

APPLICATION: MA/09/1558 Date: 25 August 2009 Received: 17 December 2009

APPLICANT: Mr C Osborne

LOCATION: HEBRON VILLA, LEEDS ROAD, LANGLEY, MAIDSTONE, KENT, ME17 3JQ

PARISH: Langley

PROPOSAL: Planning application for erection of four dwellings as shown on drawing numbers 1468.P04, 1468.P05 and arboricultural report received on 28/8/09, 8/9/09 and 10/9/09 and as amended by additional documents being drawing number 1468.P05 received on 17/11/09 and e-mail received on 17/12/09.

AGENDA DATE: 14th January 2010

CASE OFFICER: Peter Hockney

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by Langley Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13, H27
South East Plan 2009: CC1, CC4, CC6, H4, H5, T4, NRM4, BE1, BE5
Government Policy: PPS1, PPS3, PPG13, PPS23, PPS25

1. HISTORY

- MA/08/0390 – Outline planning application for the erection of eight new dwellings and reinstatement of Hebron Villas into two dwellings, with access, layout and scale to be considered at this stage and all other matters reserved for future consideration – REFUSED – APPEAL DISMISSED.
- MA/07/1701 – Outline application for the erection of 7no. dwellings with garaging and with new garaging for Hebron Villa. Siting, layout and access to be considered at this stage (resubmission of MA/06/0691 – REFUSED).
- MA/06/0691 – Outline application for the erection of 5 no. dwellings with garaging with siting and access to be considered at this stage and all other matters reserved for future consideration – REFUSED.

- MA/02/2139 – Outline application for the erection of 2 detached bungalows with all matters except for means of access and siting reserved for subsequent approval – APPROVED.

2. BACKGROUND

- 3.1 The most recent application on this site (MA/08/0390), an outline application for the erection of eight new dwellings was refused on three grounds:-
- 1 *The proposed development, by virtue of its layout, and uniformity, would fail to provide a high quality, or inclusive design; and by virtue of the height and bulk of the proposed dwellings would fail to respect the prevailing character of the area and context of the site, and as such would prove contrary to PPS1, The Kent Design Guide and Policy QL1 of the Kent and Medway Structure Plan 2006.*
 - 1 *The proposed development would be likely to lead to an unacceptable loss, or future pressure to remove, existing mature trees which form an essential part of the local residential amenity and character, thereby proving contrary to Policy QL1 of the Kent and Medway Structure Plan 2006.*
 - 2 *The proposed development - and in particular plots 2 and 8 - would create an unacceptable level of overlooking of the rear garden areas of the adjoining properties, contrary to Policy QL1 of the Kent and Medway Structure Plan.*
- 3.2 At appeal the Inspector concluded that the development would not achieve good design, stating:-
- 3.3 "Overall I conclude that the proposed development would not meet the aims of good design, as set out in Planning Policy Statement 1: *Delivering Sustainable Development*, with regard to its collective bulk on the character and appearance of the area and that it would have an unacceptable effect on the living conditions of the occupiers of the neighbouring properties with regard to loss of privacy."**
- 3.4 I attach a copy of the Inspectors Decision as Appendix 1 to this application. This decision is a material consideration in the determination of this application and the key considerations are whether this scheme has overcome the reasons for dismissing the appeal.

3. CONSULTATIONS

- 4.1 Langley Parish Council wish to see the application REFUSED and request that the application be REPORTED TO PLANNING COMMITTEE for the following summarised reasons:-

- *The site is elevated and the development would overbear onto the surrounding single storey dwellings.*
- *The proposed bungalows are unacceptably close to the neighbouring boundary.*
- *Impact of the use of the access on highway safety due to the inadequate visibility.*
- *Insufficient car parking, which would lead to parking in surrounding roads and may block emergency and/or refuse vehicles.*
- *The scale of the plan is not accurate.*
- *Loss of an established mature garden.*

4.2 **MBC Environmental Health Manager** raises no objections to the application subject to the imposition of conditions relating to contamination and landfill gas and informatives.

4. REPRESENTATIONS

5.1 **Nine letters** of objection has been received on the following grounds:-

- The two storey dwellings would be prominent in the landscape contrary to the Inspector's decision.
- Loss of privacy.
- Creation of traffic congestion problems especially from refuse collection and deliveries.
- Inadequate car parking.
- Overwhelming on outlook.
- Concern regarding a security risk as access would be available to rear gardens.
- The development should respect the low density of the surrounding area.
- The proposed dwellings would have inadequate private amenity space.

5.2 **One letter** has been received stating that there is no opposition to the proposal but raises the following issues:-

- The fence on the boundary with properties in Dickens Close should be at least the height of the existing fencing to ensure adequate privacy.
- Concern regarding surface water drainage onto the properties in Dickens Close.

5. SITE LOCATION AND DESCRIPTION

- 6.1 The application site has a lawful use as a coal storage and distribution yard and parts of rear gardens behind three residential properties known as 'Hebron Villa', 'Yewswell' and 'Nova House', which front Leeds Road. The existing access to the coal yard runs between 'Hebron Villa' and 'Yewswell' onto Leeds Road. The site is within the village envelope of Langley. Therefore, it does not have a road frontage with Leeds Road apart from the access.
- 6.2 The former coalyard aspect of the site, which makes up the majority of the application site is predominantly hardstanding constructed of concrete and tarmac. There are some single storey dilapidated storage buildings adjacent to the boundaries of the yard.
- 6.3 The site lies within a predominantly residential area, which is characterised by a variety of different styles of property (the majority of which are single storey) fronting onto Leeds Road (to the front of the site) with bungalows to the rear of the site in Dickens Close. These properties to the rear are set down approximately 1 metre from the ground level of the site, which plateaus to the rear. A brick wall of approximately 1.8 metres surrounds the coal yard, with a well landscaped garden area to the south, also forming part of the application site. This landscaped area contains a number of mature trees, of varying type.

6. PROPOSED DEVELOPMENT

- 7.1 The proposal is a full application for the erection of four dwellings being a pair of semi detached bungalows with one car parking space each in the north west portion of the site and a pair of semi detached chalet bungalows with two car parking spaces each to be located behind 'Yewswell'. The access would be onto Leeds road and located between 'Hebron Villa' and 'Yewswell' and would be approximately 3.5m in width.
- 7.2 The pair of bungalows would be located in the north west portion of the site and would be approximately 2.7m to eaves and 4.8m to the ridge. It would be a minimum of approximately 5m to the rear (north west) boundary of the site, which forms the boundary with the rear gardens of properties in Dickens Close.
- 7.3 The pair of chalet bungalows would be predominantly one and a half storeys in height with dormer windows and velux windows serving the first floor

accommodation. There would be a two storey gable feature at either end of the properties. In terms of the heights, the eaves height of the properties would be approximately 3.5m (3.9m to the gabled projections) and approximately 6.9m to the ridge.

- 7.4 The proposal differs significantly from the previous application that was dismissed at appeal. The previous application proposed a replacement dwelling for 'Yewswell', the subdivision of 'Hebron Villa' into two dwellings and the erection of seven two storey dwellings in the rear portion of the site.

7. PRINCIPLE OF DEVELOPMENT

- 8.1 The application site is previously developed land within the village boundary of Langley and as such there is policy support from both national guidance in PPS3 and Development Plan policies in particular policy H27 of the Maidstone Borough-Wide Local Plan (2000).
- 8.2 There have been a number of planning applications on the site, including a number of recent refusals. There were no reasons for refusal regarding the principle of development on any of the previous application and an outline application has been granted permission previously. Therefore I consider that the site is suitable for residential development.
- 8.3 The site is approximately 0.18 hectares in area, the proposal for four houses equates to approximately 22dph in term of its density. This is considerably below the minimum density requirement set out in PPS3 and the South East Plan (2009), however, given the previous Inspector's decision it is clear that a reduced number of dwellings would be appropriate to avoid harm to the character and appearance of the area.

8. DESIGN AND VISUAL IMPACT

- 9.1 The proposed development would not form part of a street scene as only glimpses of the development would be possible from Leeds Road due to the width of the access and the location of the other properties on Leeds Road screening views of the proposed dwellings. However, as the Inspector found, a key consideration is how the development fits in with the surrounding area. The Inspector concluded in his decision that the combined visual bulk of the previously proposed seven dwellings two storey dwellings in the rear portion of the site would stand out as being an incongruous feature in the relatively open landscape.
- 9.2 The proposed dwellings have been significantly reduced in scale and number from the previous outline application where seven detached two storey dwellings with attached garages were proposed in the current site area (the eighth was a

replacement for 'Yewswell'). They are now of a bulk (individually and combined) that would not be harmful to the character and appearance of the area and would not be prominent in the landscape. Therefore, the revised development would now overcome the concerns of the Inspector on the previous appeal.

- 9.3 The design of the dwellings would be simple and geared towards the aim of achieving a small scale development. The eaves of the bungalows at approximately 2.7m with a shallow pitch of 25^o leading to a ridge height of 4.8m would achieve this aim. Glazed panels in the roof above the entrance halls would add some visual interest to the dwellings.
- 9.4 The proposed chalet bungalows would utilise small scale dormer windows within the roofspace that would cut the eaves of the properties. The eaves would remain relatively low, at 3.5m with a 40^o pitch to the roof. Again, glazed panels are proposed within the roof to add visual interest and break up the roofscape. The dwellings would not form part of the Leeds Road street scene with only glimpses possible between the existing houses and as such the smaller scale and simple design would not have a detrimental impact on the surrounding area or street scene.
- 9.5 The current proposal for a pair of low rise bungalows and a pair of semi detached chalet bungalows would reduce the level of development within the site and increase the openness of the site. This additional space would ensure that there is adequate opportunity for additional landscaping to assist in softening the development and integrating it into the area. This would be an improvement on the harsh appearance of the coalyard that is predominantly covered in concrete.
- 9.6 The location of a pair of low rise bungalows towards the north west boundary of the site (rear) would take reference from the low rise bungalows in Dickens Close with regard to its scale and orientation. Therefore the pair would be in character with the properties in Dickens Close.
- 9.7 The proposed layout and small scale of the dwellings would ensure that the development would respond positively to the context of the surrounding area and would not harm the character and appearance of the area. The dwellings would not be significantly bulky and would not be prominent in the landscape and as such would overcome the concern that the Inspector raised in his decision to dismiss the previous appeal.

9. IMPACT ON RESIDENTIAL AMENITY

10.1 Privacy

- 10.1.1 The Inspector was concerned with the impact of the previous development on residential amenity in terms of loss of privacy, in particular the properties of

'The Quest' and 'Heathview'. There would have been a significant number of properties overlooking the rear gardens of these properties and in particular the patio area close to the bungalow of 'The Quest'.

- 10.1.2 The proposed pair of bungalows in the north west part of the site are single storey and no first floor windows. This scale and design would ensure that with appropriate boundary treatments there would be no loss of privacy. A condition could be imposed to prevent any future extensions that may have an impact on privacy.
- 10.1.3 The pair of semi detached chalet bungalow would have first floor windows facing to the front and to the rear. These would have the potential to impact on the privacy levels enjoyed by occupiers of the properties that front onto Leeds Road. The angle of view from window to window would be too great to result in a loss of privacy to the occupiers of 'Hebron Villas' and 'Yewswell'.
- 10.1.4 With regard to the impact on 'Nova House' and 'The Quest', the angle to 'Nova House' and the distance (approximately 21m window to window) would ensure that there would be no adverse impact on privacy. The distance to 'The Quest' would be approximately 30 metres and this would be sufficient to maintain the level of privacy of the occupiers.
- 10.1.5 The location of the pair of semi detached chalet bungalows would be set further back into the site than the previous detached dwellings thus increasing the distances between the proposed dwellings and those that front Leeds Road. This would increase the distance and angle to 'Heathview', which would be approximately 21 metres away. This would ensure that the occupier's privacy levels would be maintained.
- 10.1.6 There would be some overlooking of the rear gardens of the properties fronting Leeds Road, in particular 'Heathview' and 'The Quest'. However, this would be predominantly the rear portion of the garden rather than the private area immediately adjacent to the properties. I do not consider that a reason for refusal on the overlooking of the rear part of the garden could be justified. Furthermore, I consider that a significant landscaping belt along the north eastern and south western boundaries would help to alleviate any overlooking and this could be secured by way of a condition.
- 10.1.7 Overall, I consider that the small scale of the proposed properties, the reduced number and the revised locations have resulted in an acceptable level of privacy to be afforded to neighbouring occupiers.

10.2 Loss of Light and Overwhelming

- 10.2.1 With regard to the pair of bungalows, the separation distances, a minimum of approximately 16m to the closest dwelling (12 Dickens Close), combined with the small scale of these properties would ensure that there would be no significant impact on the occupiers of nearby properties of loss of light.
- 10.2.2 The flank elevation of the pair of chalet bungalows (to the south east) is the two storey gable element and is approximately 13m from the rear of 'Yewswell', the closest dwelling to this element. This distance and the eaves height of approximately 3.9 metres would ensure that there would be no significant impact on the occupiers with regard to loss of light or an overwhelming impact.
- 10.2.3 The flank elevation to the other end of the pair of chalet bungalows, to the north west, would be approximately 26 metres from the rear wall of 10 Dickens Close. This distance and the eaves height of approximately 3.9 metres would ensure that there would be no significant impact on the occupiers with regard to loss of light or overwhelming. There would be no first floor windows in the flank elevation and this would ensure there would be no loss of privacy.
- 10.2.4 Overall, I consider that the scale and the separation distances between the proposed dwellings and the existing neighbouring properties would result in an acceptable level of light afforded to the occupiers of these properties as well as preventing an overwhelming impact.

10. HIGHWAY CONSIDERATIONS

- 11.1 The proposed development would utilise the existing access between 'Hebron Villas' and 'Yewswell'. This access was formerly in use for coalyard and would have carried traffic when in operation.
- 11.2 The access point is onto a straight section of Leeds Road and the visibility is adequate to enable vehicles leaving the site to do so in a safe manner.
- 11.3 The proposed parking contained within the site would be adequate for the dwellings proposed and would not result in hazardous highway conditions.
- 11.4 Overall, I consider that the development would not cause a harmful impact on highway safety and is acceptable in this regard.

11. OTHER CONSIDERATIONS

- 12.1 Other issues raised by the Parish Council and neighbours that have not been dealt with above will be examined in this section.

- 12.2 One such issue is the loss of a mature garden. The garden is previously developed land and as such is suitable for development. Furthermore, the Inspector did not find its loss unacceptable.
- 12.3 The access to rear gardens and therefore the potential for a security risk is no greater than the previous application where the Inspector did not consider it to be unacceptable.
- 12.4 The private garden space available for the prospective occupiers would be sufficient for these family dwellings and would comply with the provisions of PPS3.
- 12.5 The proposed dwellings would be constructed to Level 3 of the Code for Sustainable Homes and this is considered acceptable with regard to sustainable construction. A condition should be imposed to secure this. In terms of the surface water drainage, it is not clear how this would be dealt with and as such I recommend a condition be imposed for details to be submitted.
- 12.6 The arboricultural report indicates some trees to be retained and these measures combined with the provision of a landscaping scheme would soften the development sufficiently.
- 12.7 The site does not have a significant potential for wildlife habitat and the increased landscaping would enhance the biodiversity of the site.
- 12.8 Overall, I consider that the submitted development has been designed in a way to overcome the Inspector's and the Council's concerns on the previous application and as such my recommendation is for approval.

12. RECOMMENDATION

GRANT PLANNING PERMISSION 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 accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with policy BE1 of the South East Plan (2009).

3. The development shall not take place until a scheme of landscaping including significant landscaping belts along the north eastern and south western boundaries, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and BE1 of the South East Plan (2009).

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and BE1 of the South East Plan (2009).

5. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in

accordance with policies T13 of the Maidstone Borough-Wide Local Plan (2000) and T4 of the South East Plan (2009).

6. The development shall not commence until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with policy BE1 of the South East Plan (2009).

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A, B and E shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers in accordance with policy BE1 of the South East Plan (2009).

8. The development shall not commence until details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with policy BE1 of the South East Plan (2009).

9. The dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved;

Reason: To ensure a sustainable and energy efficient form of development in accordance with policies CC4 and H5 of the South East Plan (2009), Kent Design Guide 2000 and PPS1.

10. The tree protection measures outlined in the submitted arboricultural report undertaken by Sylvan Arb dated 27 August 2009 shall be implemented and strictly adhered to prior to the commencement of any works on the site including clearance until the completion of the development;

Reason: To ensure retained trees are adequately protected in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and BE1 of the South East Plan (2009).

11. The development shall not commence until full details of surface water drainage have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details;

Reason: To ensure adequate measures for surface water drainage are incorporated into the development in accordance with policy NRM4 of the South East Plan (2009).

12. The development shall not commence until:

1. The application site has been subjected to a detailed scheme for the investigation and recording of site contamination and a report has been submitted to and approved by the Local planning authority. The investigation strategy shall be based upon relevant information discovered by a desk study. The report shall include a risk assessment and detail how site monitoring during decontamination shall be carried out. The site investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and these details recorded.

2. Detailed proposals in line with current best practice for removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') have been submitted to and approved by the Local Planning Authority. The Contamination Proposals shall detail sources of best practice employed.

3. Approved remediation works shall be carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology. If, during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the Local Planning Authority.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment in accordance with guidance contained within PPS23.

13. To safeguard the future occupants of the site, a detailed scheme for the investigation, recording and remediation of gas shall be submitted. The scheme to comprise:

1. A report to be submitted to and approved by the Local Planning Authority. The report shall include a risk assessment and detail on how site monitoring during the investigation took place. The investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a methodology that complies with current best practice, and these details reported.
2. Detailed proposals in line with current best practice for gas protection measures (the 'Gas Protection Proposals') have been submitted to and approved by the Local Planning Authority. The proposals shall detail sources of best practice used.
3. Approved works shall be carried out in full on site prior to first occupation.

Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the LPA. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved scheme.

Reason: To prevent harm to human health in accordance with guidance contained within PPS23.

Informatives set out below

Attention is drawn to the COPA 1974 sections 60 & 61. The Council will normally expect contractors to adhere to the Guidance Note for Contractors contained in the Associated British Standard COP BS 5228:2009 for noise control on construction sites which includes such matters as hours of noisy working, working practices and public relation with local residents. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours, can not be highly stressed.

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.