

APPLICATION: MA/09/1673 Date: 17 September 2009 Received: 21 September 2009

APPLICANT: Westward Ltd

LOCATION: LAND EAST AND WEST OF, FAIRBOURNE LANE, HARRIETSHAM,
KENT

PARISH: Harrietsham

PROPOSAL: Erection of 4 no. three bedroom detached houses as shown on drawing numbers 1578(20)01-E, 1578(20)04-D, 1578(20)05-E, 1578(20)06, 1578(20)07, 1578(20)08, 1578(20)09, 1578(20)10, 1578(20)11, 1080/09/01, 1080/09/02, 1080/09/3A and 1080/09/4A received on 17/9/09, 6/10/09 and 9/10/09.

AGENDA DATE: 4TH February 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 Harrietsham Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, H27, T13

South East Plan 2009: CC1, CC4, H4, H5, T4, M1, C5, NRM10, BE1, BE5

Government Policy: PPS1, PPS3, PPG13, PPG24

1. HISTORY

MA/05/0104/01 Land East of Fairbourne Lane, Harrietsham. Application for approval of reserved matters being access, appearance, landscaping, layout and scale pursuant to outline permission MA/05/0104 for the erection of 2 dwellings. (Refused and Dismissed at Appeal in May 2009)

MA/05/0095/01 Land West of Fairbourne Lane, Harrietsham. Application for approval of reserved matters being access, appearance, landscaping, layout and scale pursuant to outline permission MA/05/0095 for the erection of 2no. dwellings. (Refused and Dismissed at Appeal in May 2009)

MA/05/0104	Land East of Fairbourne Lane, Harrietsham. Outline application for residential development with all matters reserved for future consideration. (Approved with Conditions)
MA/05/0095	Land West of Fairbourne Lane, Harrietsham. Outline permission for residential development with all matters reserved (Approved with Conditions).
MA/76/0667	Fronting A21, Harrietsham. Outline application for two detached bungalows and garages (Refused).
MA/74/0110	Ashford Road, Harrietsham. Outline application for two detached dwellings and garages (Refused).

2. CONSULTATIONS

3.1 Harrietsham Parish Council wish to see the above planning application REFUSED and request the application is reported to the Planning Committee for the planning reasons set out below:

- This will have a detrimental impact on the street scene
- The noise levels will prove unacceptable for this development
- Insufficient landscape detail to show mitigation on noise

3.2 KCC Highways raise no objections to the application on highway matters stating:-

"I refer to the above planning application and have no objections to the proposals in respect of highway matters although I have concerns regarding the parking facilities at the site.

The Kent Design Guide Interim Parking Guidance Note 3 recommends that 2 independently accessible spaces are provided in respect of 3 bedroom houses in suburban edge/village/rural locations. There are 2 spaces per dwelling proposed as part of this application but one of the spaces is a garage which is not considered to be independently accessible and therefore not reliable as a parking space. In addition to this the size of the proposed garages are less than the desired minimum size. Garage sizes should be as follows:-

Min garage size: 5.5m x 3.6m single OR 7.0m x 3.0m single 5.5m x 6.0m double

No objection is raised to this application as it is considered that the application will not give rise to highway safety problems, although congestion and inconvenience may occur within the private drive."

3.3 MBC Landscape Officer raised concerns regarding the plotting of the Root Protection Area for the protected Ash tree covered by TPO 24 of 2009. However, the applicant's tree specialist has provided additional information to allay these concerns. No objections are raised to the development and conditions are recommended regarding tree protection measures, an arboricultural method statement and a landscaping scheme.

3.4 MBC Environmental Health Officer raises no objections to the application and is satisfied that the noise attenuation measures including a 1.8m fence to the south would result in an acceptable level of amenity for future occupiers of the dwellings.

3. REPRESENTATIONS

One letter of objection has been received on the following grounds:-

- The development would be out of keeping with the area.
- Loss of privacy.
- Loss of light and overshadowing.
- The access would be dangerous.

4. CONSIDERATIONS

5.2 Site Location and Description

5.2.1 The application site relates to corner plots on the east and west side of Fairbourne Lane at the junction with Ashford Road (A20), which is located to the north. To the south of the site are the high speed rail link approximately 30-40m away and the M20 motorway 65-80m away.

5.2.2 The site is within the confines of the village envelope of Harrietsham with the southern boundary of the site forming the boundary between the village and the countryside.

5.2.3 There are no specific landscape designations covering the site, although there is an Ash tree covered by TPO 24 of 2009 that is located outside the boundary of the site to the north between the site and the A20.

5.2.4 The surrounding area is predominantly residential, which generally fronts the A20 on the south side. There is already an element of backland development in place to the rear of 'Malinton' and 'Herwish' located to the east. The overriding

characteristic of the residential development in the area is generally low rise bungalows, some with rooflights serving accommodation within the roofspace.

5.3 Proposed Development

- 5.3.1 The application comprises the erection of four detached dwellings, two on each plot. Each property would have an integral garage with access onto Fairbourne Lane.
- 5.3.2 Although varying slightly in design the dwellings would be 2.4m in height to the eaves and 6.25m in height to the ridge. They would be chalet bungalows with the first floor accommodation served by small scale modest dormer windows (two on two of the properties and one on the other two properties) and velux rooflights.
- 5.3.3 The development would include a 1.8m close boarded boundary fence to the southern boundary to provide noise attenuation measures, particularly for the rear gardens. Additional landscaping is proposed as part of the scheme.

5.4 Principle of Development and History

- 5.4.1 The application follows the dismissal of appeals against applications MA/05/0095/01 and MA/05/0104/01. The Inspector found that the scale and bulk of the proposed dwellings, the cramped nature of the development, the variety of detailing and the prominence of the dormer windows would all contribute to an urbanised appearance of the site that would be harmful to the character and appearance of the area. These decisions are strong material considerations in the determination of this application and are attached as Appendix 1 to this report.
- 5.4.2 The site has been accepted as appropriate for residential development in principle by the approval of outline applications MA/05/0095 and MA/05/0104. It is within the village boundary of Harrietsham and therefore subject to policy H27 of the Maidstone Borough-Wide Local Plan (2000) which allows for minor residential development. There have been no significant changes since the granting of the outline applications that changes their acceptability.
- 5.4.3 Furthermore, the Inspector in her decisions dated 28 May 2009 accepted that the site(s) were acceptable for residential development, in paragraph 6 of the decision on MA/05/0095/01 and paragraph 4 of the decision on MA/05/0104/01. There have been no significant changes in policy or the site circumstances since May 2009 to warrant a different conclusion on this matter.

5.4.4 The key considerations in the determination of this application, as identified at the appeal, are the impact on the character and appearance of the area and the living conditions of future residents with regard to noise and disturbance.

5.5 Impact on the Character and Appearance of the Area

5.5.1 The site is a prominent corner plot (comprising both corners of the junction of Fairbourne Lane and Ashford Road) and is an important transition from the established village of Harrietsham with the development along the A20 and the open countryside to the south. Travelling south along Fairbourne Lane beyond the site the character is rural and open in nature. Any development on the site therefore needs to respect the context of the site and the fact that it provides a transition from the established development of Harrietsham to the rural area to the south.

5.5.2 At appeal the Inspector found that the height, scale and bulk of the proposed dwellings, the cramped nature of the development, the variety of detailing and the prominence of the dormer windows would all contribute to an urbanised appearance of the site that would be harmful to the character and appearance of the area. In considering this application a key consideration is whether the current proposal has addressed the previous reasons for dismissing the appeal and would result in an acceptable development that respects its context.

5.5.3 The dwellings have altered significantly in their design since the dismissal of the appeal. The previous applications proposed dwellings that were approximately 2.4m to the eaves and 7m to the ridge, the roofs would have had gable ends thereby increasing the proposed scale and bulk of the development. Separate access points were proposed onto Ashford Road and Fairbourne Lane for each of the dwellings. Two properties would have faced onto Ashford Road and two onto Fairbourne Lane. This would have resulted in an awkward relationship between the two properties that would create a cramped appearance to the development. The dormers proposed would have been overlarge features within the roof slopes and would be dominant and incongruous

5.5.4 The dwellings proposed would have low eaves (2.4m) and ridge heights (6.25m) of and combined with the design incorporating fully hipped roofs would result in a small scale development that would not appear prominent in its location. The proposed dormer windows would be subordinate within the roof slopes and would not be dominant or incongruous features. The low height and small scale of the dwellings would ensure that the development would respect the surrounding context of the site and would result in a development in keeping with its surroundings.

5.5.5 The centrally located access for each side of Fairbourne Lane and the smaller size of the dwellings would allow for a more spacious development than

previously proposed. This would achieve an open corner aspect at the junction of Fairbourne Lane and Ashford Road on each side. The additional space surrounding the dwellings would prevent a cramped layout and allow for a greater amount of proposed landscaping that could include a native hedgerow with trees positioned around the boundaries. It is unclear from the submitted details whether the indicated hedgerow would be to the outside of the proposed fence, a condition would be appropriate to ensure that this is the case, which would provide a soft edge to the development that would respect its context as an edge of village location and provide a transition to the open countryside to the south.

5.5.6 The boundary treatments would comprise a 1.2m high post and rail fence along the northern boundaries fronting Ashford Road and the boundaries fronting Fairbourne Lane. This would ensure an open frontage, which with a proposed hedge would provide a soft edge to Ashford Road and Fairbourne Lane characteristic of its edge of village location. A 1.8m close boarded fence would be positioned along the southern boundary of the site, whilst not ideal this fence is required to provide adequate screening from the noise generated from the high speed rail link and the M20 beyond and would be screened by a proposed hedgerow.

5.5.7 The important feature to the north of the site is the Ash tree located outside the site to the north, which is covered by TPO 24 of 2009. A tree survey has been undertaken and the root protection area has been plotted in relation to the proposed dwellings. There would be some pruning of the protected tree and other adjacent trees proposed, however, it has been demonstrated that the development could be carried out without damage to the protected tree and this could be secured by way of a condition.

5.5.8 Overall I consider that the proposed dwellings in terms of their layout, height and bulk have overcome the reasons for dismissing the appeal and is now an acceptable form of development for this edge of village location.

5.6 Residential Amenity

5.6.1 The low eaves height (2.4m) of the proposed dwellings and their proposed location and separation distances between the dwellings and nearby properties of 'Malinton' (5m), 'Notnilam' (5.2m) and 'Tara' (5.9m) would ensure that there would be no loss of light or overshadowing of habitable room windows. Furthermore, this situation would also ensure that there would be no overwhelming impact from the development.

5.6.2 With regard to the levels of privacy afforded to the neighbouring properties, there would be no windows at first floor level that would overlook any of the

neighbouring properties. The ground floor windows would be screened by the existing boundary fences of the neighbouring properties.

- 5.6.3 Permitted development rights should be removed by way of a condition to prevent future extensions that could be possible under permitted development which may impact on the residential amenity of neighbouring occupiers.
- 5.6.4 The amenity levels of the future occupiers of the proposed dwellings are a key consideration of this application. Concern was raised by the previous Inspector that the level of noise from the high speed rail link and the motorway would be significant and it was unclear whether adequate attenuation measures would be possible. An acoustic survey has been submitted and includes appropriate acoustic attenuation measures to ensure that the future residents would have an adequate level of amenity and not suffer from unacceptable levels of noise and disturbance, including within the private garden areas.
- 5.6.5 There would be no significant impact on the residential amenity of the adjacent occupiers and the proposed dwelling and boundary treatments would provide for an acceptable level of amenity for the future residents of the proposed dwellings.

5.7 Highway Considerations

- 5.7.1 The proposed dwellings would utilise a shared access on either side of Fairbourne Lane centrally located within the plot. The accesses would achieve adequate visibility splays and provide a safe access point onto Fairbourne Lane.
- 5.7.2 There would be no access point onto the A20 and adequate space within the plots for the appropriate level of off street parking and turning of vehicles to ensure that the vehicles would be entering and leaving Fairbourne Lane in a forward gear.
- 5.7.3 Kent Highways consider the proposed access arrangements to be acceptable and raise no objections to the application with regard to highway safety considerations.

5.8 Other Considerations

- 5.8.1 The dwellings would be constructed to achieve level 3 of the Code for Sustainable Homes and this would be acceptable with regard to the goal of sustainable construction.
- 5.8.2 There are no significant ecological issues on the site. At the appeal the appellant provided a survey demonstrating that the shed on the western portion of the site did not contain any bats.

5.9 Conclusion

- 5.9.1 The proposed development has been reduced in scale and would result in a more spacious development in keeping with its surroundings. Therefore the development is considered to have overcome the reason for dismissing the appeal in terms of the harm to the character and appearance of the area previously identified.
- 5.9.2 The development would be designed in such a way to ensure that there would be no significant adverse impact on amenity levels of neighbouring occupiers.
- 5.9.3 The proposed boundary fencing to the south would provide for adequate noise attenuation to ensure that the future occupiers of the dwellings would enjoy acceptable living conditions and would not suffer an unacceptable level of noise and disturbance.
- 5.9.4 The parking and access arrangements would provide an adequate level of off street parking for the development and a safe access.

5. 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 policies H5 and BE1 South East Plan (2009).

3. 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).

4. Notwithstanding the submitted details, the development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping including a double staggered hedgerow on the southern side of the southern boundary fence, 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. 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 and H27 of the Maidstone Borough-Wide Local Plan (2000) and BE1 of the South East Plan (2009).

5. All planting, seeding or turving comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings 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).

6. The development shall not commence until an Arboricultural Method Statement in accordance with section 7 of BS 5837 (2005) 'Trees in Relation to Construction-Recommendations' has been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved details;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory

setting and external appearance to the development in accordance with policies ENV6 and H27 of the Maidstone Borough-Wide Local Plan (2000).

7. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 and H27 of the Maidstone Borough-Wide Local Plan (2000).

8. 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).

9. The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No 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 M1 of the South East Plan (2009), Kent Design Guide 2000 and PPS1.

10. The development hereby permitted shall be carried out in accordance with the mitigation measures contained within the assessment of environmental noise report undertaken by Peter Moore and dated 8 September 2009 and maintained thereafter;

Reason: To ensure a satisfactory level of residential amenity is afforded to future

occupiers in accordance with policy NRM10 of the South East Plan (2009) and guidance contained in PPG24.

11. The development shall not commence until details of the proposed slab levels of the building 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 policies H5 and BE1 of the South East Plan (2009).

Informatives set out below

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.

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.