

**Aylesford**  
Aylesford

**572209 158522 10 April 2014**

**TM/14/01105/FL**

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Proposal: Demolition of existing double garage and construction of a three bedroom detached dwelling with associated parking  
Location: 7 Rowan Close Aylesford Kent ME20 7LP  
Applicant: Mr W Tickner

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**1. Description:**

- 1.1 It is proposed to subdivide the site occupied by number 7, remove the garage and construct a three bedroom detached house. This would have the same slab level as number 7 and similar ridge height. The proposed house would be narrower in width, but would extend as far to the rear as the single storey element of number 7. The new property would incorporate two bedrooms on the first floor with a third bedroom in the roof space served by roof lights.
- 1.2 Two new parking spaces would be provided to the front of number 7 with a further two being provided in front of the new dwelling. This work would require the extension of the dropped kerb to provide access from the head of the cul de sac.

**2. Reason for reporting to Committee:**

- 2.1 At the request of Cllr D Smith.

**3. The Site:**

- 3.1 Number 7 is a four bed semi-detached two storey house built in the 1960s on a level plot. The property lies at the northern end of a cul de sac within the urban confines of Aylesford. It has been enlarged to include a single storey rear extension and dormers to the front and rear. On the north side of the house is a detached garage building with low pitched roof. Immediately adjacent to the northern boundary of the site is a high acoustic fence that is located along the edge of the hard shoulder of the adjacent M20. Between the acoustic fence and the boundary of number 7 is an existing planting strip.

**4. Planning History:**

TM/60/10767/OLD grant with conditions 29 July 1960

Erection of dwellings.

**5. Consultees:**

- 5.1 PC: No objections.

5.2 KCC (Highways): No objection subject to the provision and permanent retention of the vehicle parking spaces prior to the use of the site commencing. Informatives have been recommended concerning the need for the applicant to obtain all necessary highway approvals.

5.3 Highways Agency: No objections.

5.4 Private Reps: 6/0X/0R/0S.

**6. Determining Issues:**

6.1 The site lies within the urban area and, in principle, is an acceptable location for an additional dwelling unit. The questions in this case turn on the detailed considerations, most particularly those relating to siting of the dwelling in relation to various impacts arising from the proximity with the M20.

6.2 This application has been considered in relation to the Tonbridge & Malling Borough Council Core Strategy, and in particular policies CP1 (sustainable development), CP11 (concentration of development within the urban confines), CP24 (standard of development). Various paragraphs (set out below) of the National Planning Policy Framework (“NPPF”) and National Planning Policy Guidance (“NPPG”) are also particularly relevant, and represent the most up-to-date guidance. If there is conflict with TMBC LDF policies then NPPF/NPPG take precedence.

6.3 In terms of the impacts from noise, especially from M20, paragraph 123 of NPPF refers to the need to manage noise impacts for new development. Paragraph 123 continues that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Paragraph 109 of the NPPF states that the planning system should contribute to, and enhance the natural and local environment by preventing new development from being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution.

6.4 The NPPG (Paragraph: 003 Reference ID: 30-003-20140306) sets out associated practical guidance and states that in decision making LPA’s should take into account the acoustic environment and in doing so to consider whether or not a significant adverse effect is occurring or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved.

6.5 The concept of Noise Exposure Categories is no longer current and therefore the NPPF and NPPG policies and guidance effectively supersede policy SQ6 of the Tonbridge & Malling Managing Development and the Environment Development Plan Document (“MDE DPD”).

- 6.6 Paragraph 124 of NPPF applies to Air Quality and must be read in conjunction with the associated NPPG regarding the assessment of air quality impacts. More specifically, paragraph: 009 Reference ID: 32-009-20140306 of the NPPG provides a comprehensive flow chart which details how considerations about air quality fit into the development management process. It requires LPAs in making decisions on planning applications to identify whether the proposed development would lead to an unacceptable risk from air pollution or prevent sustained compliance with EU limit values or national objectives for pollutants. Where this is considered to be the case, the LPA should consider whether any amendments to the proposal would make it acceptable or where not practicable to seek amendments to a scheme, consider the refusal of planning permission.
- 6.7 In addition, MDE DPD policy SQ4(c) states that development will only be permitted, inter alia, where *“proximity to existing potentially air polluting uses will not have a harmful effect on the proposed use...”*
- 6.8 Furthermore, policy CP1 of the TMBCS states that all proposals for new development must result in a high quality sustainable environment, and this is one of the overarching, fundamental aims of the NPPF. Policy CP1 goes on to state that in determining planning applications the quality of the natural and historic environment, the countryside, residential amenity and land, air and water quality will be preserved and, wherever possible, enhanced.
- 6.9 In light of the above policy framework and associated guidance, the main areas for consideration are whether the plot is capable of being subdivided and whether there is sufficient space to accommodate a new dwelling with parking, without resulting in harm to the residential amenities of the occupants of number 7 or in overdevelopment. In addition it is essential to consider the impact on the occupants of the proposed additional dwelling of noise and air quality associated with the adjacent M20.
- 6.10 The subdivision of this site would result in the provision of two plots of adequate size not out of character with the pattern of development in the locality. There is sufficient space to accommodate a dwelling of the size shown whilst retaining parking and amenity areas to a satisfactory standard. The principle of seeking to introduce an additional dwelling on the site would not harm the settlement pattern. An adequate amount of amenity space would remain for the host property and be provided for the new property. The form of the development would not harm the character and appearance of the local area. With these considerations in mind, there is no broad objection to the principle of residential development here when having regard to policies CP11 and CP24 of the TMBCS. Notwithstanding these considerations, the LPA is obliged to consider if a satisfactory standard of accommodation could be provided to the future occupants of the proposed new dwelling, having regard to the proximity to the M20 and associated impacts of noise and air quality and I will now address each of these in turn, having regard to the NPPF, NPPG and LDF policies (cited at 6.3 – 6.8 of this report).

- 6.11 Dealing firstly with noise impact, I recognise that the submitted Design and Access Statement states that the internal layout of the house has been designed so that the non-habitable areas (bathrooms and staircases etc.) are located adjacent to the northern boundary (i.e. closest to the M20). It is also stated that the new dwelling would be constructed to a high standard to ensure that there is no noise penetration in the property. It is claimed that the interior of number 7 is very quiet even though it has not been built to current day standards.
- 6.12 However, number 7 lies immediately adjacent to the M20 and as such the proposed dwelling will be subject to significant levels of noise at the site during both the day and night and which without appropriate mitigation would create an unacceptable internal environment and create harmful living conditions for the future residents. As paragraph 30-001-20140306 of the NPPG says: "*Noise needs to be considered... when new developments would be sensitive to the prevailing acoustic environment.*" Bearing in mind the need to consider the implications of the national Noise Policy Statement and BS 8233, attention has been given to the ability to attenuate noise and while this might prove possible, if potentially expensive, for internal living conditions it is almost impossible to see a way of achieving adequate outdoor standards, as there is already a 4.0m high acoustic barrier in place. In this respect the maximum target level of 55dB LAeq,T from BS8233 for gardens is predicted to be exceeded by 24dB leading to significant adverse impacts to health (in layman's terms a 10dB increase equates to a perceived doubling of the noise). It must be recognised that the garden of the existing house is already subject such levels but, of course, this current proposal will have the effect of exposing more people, in total, to unacceptable noise levels.
- 6.13 In addition to noise issues there are also significant concerns in terms of air quality standards in the vicinity, again related to the proximity to the M20. The entire curtilage of 7 Rowan Close falls within the M20 Air Quality Management Area (AQMA) and therefore, inevitably so would the proposed dwelling. This fact in itself is of significant concern and, as Paragraph 005, Reference ID 32-005-20140306 of the NPPG indicates, in "*deciding whether air quality is relevant to a planning application, considerations could include whether the development would...expose people to existing sources of air pollutants. This could be building new homes...in places with poor air quality.*" MDE DPD Policy SQ4(c), which is cited at paragraph 6.7 of this report, sets out the position, which has not been overridden by NPPF or NPPG.
- 6.14 While the applicant has provided some detail in respect of this issue, the proposed property would still be located and subjected to levels of air pollution above the National Air Quality Objectives (air pollution at this site is bad enough to exceed the standard set for annual exposure to nitrogen dioxide from vehicles on the M20 but not above the hourly standard applicable to gardens on the basis of less exposure). The National Objectives here apply to the outside of the residential building façade which means the proposed property's presence would still give rise to the continued need for the AQMA and be the closest receptor to the

pollution source; potentially being the last property that exceeds the National Objectives and the need for the AQMA's retention. The UK Government is currently in a position where it needs to meet the National Objectives as quickly as possible and this position is reflected in the provisions of NPPF/NPPG.

- 6.15 In terms of both noise and air quality, it must also be noted that in the Autumn Statement the Government re-iterated that the M20 is programmed to be redeveloped as Smart Motorway. While it is hoped that this will make the motorway less prone to stoppages (at least for some years) the stark reality is that it will bring moving vehicles some 4m closer to this site and the wholly new receptor/occupants.
- 6.16 In the light of the above issues, it is apparent that the proposal does not meet appropriate and current air quality or noise standards and that it has not been demonstrated that a satisfactory internal and external noise climate can be achieved for the future occupants of the proposed dwelling. The applicant's agent has indicated that the proposed dwelling would be occupied by family members. This, however, does not represent a justifiable reason for setting aside national policy and associated guidance and adopted safeguarding policies for sensitive development. It is also appreciated that number 7 and others in different parts of this estate may already be affected by high levels of noise and air pollution, but this is simply not a justification for allowing a new house of substandard amenity levels to be constructed in this location. After very careful consideration and for the above reasons it is recommended that planning permission is refused.

## **7. Recommendation:**

### **7.1 Refuse Planning Permission** for the following:

#### **Reasons:**

1. On the basis of the evidence available, the proposed development could potentially introduce new receptors into an area of poor air quality that exceeds the National Air Quality Objective for annual levels of nitrogen dioxide, contrary to the aims of policy CP1 of the Tonbridge and Malling Borough Core Strategy (2007) and policy SQ4 (c) of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010.
2. It has not been demonstrated that the application can be amended to an acceptable form resulting in an unacceptable risk from air pollution. Following National Planning Policy Framework guidance, the proposal therefore has serious potential to delay the UK's compliance with the National Air Quality Objectives within this M20 Air Quality Management Area and is therefore contrary to the requirements of policy CP1 of the Tonbridge and Malling Borough Core Strategy (2007) and paragraph 124 of the National Planning Policy

Framework (2012) (having also had due regard to the associated detailed guidance contained within the National Planning Practice Guidance, paragraph 005 Reference ID: 32-005-20140306 and Paragraph: 009 Reference ID: 32-009-20140306).

3. It has not been demonstrated in the submitted information that a suitable noise climate can be achieved at the site for future occupiers. It has not been demonstrated that the internal noise levels, detailed in BS8233 can be achieved within the proposed dwelling. It has not been demonstrated that the site can be adequately attenuated over and above what is already in place, to satisfy the outdoor noise levels detailed in BS8233 and therefore in the opinion of the Local Planning Authority exceeds the Significant Observed Adverse Effect Limit (SOAEL), contrary to paragraph 123 of the National Planning Policy Framework (2012) and the Noise Policy Statement for England and policy CP1 of the Tonbridge and Malling Borough Core Strategy (2007).

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