site is located within a highly sustainable location with easy access to shops services and public transport. Furthermore, the development includes the provision of a secure cycle store at ground floor level. This is to be encouraged as it would facilitate travelling to and from the site by means other than the private motor car.
- 6.26 Paragraph 109 of the NPPF advises that applications should only be refused on highways grounds if there would be an unacceptable impact upon highway safety or the residual cumulative impacts upon the road network would be severe. Given that the development complies with the adopted parking standards, has easy access to public transport and an objection has not been received from the local highway authority, I do not consider that the development would result in a severe impact upon highway safety.

Planning obligations:

- 6.27 As the development proposes more than 5 new flats, there is a requirement for open space provision in accordance with policy OS3 of the MDE DPD. In this case it would be impractical to provide open space within the site. Accordingly, it would be appropriate for the applicant to make a financial contribution towards enhancing existing open spaces in the locality in order to comply with the requirements of this policy. The local open spaces identified for improvement are:
- Parks and Gardens: Haysden Country Park and/or Tonbridge Castle
 - Outdoor sports facilities: Tonbridge Racecourse Sportsground
 - Children/young people play equipment: Tonbridge Racecourse Sportsground
- 6.28 The applicant has agreed in principle to make the financial contribution and negotiations are ongoing at the time of writing this report regarding the level of the contribution which must comply with the requirements of the policy. Any further information on this matter will be reported as a supplementary matter. Any such obligation will need to be secured by a Section 106 agreement, the detailed wording of which has yet to be agreed.

- 6.29 Although the resultant development will form part of a larger building which has been converted for residential purposes, the scheme the subject of this planning application is only for 14 units. As such, there is no policy requirement for any affordable housing provision.

Conclusions:

- 6.30 The proposed development, in all respects, would comply with current adopted development plan policies and national planning policies that seek to make an efficient use of a previously developed site in a highly sustainable location. The development would make use of airspace above existing residential units without causing material harm to the character of the existing building, which is supported by national planning policy.
- 6.31 The development would not cause an unacceptable impact upon highway safety given the level parking provision proposed and the sustainable town centre location.
- 6.32 In light of the above, the development, unlike the previously refused scheme, would not result in a significant increase in the height or bulk of the building and would not appear as an incongruous and discordant feature in Angel Lane. Consequently, the current proposal is considered to be acceptable in planning terms having regard to the relevant Development Plan policies, the NPPF and has successfully overcome the previous reason for refusal (and associated dismissed appeal).

7. Recommendation:

- 7.1 **Grant planning permission** in accordance with the following submitted details Block Plan 12865-201 received 19.09.2018, Existing Roof Plan 12865-205 received 19.09.2018, Existing Floor Plans 12865-208 received 19.09.2018, Existing Floor Plans 12865-209 received 19.09.2018, Existing Elevations 12865-210 received 19.09.2018, Proposed Floor Plans 12865-211B received 19.09.2018, Proposed Floor Plans 12865-212B received 19.09.2018, Proposed Floor Plans 12865-215E received 19.09.2018, Proposed Elevations 12865-217D received 19.09.2018, Proposed Roof Plan 12865-219A received 19.09.2018, Site Plan 12865-218 received 01.10.2018, Location Plan 12865-200 received 19.09.2018, Letter received 19.09.2018, Flood Risk Assessment received 27.09.2018, Planning Statement received 27.09.2018, email received 06.12.2018 subject to the following:

- The applicant entering into a planning obligation under s106 of the Town and Country Planning Act 1990 (as amended) to make a financial contribution towards the improvement of existing open spaces within the local area
- 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. All materials used externally shall accord with the approved plans.

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

3. The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

4. The development will be carried out in accordance with the recommendations set out in chapter 12 of the Flood Risk Assessment prepared by ELLUC Projects Ltd received on 27.09.2018.

Reason: In order to minimise the risk to human health and property during a flood event.

5. Before any works commence on site, arrangements for the management of construction traffic to and from the site (including hours of operation and deliveries of materials to the site) shall be submitted to and approved by the Local Planning Authority. The development shall thereafter be undertaken in full compliance with the approved scheme.

Reason: In the interests of residential amenity and highway safety in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

Informative:

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.

Contact: Matthew Broome