



Appeal Decision

Site visit made on 2 April 2025

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/H2265/W/24/3351858

Parking Area South of Mellinges Close, Nevill Court, West Malling ME19 6HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Gravesend Real Estate Company Ltd against the decision of Tonbridge and Malling Borough Council.
 - The application Ref. is TM/24/00315/PA.
 - The development proposed is for the erection of 4no dwellings comprising of 2 x 2 bedroom terrace, 1 x 3 bedroom terrace, and 1 x 2 bedroom flat over garage. Provision of associated parking spaces and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4no dwellings comprising of 2 x 2 bedroom terrace, 1 x 3 bedroom terrace, and 1 x 2 bedroom flat over garage, and provision of associated parking spaces and ancillary works at Parking Area South of Mellinges Close, Nevill Court, West Malling ME19 6HZ in accordance with the terms of the application Ref. TM/24/00315/PA, subject to the conditions in the attached schedule.

Preliminary Matter

2. An application for costs was made by Gravesend Real Estate Company Ltd against the decision of Tonbridge and Malling Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of future occupants of the development, having regard to privacy.

Reasons

4. The appeal site is a vacant plot of land on the junction of Mellinges Close and Nevill Court in the northern peripherals of West Malling. The local neighbourhood comprises mainly of dwellings set in high-density, built-up environs, situated in the West Malling Conservation Area (CA).
5. The distance between the first floor windows of plots 1-3 and those of plot 4 opposite would be around 9.4 metres. I acknowledge that this is somewhat constrained, however such limited separation between built form is evident elsewhere in the CA, which I was able to observe at my site visit. Indeed, the CA Appraisal references the *"intimate narrowness of King Street, Swan Street and part of West Street"* and notes that in the historic centre of the town *"buildings are tightly arranged in an enclosed urban form"*. Consequently, I am of the view that a level of mutual overlooking or inter-visibility is to be expected and would not be unusual within the surrounding context.

6. Anyone considering occupying the new dwellings would be aware of the modest detachment and layout, and would make an informed choice as to whether or not this was suitable for their needs. Some residents might need to rely on certain mitigation to achieve their preferred level of privacy; I observed that several properties had blinds down or net curtains in the immediate locale, and such measures could be installed in the development to afford a sufficient degree of seclusion.
7. Therefore, in relation to this main issue, the proposal would afford reasonable living conditions to future occupiers, with particular regard to privacy. The proposal would comply with Policies CP1 and CP24 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy 2007, which require proposals to perform well against a range of criteria, including the impact upon amenity. It would also be consistent with the National Planning Policy Framework (the Framework), which advocates safe and healthy living conditions.

Conditions

8. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the Framework. I have altered some of the Council's suggested conditions for clarity and conciseness. In addition to the standard implementation condition, the approved plans are listed for certainty. Conditions requiring external materials to be submitted would provide for a satisfactory appearance.
9. A management plan would minimise the effect of construction on local amenity, and a contamination condition is imposed in the interests of public safety. A condition in relation to archaeology would ensure that features of interest are properly examined and recorded. Tree protection measures, landscaping works and finished levels would ensure protection of existing specimens, visual enhancements to the development and protection of amenity.
10. Conditions relating to car parking, cycle storage and refuse would ensure the provision and retention of such facilities on site. Given the close relationship between the proposed plots, removing Classes A, B, D and E and change of use permitted development rights is both reasonable and necessary to protect the living conditions of neighbouring occupiers.

Conclusion

11. Based on the foregoing and having regard to all issues, the appeal is allowed.

C Hall

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 30533A_20 Rev. B; 30533A_21 Rev. B; 30533A_24 Rev. B; 30533A_25 Rev. B; 30533A_100 Rev. B; 30533A_101 Rev. B; 30533A_102 Rev. B; 30533A_103 Rev. C; 30533A_104 Rev. C; 30533A_105 Rev. C; 30533A_200 Rev. B; 30533A_810 Rev. B; CCS/2110015.
- 3) No development above the damp proof course shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development

hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.

- 4) Prior to the commencement of the development, including demolition, details of a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following details: the routing of construction and delivery vehicles to and from the site; parking and turning areas for construction and delivery vehicles, plant, machinery and site personnel; timing of deliveries; provision of wheel washing facilities; details of proposed working and delivery hours; a site waste management plan; and details of how noise, vibration and dust shall be controlled during the construction period. The approved CEMP shall be adhered to throughout the construction period for the development.
- 5) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, no development shall take place until: i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority; ii. the site has been remediated in accordance with the approved measures and timescale; and iii. a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until: i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

- 6) Prior to the commencement of development the applicant, or their agents or successors in title, will secure:
 - i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority;
 - ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority; and
 - iii) a programme of post excavation assessment and publication.
- 7) The existing hard surfacing to the rear of plot 4 shall remain in place and untouched until after the development works are completed. If following completion of the construction works any part of the existing hard surface to the rear of the proposed garage/flat over garage is required to be removed/replaced the existing surface shall be removed with care using hand held tools only, working away from the adjacent trees and under the supervision of the project arboriculturalist. The exposed soil underneath the hard surfacing shall be left undisturbed with no excavation below the existing sub-base of the hard surfacing and no material, equipment or spoil stored on the uncovered parts of the driveway at any time. Any replacement hard surfacing shall be built on top of the existing sub-base and shall be of permeable construction.
- 8) Prior to the first occupation of the new dwellings, a scheme of hard and soft landscaping shall submitted to and approved in writing by the Local Planning Authority. The scheme

shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

The approved hard landscaping scheme shall be implemented prior to the occupation of the development hereby approved and maintained thereafter. All planting, seeding or turfing comprised in the approved details of soft 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 5 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.

- 9) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
- 10) The development shall not be occupied until car parking spaces have been laid out within the site in accordance with the approved plan 30533A_103 Rev. C. The parking area shall be used and permanently retained exclusively for its designated purpose.
- 11) Prior to occupation of the development, details of secure cycle storage facilities shall be submitted to, and approved in writing by, the Local Planning Authority which shall show their positioning within the site, the size and materials of the enclosure and the means of access. The approved details shall be implemented on site prior to the first occupation of the development hereby approved and thereafter permanently retained in accordance with the approved details.
- 12) Prior to occupation of the development hereby approved, full details of a refuse and recycling area shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and retained thereafter.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, D and E of Part 1 of Schedule 2 to the Order shall be undertaken.