

**Tonbridge
Higham**

TM/14/02529/CR3

New two storey Special Educational Needs School with associated car parking and landscaping at Land South of Kerromoor Higham Lane Tonbridge Kent for Kent County Council

Section 4 of the main report provided a brief overview concerning a refused scheme in 1992 for 'special needs housing' but Members may also wish to note the further planning history which relates to either the application site in question or this parcel of land combined with the wider landholding:

70/10115/OLD

Outline application for residential development.

Refuse 19 October 1970

Appeal dismissed 29 March 1972

71/10146/OLD

Outline application for the installation of a sewerage treatment plant.

Refuse 14 May 1971

Appeal Dismissed 29 March 1972

82/10963/OUT (alternative reference TM/82/379)

Outline application for erection of dwellings at a density of not less than 6 dwellings per acre, the laying out of open space, shops and community facilities and means of access thereto on 14.18ha of land.

Refuse 27 August 1982

Appeal Dismissed 5 March 1985

DPHEH:

Members will appreciate that simply because the planning history for the site shows various refusals of planning permission over time that does not mean automatically that there can *never* be a justification for permission under any set of very special circumstances. If the determining Planning Authority (KCC) considers that, having balanced all the issues, in this instance very special circumstances do not exist to outweigh the degree of harm caused to the Green Belt, that does not mean that there can *never* be compelling very special circumstances as long as the site remains in the Green Belt. Moreover only the LPA can reach that judgement – I must reiterate that KCC alone has to balance all matters, not TMBC.

I am aware that since publication of the Committee Agenda, 3 members of the public have separately circulated various papers to all Members of APC1 in advance of the meeting detailing their objections to the proposed development and in some instances making comment on the substantive Committee report. Members will have had an opportunity to study these representations but there are a number of particular aspects that I would like to comment on specifically.

One statement made, and one that I would like to respond to immediately, is as follows:

“Unfortunately [the] TMBC report does not provide new insight or analysis required in this complicated situation and delegates the decision making to KCC, which is subject to the conflict of interest as KCC is both the applicant and the ultimate decision maker in relation to the development of the site.”

I must stress that it is simply **not** the case that Officers are recommending to Members that the decision making responsibilities in this case be deferred to KCC. The Town and Country Planning General Regulations 1992 clearly sets out the legislative background and that the process to be followed in respect of “county matters”; put simply the Regulations state that all “county matters” (in this case school related applications for development where the schools are in the control of the Local Authority/County Council unlike new academies and private schools) are to be determined by that Authority which would also act as the Planning Authority. This is the case regardless of the type or scale of the development proposed. As such, there is no judgement to be made as to whether KCC *should* be the determining authority in this instance – that is set down in Legislation. In this instance, KCC as the Education Authority is quite separate from the legal status as Planning Authority. KCC’s Constitution will set out clear parameters for decision making in all respects. I would also mention that in this case there will be a need to refer the application to the Secretary of State given the nature of the proposed development within the Green Belt, and this adds a further layer of consideration.

In terms of the commentary set out in respect of the Green Belt – and Members will have seen the ‘Green Balance’ report prepared on behalf of the Greentrees Protection Group, recently circulated by residents – reference has been made to paragraph 6.18 of the main report, suggesting that Officers are stating that the proposed site is as good as any others surveyed, thus (in the opinion of the local resident) omitting the possibility that other Green Belt sites might be better than the proposed site given the importance of other matters such as traffic generation. To clarify, paragraph 6.18 reads as follows:

“A number of Green Belt sites across Tonbridge, Hildenborough, Hadlow and East Peckham were analysed and discounted by the applicants for a variety of reasons. Their position within the Green Belt would mean that, as with the application site, very special circumstances would need to be demonstrated in all these instances and the question would arise as to whether developing any of those sites would cause more or less harm to the Green Belt in terms of openness.”

This is not suggesting that the proposed site is better or worse than any other; it simply sets out what considerations must be had for all those located within the Green Belt. The judgement as to the merit of the Green Belt site as against any other in the Borough or outside will need to be assessed by KCC when considering the application in the round.

Similarly, the purpose of the report is not to agree, or otherwise, with the submissions made concerning what options are available to the school in terms of its long term future. It simply sets out what the applicant cites as being those options. Given that the applicant in this instance is the Education Authority; my hope would be that they had exhaustively investigated the best way forward to provide for the specialist educational needs of these children.

Furthermore, residents have suggested that the Committee report overlooks the severity of the traffic impacts that would arise as a result of the proposed development going ahead. The report outlines to Members the test that needs to be met as set out in the NPPF – that traffic impacts must be *severe* in order for development to be resisted on such grounds – KCC, being both the relevant Planning Authority and the Highway Authority, will need to be satisfied as to whether that test is met having had due regard to the technical advice provided by KHS (who will be acting as a statutory consultee). KCC is best placed to make a technical assessment as to whether the impact would be severe or indeed whether the contents of the submitted TA are accurate or adequate. Moreover KCC will have the opportunity to consider the relative merits of the other sites tested on highways as well as Green Belt grounds. The KCC Planning Committee will have that advice before them in making a decision on this application.

Residents state that paragraph 6.44 of the main report attempts to convince Members of the community benefits such a scheme will bring about. In fact, it intended to set out the potential impacts such community use could have on the surrounding residents in terms of noise and disturbance, suggesting that such impact be highlighted with KCC to ensure any community use is tightly controlled even if there are positive aspects to that part of the project.

Question is also raised regarding drainage impacts arising from the proposed development, with concern having been raised that the main report does not address this matter. As with matters concerning transport, KCC will be responsible for making an assessment on this aspect of the scheme having had regard to technical representations received from various sources. I can however confirm that the site does not lie within Flood Zone 2 or 3. KCC will need to consider the localised flooding impacts as identified by local residents but at this stage it is not possible for TMBC to say unequivocally that any such issues are not technically soluble. In this regard KCC has technical expertise as it is also soon to take direct statutory responsibility for the considering of proposal for surface water drainage by virtue of legislation other than planning legislation.

There is clearly much concern amongst local residents in respect of this application and that the accuracy and content of the various reports submitted by the applicant in support

of the planning application have in some instances been called into question. Again, the accuracy and acceptability of the reports commissioned is a matter best judged by KCC in light of their own consultation process. If information is found to be lacking for some reason, KCC will as a matter of course seek further clarification or work to be undertaken.

RECOMMENDATION REMAINS UNCHANGED

Tonbridge (A) TM/14/01371/FL
Medway (B) TM/14/01372/LB

(A) Demolition of ancillary outbuilding, conversion of Bordyke End from offices back into residential dwelling with conservatory extension. Conversion of Coach House from offices into separate residential dwelling including first floor extension. Erection of a 3 bay garage with an independent flat; (B) Listed Building Consent: Demolition of ancillary outbuilding, conversion of Bordyke End from offices back into a residential dwelling with conservatory extension. Conversion of Coach House from offices into separate residential dwelling including first floor extension at Bordyke End And The Coach House East Street Tonbridge Kent TN9 1HA for Millwood Designer Homes Ltd

Private Reps: One further letter has been received from a resident in respect of both these applications, re-iterating concerns already expressed in earlier correspondence.

DPHEH:

It became apparent during the Members Site Inspection that took place on 5 September that several issues require further clarification and discussion. These are set out in detail below.

Members sought clarification as to what would constitute annexe accommodation given that the proposed garage building would contain habitable accommodation within the roof void. Typically, annexe accommodation means that the space would be used by wider family members such as elderly parents/teenagers requiring additional accommodation but still wanting to retain some physical separation from the remainder of the family. Similarly, it could be used by a member of staff such as a Nanny or housekeeper for example. In such cases, the person(s) occupying the annex would form part of the household of Bordyke End as a whole. Members will see from my main report that a condition is recommended (no.12) that would tie the occupancy of the accommodation above the garage to the proposed dwelling at Bordyke End to prevent it being used as a separate dwelling. If the roof space were to be rented out to an individual without any family association and the space were as a result to be used entirely independently from the main dwellinghouse, a separate planning unit would have been created, and planning permission would be required in its own right.

Members also studied the relationship between the proposed first floor extension to the Coach House and the gable window serving the attic space of the neighbouring dwelling at 2 Hadlow Road. I understand that this room serves as the neighbours' study as she works from home. As was been stated in the report to the July meeting of the APC1, a test has been applied that shows that this window would still receive an acceptable level of daylight if the proposed extension were built. It is apparent that the owner of the neighbouring property is concerned with the outlook from this window if the extension is built given its close proximity. The eaves level of the proposed roof is lower than the window concerned and the roof would slope away from it. The proposed roof would obscure the view of the

driveway within Bordyke End from this particular window, but as Members will be aware there is no right to a view. The attic room within 2 Hadlow Road also benefits from a second (dormer) window located within the rear facing roof slope which would not be affected by this proposal. I have to conclude, therefore, that the outlook from the attic room would not be so adversely affected by the proposed extension to the Coach House that would warrant a recommendation to refuse permission. However, this of course a matter of judgement and there is no doubt that the outlook from the side facing attic window within 2 Hadlow would change as a result of this development going ahead.

Members spent some time viewing the rear portion of the site in respect of its relationship with the surrounding properties and also took the opportunity to stand within the garden of 55 East Street, the neighbour most closely related to this aspect of the proposed development. As Members noted, this dwelling is set at a slightly lower level and is served by a bedroom window (the only window serving the room in question) facing towards the part of the application on which it is proposed to site the garage building. Since the Members' Site Inspection, an assessment has now been made as to the impact of the proposed building upon the availability of light to this window. Using the Building Research Establishment's guidance "Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice", this window would receive an acceptable level of daylight were the proposed garage building built. It should also be noted that this calculation was undertaken following the receipt of further survey information concerning the difference in land levels which I believe had been agreed between the applicant and neighbour (the proposed garage building would be located on land 0.44m higher than the neighbouring bungalow).

However, as explained above, an assessment also has to be made as to whether the proposed building would appear overly dominant from this neighbouring property particularly given the fact that the proposed garage is notably higher than the neighbouring bungalow. The garage would be located approximately 4.6m away from the boundary with 55 East Street and would stand 4m high at eaves level, 7.1m high at its ridge. A 1.8m high close boarded fence is located along the common boundary. Taking these factors into account on a cumulative basis, it is my view that the proposed garage building would not be too dominating or appear unduly overbearing when viewed from this neighbouring property but as I have said earlier, this is a matter of judgement and cannot be measured by the undertaking of specific calculations unlike a daylight assessment.

I would also reiterate that the rear facing roof light windows to be located within the garage building would be located 1.95m above the internal floor level which would prevent overlooking towards 55 East Street (and would be at a higher level from the floor than is required under "permitted development" rights).

Another key issue looked at during the Members Site Inspection related to the trees located within the southern part of the site along its east and south boundaries. These trees make a positive contribution towards the character and amenity of the site and wider locality. Indeed, when standing within the south east corner of the site it is not readily apparent that you are close to Tonbridge town centre due to the tranquillity of the site. I

would recommend the use of an additional condition, therefore, to protect the existing trees within the site, should the development commence.

As explained, any planning conditions imposed would only come into effect if the planning permission is implemented and the development commences. The trees located within the south east corner of the application site (Oak, Western Red Cedar, Sycamore and Yew) are not within the Tonbridge Conservation Area. In light of the positive contribution this group of trees make to the character and amenity of the area, it is worth exploring the possibility of making this group of trees the subject of a Tree Preservation Order. Officers are actively pursuing this matter.

Application (A): TM/14/01371/FL

AMENDED RECOMMENDATION

Additional Condition:

13. The existing trees 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.

Application (B): TM/14/01372/LB

RECOMMENDATION REMAINS UNCHANGED

Tonbridge TM/14/02398/FL
Higham

Retrospective application for a detached garage at 1 Barchester Way Tonbridge Kent TN10 4HP for Mr Trevor King

Additional information received from the planning agent:

The Agent is aware of the limitations of permitted development hence the reason the application was submitted and the Agent was not aware that Members asked at the June Planning Committee to amend the proposal to be permitted development. The height of the first floor false pitch roof element is 3.7m when scaled off the plans but it is intended that the maximum height will be 3.6m. The Agent confirms that no additional work has

been undertaken to the building since the previous refusal in June. The lorry parked on the drive has no relevance to the planning application.

The applicant was at the Planning Committee on the 19 June and was therefore aware of the discussions that occurred at this meeting with regard to permitted development. Following the Planning Committee a letter was sent to the applicant advising him to reduce the garage to a maximum height of 2.5m so that it falls within the provisions of Class E of Part 1 of the GDPO.

RECOMMENDATION REMAINS UNCHANGED
