



*for the occupants of the adjacent property to the north, contrary to the aims of policy CP24 of the Tonbridge and Malling Borough Core Strategy and Saved Policy P4/12 of the Tonbridge and Malling Borough Local Plan.”*

*“The proposed development by reason of the location adjacent to the northern boundary would result in a sense of enclosure and overbearing impact upon the occupants of the adjacent property to the north, contrary to the aims of policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy.”*

- 3.4 As set out in my previous report, it is my view that these reasons for refusal have now been successfully addressed through the reduction in width of the proposed first floor extension, moving the extension further from the immediate neighbour and thus reducing its impact.
- 3.5 Turning to the discussion that took place concerning the single storey ‘infill’ extension, which is deemed to be permitted development and not subject of this planning application, I would stress that the issuing of a formal lawful development certificate earlier this year in respect of the single storey extension was solely based on the fact that the proposed extension met the various requirements set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended). It was found that the extension did meet the necessary requirements and it was on that basis that the Certificate was issued. Householders are actually under no legal obligation to obtain such a Certificate, if a development falls within the permitted development provisions, they are able to simply go ahead and exercise those rights without any formal agreement from the LPA.
- 3.6 I would add that there is no ability for the LPA to make any sort of subjective judgement on whether or not an extension that falls within the limits of permitted development might affect a neighbouring property. If the proposed development meets the requirements of the GPDO, the Certificate must be issued. It is a purely objective exercise to be undertaken.
- 3.7 With these considerations in mind, the only aspect to have in mind in the determination of this application whether the first floor extension proposed would have an acceptable relationship with the immediate neighbour.
- 3.8 Turning to the Members’ Site Inspection itself, this took place on 4 November 2014 and usefully allowed Members to stand within the application site and view the relationship between the application site and its immediate neighbour.
- 3.9 Discussion took place as to whether the plans were accurate in terms of the scaled dimensions, particularly with reference to the distance from the common boundary shared with 326 Pilgrims Way. In scaling from plans of this size, there will inevitably be some degree of tolerance to be taken into account. Even taking into account this degree of tolerance, the proposed extension would still fall outside the 45 degree line taken from the nearest habitable window of the adjacent

property and there would be no a material difference to the BRE calculations previously carried out. Rather than focusing on the 15 – 20cm difference discussed at the site inspection, the important aspect to recognise is that the first floor extension will be sited directly over the existing single storey flat roofed projection. Crucially, the site inspection allowed Members to see the relationship between the flank wall of that existing protrusion and the boundary with No. 326 and it is that flank wall that will be continued up to first floor level should planning permission be granted for this proposed development.

3.10 A Member queried whether impact on neighbouring windows was so crucial now that technologies exist that would allow the neighbours to introduce alternative sources of light into the property such as sun tubes for example. The adopted policy governing residential extensions overtly mentions a need to assess such applications in terms of their impact on residential amenity, including the impact on neighbouring windows. I appreciate that such technologies do exist but it is important to recognise that a planning decision should not assume that the neighbour could or should make changes to their property to render the development acceptable in planning terms – the development must be deemed to be acceptable in its own right having applied the adopted policy irrespective of what could be achieved by other means.

3.11 In light of the above considerations, I remain of the view that the proposal has successfully overcome the reason for refusal on the previous application and in doing so has not created any new issues that would justify refusal. As such, the proposal meets the requirements set out within the NPPF and the LDF and the following recommendation is put forward:

#### **4. Recommendation:**

4.1 **Grant Planning Permission** in accordance with the following submitted details: Certificate B dated 29.07.2014, Site Plan JCA - 03 dated 10.06.2014, Existing Plans and Elevations JCA - 01 dated 10.06.2014, Proposed Plans and Elevations JCA - 02 dated 10.06.2014, subject to the following:

#### **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 unless otherwise agreed in writing by the Local Planning Authority.

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

- 3 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the side 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.

**Informative:**

- 1 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.

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