

**Applications delegated to Director of Planning,
Housing & Environmental Health to determine**

Mereworth **24 October 2019** **TM/19/02500/FL**
(Mereworth)
Downs And Mereworth

Target Determination Date: 19 December 2019

EOT Revised Expiry Date: 21 January 2020

Proposal: Demolition of existing office/workshop building and erection of
4 no. houses and conversion of existing building to form double
car port
Location: G B Tatham And Co Ltd 9 Willow Wents Mereworth Maidstone
Kent ME18 5NF

1. Description of Proposal:

1.1 Originally, planning permission was refused and later dismissed on appeal to erect 4 houses on this site in place of an existing office building and car park that is occupied by Tatham Homes (ref TM/18/00595/FL). The reason for refusal was as follows:-

“The proposed development, by virtue of the siting, scale, massing and height of unit 1 when combined with its close proximity to the northern boundary shared with the immediate neighbour (11 Willow Wents), would result in an intrusive and dominant form of development when viewed from that neighbouring property, which would cause harm to the residential amenities of the occupants. The development is therefore contrary to policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and the requirements contained at paragraphs 127 (c and f) and 130 of the National Planning Policy Framework 2018”

1.2 Planning permission was then sought for a further development of housing on this site (ref TM/19/01784/FL). This proposal was for 3 houses as previously proposed located perpendicular to the road, one being detached and then a pair of semi-detached houses (linked by car ports) and a detached bungalow. The reason for refusal was as follows:-

“The proposed development, by virtue of the siting, scale, massing and height of unit 1 when combined with its close proximity to the northern boundary shared with the immediate neighbour (11 Willow Wents), would result in an intrusive and dominant form of development when viewed from that neighbouring property, which would cause harm to the residential amenities of the occupants. The development is therefore contrary to policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and the requirements contained at paragraphs 127 (c and f) and 130 of the National Planning Policy Framework 2019”

1.3 Planning permission is now sought again for a development of housing on this site. This proposal is for 4 houses on the site where 3 houses and a car port were previously proposed, located perpendicular to the road, both being a pair of semi-detached houses and the conversion of an existing building on the site to an open fronted car port. The overall scheme includes 10 car parking spaces, 2 per dwelling and 2 visitor spaces. Originally a further detached car port was proposed at the end of the rear boundary of number 11 Willow Wents but during the course of the application this has been deleted from the scheme. The Agents have submitted supporting information in order to overcome the reason for refusal.

2. The Site:

2.1 The site is located within the settlement confines of Mereworth, on the south side of Willow Wents. Part of the site (the office) lies within the Mereworth Conservation Area. The site forms part of the applicant's builder's yard offices and car park. The adjoining site to the west was previously the builder's yard and has been redeveloped for 4 houses. The boundary to Willow Wents is defined by a brick wall. The eastern boundary adjoins residential properties, including Grade II Listed Herne Cottage. Open fields lie to the north and south of the site.

3. Planning History (relevant):

TM/83/10956/FUL grant with conditions 21 January 1983

Change of use of existing premises to general builders yard, offices, covered and open storage and parking of vehicles.

TM/93/00860/OA grant with conditions 28 February 1994

Outline application, including details of siting, design and means of access for two storey building for Class B1 Business Use with car park adjoining, to replace existing storage build

TM/94/00890/FL grant with conditions 4 May 1994

Renewal of permission TM/89/0192 for replacement store and plant maintenance building

TM/98/02110/FL Grant With Conditions 2 February 1999

conversion of existing first floor storage area to Class B1 office space

TM/08/00154/LDP Certifies 13 March 2008

Lawful Development Certificate Proposed: B1 office building

TM/13/02338/FL Approved 8 October 2013

Demolition of existing building and construction of 4 no. houses and associated garages

TM/14/01340/RD Approved 16 June 2014

Details of materials, landscaping and boundary treatment, road junction and finished floor levels pursuant to conditions 2, 3, 5, and 8 of planning permission TM/13/02338/FL (Demolition of existing building and construction of 4 houses and garages)

TM/14/01753/FL Approved 30 June 2014

Replace existing store with a new double pitched roof store

TM/18/00595/FL Refuse 16 August 2018

Demolition of existing office/workshop building and erection of 4 no. houses

TM/19/01784/FL Refuse 24 September 2019

Demolition of existing office/workshop building and erection of 3 no. houses and 1 no. bungalow

4. Consultees:

- 4.1 PC: Consulted on original proposal with car port (and reconsulted with amended proposal without car port) Object:- It is suggested that the four houses should be moved to the east, reducing the size of the gardens and thus provide a wider road for manoeuvring in front of them. The entrance width is too restricted. It is felt that commercial vehicles would be unable to access through the narrow entrance. It is suggested that the four houses should be moved back a little from the road as the

entrance width and the road are too restricted. This would give the entrance road more space - it is felt that commercial vehicles would be unable to access through the narrow entrance. We would appreciate confirmation that the six car spaces will not have any above-ground structures.

- 4.2 KCC (Highways): No objections made to earlier application TM/18/00595/FL, subject to conditions, so not re-consulted regarding this proposal.
- 4.3 KCC Archaeology: No objections made to earlier application TM/18/00595/FL, subject to conditions, so not re-consulted regarding this proposal.
- 4.4 Environmental Protection: Contaminated land conditions suggested.
- 4.5 Neighbours: Consulted on original proposal with car port (and reconsulted with amended proposal without car port) relevant comments are to current scheme are as follows (7 letters received) :-

- Manoeuvring and noise from vehicles within development would be detrimental to neighbouring amenity – plus consider that parking area is tight and would result in problems for the users- should be amended;
- Trying to shoe horn a 4th house onto site where there was previously 3 houses proposed – have small rear gardens and overlook nearby dwellings;
- Density of development proposed is greater than the existing development on the other part of the builders yard;
- Do not consider that there is room on the site for the trees proposed;
- Applicants have misled the occupiers of the original development as they had a clear intention to develop the remaining part of the site in the future;
- Submitted block plan shows a nearby dwelling (outside the application site) incorrectly drawn – does not give confidence in proposed plans for this development;
- Road is narrow and there have been accidents on it – proposal will result in more traffic movements and problems with emergency vehicles.

- 4.6 Others: Site and Press Notice (expired 05/12) No comments

5. Relevant Policies & Determining Issues:

Principle of development.

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF at

paragraph 12 asserts that it *'does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local Planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

- 5.2 Policy CP13 of the TMBCS allows for minor developments within the defined settlement confines of Mereworth providing they would be appropriate to the scale and character of the settlement. The NPPF seeks to maximise opportunities for the supply of housing in appropriate locations that can contribute towards supply and maintain and enhance the vitality of existing communities. Continuing to concentrate new housing development within identified and established settlement confines such as this (and therefore also conforming to development plan policy CP13 in the broadest of terms) wholly accords with this aim.
- 5.3 However, Tonbridge and Malling Borough Council does not have a five year supply of housing, so it is necessary to apply the presumption in favour of development as set out in paragraph 11 of the NPPF. It should be noted that policy CP13 of the TMBCS sets out a requirement for either a reduction in trip generation resulting from a proposed development when compared to the former use of the site or "significant improvements" to the appearance, character or functioning of the settlement before planning permission can be granted. These requirements are not replicated within the policies contained within the Framework and therefore this element of CP13 does not conform within the NPPF and cannot be relied upon in the absence of a five year supply.
- 5.4 In now returning to the need to apply the presumption in favour of sustainable development (paragraph 11 (d) of the NPPF). For decision making, this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 5.5 With regard to paragraph 11(d) (i) the site is located part inside and part outside the Mereworth Conservation Area and it adjoins a Grade II Listed Building to the east (Herne Cottage). The proposal is not considered to directly impact on Herne Cottage, and its settling of the Conservation Area and Listed Building or views into or out of it as such the development complies with the requirements of the NPPF

in that the setting is suitably preserved. This view was reinforced by the Inspector in the appeal decision when he commented that he considered that the proposal would preserve the setting of the Listed Building and the character and appearance of the Conservation Area.

- 5.6 The core principles of the NPPF seek to support sustainable economic development, to secure high quality design and good standards of amenity for all existing and future occupants of land and buildings, and encourage the effective use of land by reusing land that has been previously developed. In light of the site's location within Mereworth and the fact that it is a previously developed site, the principle of the development sits comfortably with the core aims of the NPPF as well, and therefore the presumption applies. As a consequence, the 11d(ii) test needs to be applied as to whether any adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits.

Visual and residential amenities:

- 5.7 NPPF paras 127 to 130 seek to achieve high quality design. Development should function well and add to the overall quality of the area, both in the short term and over the lifetime of the development
- 5.8 Policy CP 24 of the TMBCS requires all developments to be well designed and of a high quality in terms of detailing and use of materials. Proposals must, through scale, layout, siting, character and appearance, be designed to respect the site and its surroundings.
- 5.9 MDE DPD Policy SQ1 states that, inter alia, proposals for development will be required to reflect the character and local distinctiveness of the area including its historical and architectural interest as well as the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.
- 5.10 The proposed overall development is for 4 dwellings in place of an existing office building on the site. The development has been designed with a street frontage that is in keeping with the alignment of the existing buildings within this lane, with the existing storage shed being utilised as a car port and the dwelling in Unit 1 being set back slightly from Willow Wents and in a similar location as the existing office building. Whilst Unit 1 would stand sideways on to Willow Wents, no 13 Willow Wents (part of the new development adjoining) also has a flank wall facing this road. The scale and layout of the development is considered to be in keeping with the character of existing developments in the locality and are appropriate for this edge of village location. The comments made by local residents and the PC concerning the moving of units 1 and 2 slightly forward are noted yet the access width remains as proposed in the previous developments where KCC Highways raised no objections.

- 5.11 I consider that the overall bulk and scale of development on the site will be reduced with the removal of the office building, which will serve to enhance the outlook from the properties it adjoins to the east. Additionally the provision of space around the buildings and additional planting on the boundaries will all contribute to an improved relationship. Moreover the Inspector in the recent appeal decision did not consider that the dwellings proposed on the site of the existing office building were unacceptable.
- 5.12 It is therefore considered that the proposal is not contrary to Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 which seeks to ensure that development by virtue of its design would should be of an appropriate scale, density, layout, siting, character and appearance in respect of the site and surroundings and would not be detrimental to the built environment, amenity or functioning and character of a settlement. Additionally the proposal is not contrary to the advice contained in paragraph 127 of the NPPF which comments that development should be sympathetic to the local character and surrounding built environment and paragraph 130 of the NPPF which comments that development should be refused if it is of poor design and does not improve the character / quality of an area and the way it functions.

Highway safety and parking provision:

- 5.13 Willow Wents is a narrow lane and forward visibility at the junction with Butchers Lane is restricted by brick walls that form the boundaries to the neighbouring properties. However, it must be remembered that the site is currently used as an office, generating traffic already and Kent County Council (H+T) has not objected to the principle of the proposed development with its access from Willow Wents. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In this case the impact of this development is considered to cause no more detriment to the safe and free flow of traffic than the existing office use on the site.
- 5.14 The development contains a car port that has been converted from an existing building; the car port has the appearance of garages but would not contain garage doors. Car ports count as car parking spaces and providing two spaces for each dwelling is acceptable for 3 bedroom dwellings in this location, according to the Council's adopted car parking standards. The proposed tandem parking layout in part of the development is noted but this arrangement was considered acceptable on the adjoining development. 2 visitor spaces are also proposed to assist with parking within the development. This is a small development of only four dwellings and car parking would be located close to each of the dwelling houses where the individual occupiers can move their cars around as necessary without impacting upon traffic and pedestrians using Willow Wents or the shared access road. Whilst local objections on highways grounds are noted, for the reasons previously stated, I do not consider that this proposal would cause demonstrable harm to the safe or

free flow of traffic. Indeed due to the narrowness of Willow Wents, it is considered most unlikely that cars would be parked or manoeuvres undertaken here instead of within the development itself, as that would completely block the road.

Other material considerations:

- 5.15 The development is for only four dwellings and the site area measures less than 0.16 ha in area. Accordingly, the development does not meet the relevant thresholds for affordable housing or open space provision as set out in policy CP17 of the TMBCS and policy OS3 of the MDE DPD.
- 5.16 Any necessary remediation of the site in terms of addressing potential contaminated land could be addressed through planning conditions if the proposal was considered to be acceptable.

Conclusions:

- 5.17 Tonbridge and Malling Borough Council cannot currently demonstrate a 5 year housing supply. In such circumstances paragraph 11 of the NPPF sets out the presumption in favour of sustainable development must be applied. This presumption is only disbarred if the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Having applied the restrictive policies relating to protected areas I have concluded that the development is acceptable (paragraph 11 (d) (i)), additionally when applying (paragraph (d) (ii)), any adverse impacts of doing so do not would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Planning permission for the scheme is therefore recommended.

6. Recommendation:

- 6.1 **Approved** in accordance with the following submitted details:

Block Plan 1916-20B proposed received 28.11.2019, Site Plan 1916-21A received 28.11.2019, Elevations 1916-27A A and B received 28.11.2019, Elevations 1916-28A C and D received 28.11.2019, Planning Statement received 24.10.2019, Photograph 1983 received 24.10.2019, Photograph 1984 received 24.10.2019, Photograph Herne House received 24.10.2019, Aerial Photo 2004 received 24.10.2019, Aerial Photo 1990 received 24.10.2019, Aerial Photo 1946 received 24.10.2019, Drawing 1929-1952 received 24.10.2019, Design and Access Statement received 24.10.2019, Drawing 1907-1923 received 24.10.2019, Drawing 1897-1900 received 24.10.2019, Drawing 1871-1890 received 24.10.2019, Existing Site Plan 1916-01 received 24.10.2019, Proposed Elevations 1916-23 B received 24.10.2019, Proposed Elevations 1916-25 B received 24.10.2019, Proposed Elevations 1916-24 B received 24.10.2019, Proposed Floor Plans 1916-22 received 24.10.2019, Proposed Elevations 05 received 24.10.2019, Site Plan E0-100 A received 24.10.2019, Proposed Floor

Plans DF/P/01 received 24.10.2019, Report site check Assess received 24.10.2019, Desk Study Assessment Geo-Environmental received 24.10.2019, Soil Report appendix C received 24.10.2019, /subject to the following:

Conditions/Reasons

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 No above ground development shall take place until details of all materials to be used externally have been approved by the Local Planning Authority. In order to seek such approval, written details and photographs of the materials (preferably in digital format) shall be submitted to the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 3 No above ground development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment (including details of the proposed boundary wall to Willow Wents). All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings 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, unless the Authority gives written consent to any variation. 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.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 4 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space 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 1995 (or any order amending, 4revoking or 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.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

- 5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order, the car ports shall not be enclosed with garage doors without the prior written approval of the local planning authority.

Reason: To ensure that two car parking spaces remain available for the use of each dwelling within this development in the interests of the safe and free flow of traffic.

- 6 No above ground development shall take place until details of the finished floor level of the houses in relation to the existing ground levels have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the visual amenity of the locality

- 7 No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended). The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

(b) prior to the commencement of the development the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework

- 8 Following completion of the approved remediation strategy, and prior to the first occupation of the development, a relevant verification report that scientifically and

technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority. The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved. Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework

- 9 No above ground development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Informatives:

- 1 This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.

Signed
Rebecca Jarman

Endorsed By

Dated