



Appeal Decision

Site visit made on 3 December 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2025

Appeal Ref: APP/H2265/W/25/3373454

The Woodman, Sweets Lane, East Malling, West Malling, Kent ME19 6JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Lee and Laraine Jalili-Hodges against the decision of Tonbridge and Malling Borough Council.
 - The application Ref is TM/25/00569/PA.
 - The application sought planning permission for new detached house in excess side garden of existing property, with new access, parking, associated garden and double garage without complying with a condition attached to planning permission Ref TM/24/01514/PA, dated 24/12/2024.
 - The condition in dispute is No 2 which states that: *'The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 103 Rev 3, 102 Rev 3, 101 Rev 3, 100 Rev 1, Site Location plan, The woodman Design and Access Statement prepared by designscape architecture, 104, 75, 76 and Arboricultural Report BS5837 prepared by Chartwell Tree Consultants Ltd dated 12/12/2022'*.
 - The reason given for the condition is: *'To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice'*.
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Decision

1. The appeal is allowed and planning permission is granted for new detached house in excess side garden of existing property, with new access, parking, associated garden and double garage at The Woodman, Sweets Lane, East Malling, West Malling, Kent ME19 6JF in accordance with the application Ref TM/25/00569/PA, without compliance with condition number 2 previously imposed on planning permission Ref TM/24/01514/PA dated 24 December 2024 and subject to the conditions in the attached schedule.

Background and Main Issue

2. The appeal site is a residential garden. Permission has been granted¹ for a new dwelling at the site. The appellant seeks to erect much the same house but with some alterations to its design (the altered dwelling). Simply put, these are the addition of two ground floor bay windows, two enclosed balconies above, and two front roof dormers, all on the front elevation. The Council has no objection to the first of these elements, and I see no reason to take a different view.
3. The main issue is the effect that varying the condition would have on the character and appearance of the area, with particular regard to the proposed balconies and roof dormers.

¹ Application Ref TM/24/01514/PA.

Reasons

4. The appeal site is part of a small cluster of development spreading outwards from a central crossroads that links Sweets Lane, The Heath, Red Hill, and Wateringbury Road.
5. The appeal site has a dense roadside boundary hedge, and there are mature trees nearby. Though a cross section has been supplied to show the effect of the hedge on views into the site, I see no reason to think the upper floors of the altered dwelling would be screened from view entirely, particularly as one approaches from the east or west. Moreover, I have little reason to think that the hedge will always be retained at its current height and width, or at all, and note that it would be punctured by a new access point.
6. At the same time, the altered dwelling would be set back from the road and on mildly lower ground, and it seems reasonable to presume that some form of enclosure would be employed even if the hedge were removed. The new dwelling would be the last and easternmost house on the section of Sweets Lane near the crossroads, giving it a somewhat discreet presence in the context of the local area.
7. Overall, I find that the balconies and dormers would be clearly visible from outside the site and, as such, would be capable of affecting the character of the local area, but that they would not be especially prominent within that area.
8. The Council contends that the appeal scheme should be considered only in the context of neighbouring dwellings along Sweets Lane. I see little reason to support that approach. Travelling to and from the appeal site will often involve going along at least one of the other roads listed above, and the distance between the site and the crossroads may be covered in seconds. Houses on the other roads are either reasonably close or, in some cases, very close to the appeal site, so much so that dwellings on all three other roads are visible from the entrance to Sweets Lane. Overall, I find that the visual context for the appeal site is formed by dwellings along each of the roads connected by the crossroads (the local area).
9. Dwellings across the local area are decidedly varied in terms of architectural style, age, design features, ridge height, roof form, and materials. Indeed, I found relatively few instances of consistency across more than two plots. As such, architectural variety is a strong characteristic of the area. The houses on Sweets Lane are generally traditional in style, and are two-storey. Otherwise, they are so varied as to adhere and contribute to the characteristic variety in the local area.
10. Roof dormers are reasonably common in the local area; generally, they incorporate dual-pitched roofs and are modest in size. There are visible examples at the nearest homes on The Heath and on Red Hill. In the latter case, the presence of the dormers on the roof of a large, two storey dwelling indicates that the house has three floors. This may be seen directly from the crossroads. Given the above I do not find the proposed dormers, including any extent to which they would indicate the altered dwelling to have three floors, to be at odds with the character of the local area.
11. Balconies appear to be less common than roof dormers in the local area, but a notable example is found at the nearest house on Wateringbury Road. Here, a glazed balustrade encloses a small external balcony accessed by double doors. It is visible from the crossroads. Given this, the proposed balconies would not be

without precedent in the local area. Moreover, the architectural variety of the area is such that even as a less common feature, the balconies can be accommodated within the overall character of the area, particularly as the revised dwelling would be somewhat discreetly located.

12. Varying the condition would not have a harmful effect on the character and appearance of the area. I find no conflict, therefore, with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policy SQ1 of the Managing Development and the Environment Development Plan Document (2010), or Policies P4/12 and PA4/12 of Tonbridge and Malling Borough Council Local Plan 1998.

Conditions

13. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

14. For the reasons given above, the appeal is allowed.

A Knight

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents received by the LPA on 27th March 2025: Proposed Block Plan (2513 PL01); Proposed Site Layout (2513 PL02); Proposed Plans (PL03); Proposed Elevations (PL04).
3. All materials used externally shall accord with the approved plans.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, B and E of Part 1; of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.
5. No earlier than three months prior to commencement, a pre-works site visit will be undertaken by a suitably qualified ecologist to identify any new sett entrances within 20m of the proposed development area. Should any sett/s be identified, the results of any additional surveys and full details of any mitigation measures required to ensure alignment with the Protection of Badgers Act 1992 will be submitted to the Local Planning Authority for written approval prior to the onset of works.
6. Prior to the commencement of works (including site clearance), a method statement detailing a non-native species eradication strategy will be submitted to, and approved in writing by, the local planning authority. The method statement will detail the containment, control and removal of rhododendron and bamboo. The measures will be carried out in accordance with the approved details.
7. No development shall commence unless and until an updated Preliminary Ecological Appraisal has been submitted to and approved in writing by the Local Planning Authority. All precautionary mitigation measures for protected and priority species set out in the Preliminary Ecological Appraisal shall thereafter be carried out in accordance with the approved details.
8. Prior to completion, a lighting plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. Lighting will be designed in accordance with the Bat Conservation Trust's 'Guidance Note 8: Bats and Artificial Lighting 08/23'. The Plan will show the type and locations of proposed external lighting and the expected light spill as demonstrated by both horizontal and vertical lux contours, to demonstrate that areas to be lit will not adversely impact biodiversity including the adjacent woodland and hedgerows, and any proposed landscaping and enhancement features. The Plan will also include details of any measures to reduce impacts from emitted internal lighting, such as cowls, recessed lighting or glazing treatments. All lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.
9. Prior to development above slab level (to enable the inclusion of integral features), details of how the development will offset biodiversity loss and provide enhancement for biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include a native species-only landscaping scheme

and habitat boxes for hedgehog, bats and/or breeding birds including S41 priority species and red/amber listed species. Any boxes included for wildlife should be made of Woodstone/Woodcrete to ensure durability. The plan should include a proposed planting schedule and outline habitat management proposals. The approved measures will be implemented and retained thereafter.

10. The use shall not be commenced, nor the premises occupied until details of a scheme for the storage and screening of refuse and bike has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.
11. No development above ground shall commence unless and until a new planting, soft and hard landscaping scheme to compensate the loss of trees as recommended in the Arboricultural Report prepared by Chartwell Tree Consultants Ltd has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the dwelling or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.
12. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
 - (a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread.
 - (b) No fires shall be lit within the spread of the branches of the trees.
 - (c) No materials or equipment shall be stored within the spread of the branches of the trees.
 - (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
 - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
 - (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level.
13. No development shall be occupied until the area shown on the submitted layout referenced 101 Rev.3; as vehicle parking spaces to serve that dwelling has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

14. The detached garage hereby permitted shall not be used for any other purpose than the accommodation of private vehicles or for a purpose incidental to the enjoyment of the related dwellinghouse and no trade or business shall be carried on therefrom.

Schedule Ends