

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 1 September 2011
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Ash, Collins, Cox, English, Garland,
Harwood, Lusty (Chairman), Nelson-
Gracie, Newton, Paine, Paterson,
Mrs Robertson and J.A. Wilson

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 8 September 2011

Continued Over/:

Issued on 23 August 2011

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Alison Broom

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
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11. Presentation of Petitions (if any)
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18. Chairman's Announcements
19. Update on Matters Referred to the Leader of the Council and the Cabinet Members for Environment/Economic Development and Transport

PLEASE NOTE

The order in which items are taken at the meeting may be subject to change.

The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 11 AUGUST 2011

Present: Councillor Lusty (Chairman) and
Councillors Ash, Chittenden, Collins, Cox, English,
Harwood, Hinder, Nelson-Gracie, Newton, Paine,
Vizzard and J.A. Wilson

Also Present: Councillors FitzGerald, Mrs Gibson,
B Mortimer, Naghi and Thick

94. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Garland, Paterson and Mrs Robertson.

95. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:-

Councillor Chittenden for Councillor Paterson
Councillor Hinder for Councillor Garland
Councillor Vizzard for Councillor Mrs Robertson

96. NOTIFICATION OF VISITING MEMBERS

Councillor FitzGerald indicated his wish to speak on the report of the Head of Development Management relating to application MA/11/0515.

Councillors Mrs Gibson and Thick indicated their wish to speak on the report of the Head of Development Management relating to application MA/10/2029.

Councillor B Mortimer indicated his wish to speak on the report of the Head of Development Management relating to application MA/10/1542.

Councillor Naghi indicated his wish to speak on the report of the Head of Development Management relating to application MA/11/1005.

97. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

98. URGENT ITEMS

The Chairman stated that, in his opinion, the following reports should be taken as urgent items:-

The report of the Head of Development Management relating to application MA/10/1542 in order to comply with Paragraph 26.3 of the Council Procedure Rules set out in Part 4 of the Constitution.

The report of the Head of Development Management setting out details of appeal decisions received since the last meeting as the information was not available when the agenda was despatched.

The update report of the Head of Development Management because it contained further information relating to the applications to be considered at the meeting.

99. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Ash disclosed a personal interest in the report of the Head of Development Management relating to application MA/11/0498. He stated that he was a Member of Bearsted Parish Council, but he had not participated in the Parish Council's discussions on the application and intended to speak and vote when it was considered.

Councillors Harwood and Hinder disclosed personal interests in the report of the Head of Development Management relating to application MA/11/0322. They stated that they were Members of Boxley Parish Council, but they had not participated in the Parish Council's discussions on the application and intended to speak and vote when it was considered.

Prior to consideration of the report of the Head of Development Management relating to application MA/11/1005, Councillor Naghi disclosed a prejudicial interest by virtue of being the agent for the applicant.

100. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed with the proviso that it might be necessary to receive legal advice in relation to application MA/10/1542 in private.

101. MINUTES OF THE MEETING HELD ON 21 JULY 2011

RESOLVED: That the Minutes of the meeting held on 21 July 2011 be approved as a correct record and signed.

102. PRESENTATION OF PETITIONS

There were no petitions.

103. DEFERRED ITEMS

MA/10/1627 - ERECTION OF A NEW DWELLING - LAND OFF BEECHEN BANK, BOXLEY ROAD, WALDESLADE

The Head of Development Management advised the Committee that negotiations were continuing in respect of this application.

104. DRAFT NATIONAL PLANNING POLICY FRAMEWORK

The Head of Development Management advised the Committee that the Government had published a draft National Planning Policy Framework (NPPF) for consultation. The closing date for comments was 17 October 2011. The Cabinet, at its meeting held on 10 August 2011, had agreed that little weight be attached to the draft NPPF as a material consideration in both plan making and the determination of planning applications. In his opinion, the draft NPPF had no significant bearing on the applications to be considered at the meeting.

105. MA/10/2029 - ERECTION OF A PPS7 HOUSE WITH ANCILLARY ENERGY CENTRE BUILDING HOUSING AN AEROBIC DIGESTER, INCLUDING ACCESS, ECOLOGICAL ENHANCEMENTS AND LANDSCAPING INCLUDING NEW POND - LAND AT IVY FARM, HEADCORN ROAD, LIVERTON HILL, SANDWAY

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Development Management.

Mrs Pearce, an objector, Councillor Galton of Boughton Malherbe Parish Council (against), Councillor Godfrey of Lenham Parish Council (against), Mr Gough CBE, for the applicant, and Councillors Mrs Gibson and Thick (against) addressed the meeting.

RESOLVED:

1. That subject to:-
 - A. The receipt of a suitable mitigation strategy to ensure that the development does not adversely impact upon the protected Great Crested Newts within the vicinity of the application site; and
 - B. The negotiation of revisions to the scheme so that internal and external lighting and fenestration would be such as to minimise the adverse impact of lighting on the countryside,

the Head of Development Management be given delegated powers to grant permission subject to the conditions and informatives set out in the report, the additional condition set out in the urgent update report and any additional or amended conditions as necessary.
2. That the Head of Development Management be requested to liaise with the Landscape Officer with a view to formally protecting suitable trees and woodland immediately adjacent to and on the site once the approved landscaping has been implemented.

Voting: 9 – For 3 – Against 1 – Abstention

FURTHER RESOLVED: That an Implementation Panel comprising Officers, the Political Group Spokespersons (or their nominees) and representatives of the applicant and the Parish Council be set up to monitor all aspects of the construction and development.

Voting: 11 – For 0 – Against 2 – Abstentions

106. MA/11/1005 - REPLACEMENT OF TILES TO THE LOWER ROOF SLOPE OF THE SOUTH ELEVATION WITH SLATES - ST FAITHS CHURCH, ST FAITHS STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Development Management.

Cllr Naghi addressed the meeting as agent for the applicant.

RESOLVED: That permission be granted subject to the conditions set out in the report.

Voting: 13 – For 0 – Against 0 – Abstentions

107. MA/10/1542 - CHANGE OF USE OF LAND TO PROVIDE TWO PLOTS FOR GYPSY TRAVELLERS, INCLUDING THE STATIONING OF TWO MOBILE HOMES, TWO TOURING CARAVANS, A STABLE BUILDING AND TWO UTILITY BLOCKS - PLOT 5, LAND AT LUGHORSE LANE, HUNTON

All Members except Councillor Chittenden stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Development Management.

The Head of Development Management informed the Committee that:-

- Counsel had been asked for advice on the legal and financial implications of the decision to refuse this application and the likelihood of success at appeal. Counsel's opinion was that it was unlikely that the Council would be successful in defending the decision at appeal.
- On the assumption of an appeal being made against the refusal of permission, followed by a costs application against the Council, and the Inspector making a costs award, it was very difficult at this stage to assess how much any costs award was likely to be. However, in his view, costs were unlikely to be significant or exceed £30,000 particularly if the Council could evidence the harm which would be caused to the countryside by the proposed development.

The representative of the Head of Legal Services confirmed that Counsel had advised that, in the event of a costs application, the Council had about a 50% chance of resisting the claim.

Councillor B Mortimer addressed the meeting.

RESOLVED: That the decision to refuse application MA/10/1542 for the reason set out below be confirmed:-

The proposed development would represent, because of the area in which it is located, incongruous development within open countryside, which is designated as part of the Greensand Ridge Special Landscape Area, causing unacceptable harm to its character and appearance. To permit the development would be contrary to policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, policies CC1, CC6 and C4 of the South East Plan 2009 and the advice in PPS4, PPS7 and Circular 1/2006.

Voting: 13 – For 0 – Against 0 – Abstentions

108. MA/11/0515 - VARIATION OF CONDITION 3 OF MA/09/2004 (CHANGE OF USE OF LAND TO HOLIDAY CARAVAN SITE FOR UP TO TEN STATIC CARAVANS, INCLUDING ACCESS, HARDSTANDING, CESSPOOL, RECEPTION BUILDING, BOUNDARY TREATMENT AND SECURITY BARRIER) TO REMOVE THE STAY LIMITATION OF ONE MONTH AND NO RETURN WITHIN 4 WEEKS - CHERRY-TREE PARK, CHURCH HILL, BOUGHTON MONCHELSEA, MAIDSTONE

All Members stated that they had been lobbied.

The Committee considered the report of the Head of Development Management.

Ms Timmins, for the applicant, and Councillor FitzGerald (against) addressed the meeting.

RESOLVED: That permission be granted subject to the condition set out in the report.

Voting: 12 – For 1 – Against 0 – Abstentions

109. MA/11/0322 - ERECTION OF STORAGE BUILDING WITH OFFICES, PARKING AND ACCESS - NEWNHAM COURT SHOPPING VILLAGE, BEARSTED ROAD, WEAVERING

The Committee considered the report and the urgent update report of the Head of Development Management.

Mr Przyjemski addressed the meeting on behalf of the applicant.

RESOLVED: That subject to:-

- A. The expiry of the site notice and advertisement publicising the application as a Departure from the Development Plan and the receipt of no representations raising new issues; and
- B. A fully detailed landscaping scheme, which includes semi-mature trees along the western boundary of the site, and full details of the photo voltaic cells being secured in consultation with Ward Members,

the Head of Development Management be given delegated powers to grant permission subject to the conditions set out in the report, as amended by the urgent update report, the additional conditions set out in the urgent update report, the following additional condition and any additional or amended conditions as necessary:-

No external lighting of the building shall take place without the prior written consent of the Local Planning Authority.

Reason: To safeguard the character, appearance and amenity of the surrounding area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

Voting: 7 – For 6 – Against 1 – Abstention

Chairman’s casting vote for approval.

Councillors Chittenden and Harwood requested that their dissent be recorded.

110. MA/11/0498 - ERECTION OF FOUR DWELLINGS WITH CREATION OF AN ACCESS AND ASSOCIATED WORKS (AMENDMENT TO APPLICATION MA/09/1920) - TWO TREES, 25 THE LANDWAY, BEARSTED, MAIDSTONE

All Members stated that they had been lobbied.

The Committee considered the report of the Head of Development Management.

RESOLVED: That permission be granted subject to the conditions and informatives set out in the report.

Voting: 9 – For 4 – Against 0 – Abstentions

111. MA/11/1014 - APPLICATION TO ALLOW AN INTERCHANGEABLE USE OF THE UNIT FOR USES FALLING WITHIN USE CLASSES A1, A2 AND A3 - 7 COLMAN PARADE, KING STREET, MAIDSTONE

The Committee considered the report of the Head of Development Management.

RESOLVED: That permission be granted subject to the conditions set out in the report.

Voting: 13 – For 0 – Against 0 – Abstentions

112. APPEAL DECISIONS

The Committee considered the report of the Head of Development Management setting out details of appeal decisions received since the last meeting.

RESOLVED: That the report be noted.

113. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that arrangements would be made for Members to be briefed on the implications of the changes proposed in the draft National Planning Policy Framework following the training session scheduled to be held on 22 August 2011.

114. UPDATE ON MATTERS REFERRED TO THE CABINET MEMBERS FOR ENVIRONMENT/ECONOMIC DEVELOPMENT AND TRANSPORT

It was noted that there was nothing to report at present.

Arising from consideration of application MA/11/0322, it was:-

RESOLVED: That the Committee's concern regarding the erosion of the integrity of the Kent Downs AONB, Strategic Landscape Area and Strategic Gap due to unplanned, adhoc growth at Newnham Court (through planning appeals and Planning Inspectors overturning local plan policies etc.) and the absence of a Development Brief be referred to the Leader of the Council and the Cabinet Member for Economic Development and Transport for consideration.

115. DURATION OF MEETING

6.00 p.m. to 9.40 p.m.

Agenda Item 12

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

1 SEPTEMBER 2011

REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT

1. DEFERRED ITEMS

1.1. The following application stands deferred from a previous meeting of the Planning Committee. The Head of Development Management will report orally at the meeting on the latest situation. The application may be reported back to the Committee for determination.

1.2.	<u>Description of Application</u>	<u>Date Deferred</u>
(1)	<u>MA/10/1627 – ERECTION OF A NEW DWELLING – LAND OFF BEECHEN BANK, BOXLEY ROAD, WALDERSLADE</u>	9 JUNE 2011

Deferred to enable:

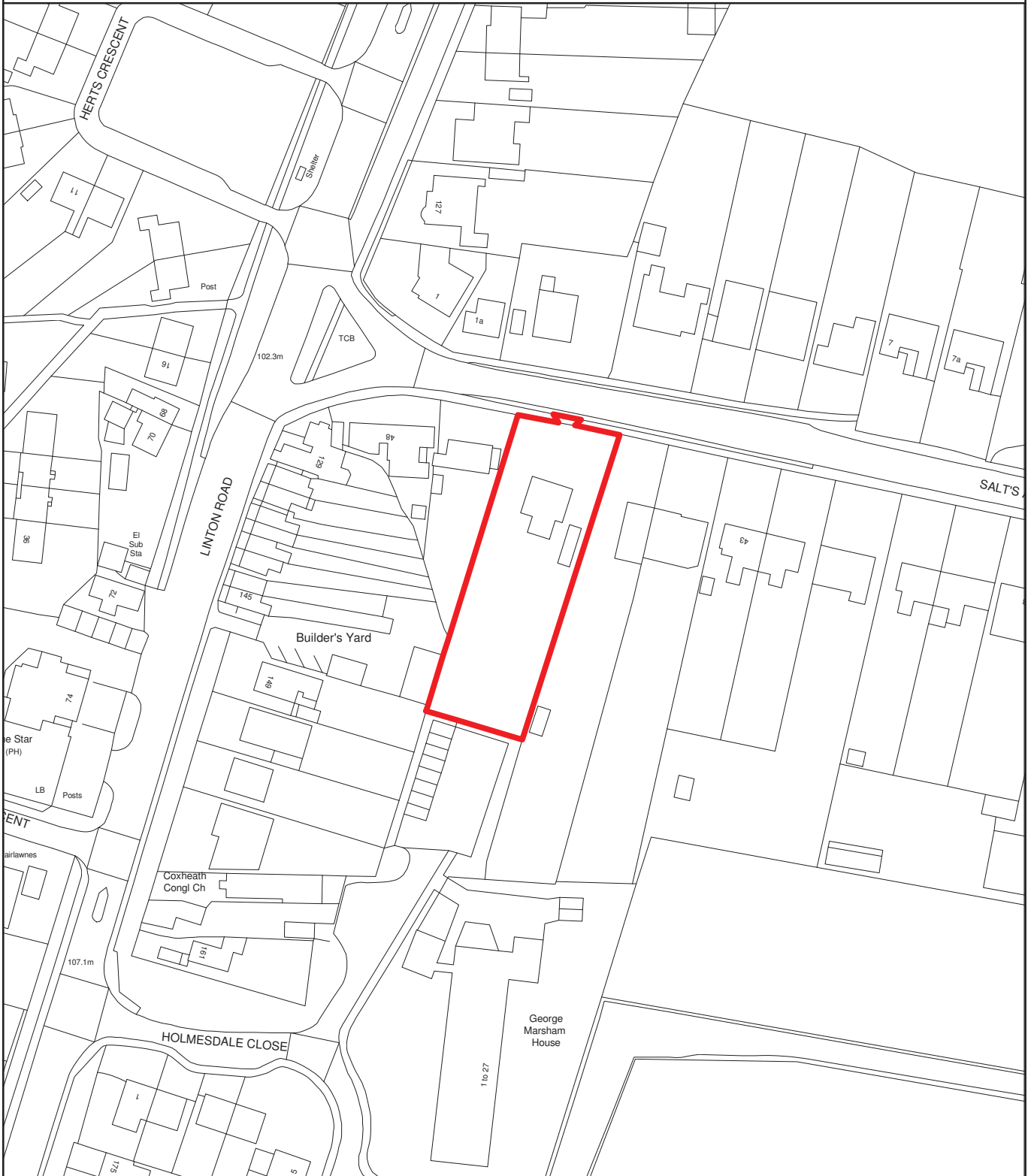
1. A fuller analysis of the impact upon the semi natural ancient woodland as a whole.
2. An examination of the ecological interest of the site.
3. The design of the dwelling to incorporate features which take inspiration from the woodland setting.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0650

GRID REF: TQ7551

46 SALTS AVENUE,
LOOSE.



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Rob Jarman
Head of Development Management

APPLICATION: MA/11/0650 Date: 21 April 2011 Received: 12 July 2011

APPLICANT: Mr J. Pike, King & Johnston Homes Ltd.

LOCATION: 46, SALTS AVENUE, LOOSE, MAIDSTONE, KENT, ME15 0AY

PARISH: Loose

PROPOSAL: Demolition of existing buildings and construction of four new dwellings with associated access and parking as shown on drawing nos. 938/01, 02, 05, 06, 07, 08, 09, 10 received 26/4/11; and drawing nos. 938/03/A and 04/A received on 12/7/11.

AGENDA DATE: 1st September 2011

CASE OFFICER: Geoff Brown

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

- The application is being reported to Committee on the advice of The Head of Legal Services: an officer of the Local Planning Authority is an owner of the land.
- Councillor Grigg has requested committee consideration.

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, H27

The South East Plan 2009: CC1, CC4, CC6

Government Policy: PPS1, PPS3, PPS9

1. HISTORY

MA/10/1714 – Demolition of existing house and erection of six houses with associated access and parking – Refused. This application involved the removal of existing buildings and the erection of a pair of semi-detached properties on the Salts Avenue frontage, with a development of four terraced properties in the rear garden. The application was refused for the following reasons:

'The development is considered to be contrary to Policies CC1 and CC6 of The South East Plan 2009 in that, by virtue of its scale and backland location, the terraced block of housing (and associated development and paraphernalia) would be a visually jarring element, out of character and harmful to the visual amenities of the area.'

And:

'The proposed access road and vehicle parking and turning areas would, by virtue of their position and intensity of use, cause a significant level of noise and general disturbance that would be harmful to the residential amenities of the neighbouring dwelling No. 45 Salts Avenue, contrary to the Central Government Guidance contained within PPS1 and PPS3.'

MA/87/2024 – Three bedroom chalet style bungalow situated in rear garden with access from Holmesdale Close - Refused

2. CONSULTATIONS

LOOSE PARISH COUNCIL wishes to see the application refused and comments:

"The scale of this development is considered to be an over intensification of the rear of the site, and the proposed bungalows take the whole width of the site, of which is the same size and footprint as the previous application.

It is also felt that this development detracts from the character of the area, and would be a visually jarring element to the Avenue.

We also understand that the boundary has increased the size of the proposed plot, and is considered to be a difference of 1 metre in the south east corner.

This proposed development is considered to be a disturbance and disruption in terms of traffic noise in the 'hammer head' to the adjacent properties.

In view of traffic movements, it is felt that this could also have an impact on the access point to the site, and also could lead to extra traffic congestion going out onto the A229.

This application is contrary to Government 'Backland and Garden Grabbing' policy which we understand will form part of the MBC Local Development Framework, and which is understood does no longer accept that back gardens should be classified as brownfield sites.

We urge the MBC to consider carefully the implications this over intensification of buildings will have on the area, and the impression it will have on neighbours. Also the harmful impact it will have on the character and visual amenity of the Avenue. It is still felt to be contrary to the South East Plan 2009 policies CC1 & CC6."

Officer Comment: On the issue of the alleged errors in terms of the position of the site boundaries, relative to neighbouring buildings, the agents revised the drawings to more accurately show the position of the neighbouring side extension and outbuilding. The agents point out that the extent of the application site has not changed. All parties were subsequently re-notified.

On these amendments, the Parish Council maintain that the drawings are inaccurate in terms of the site boundaries relative to outbuildings and request an accurate dimensioned drawing.

3. REPRESENTATIONS

LETTERS OF OBJECTION RECEIVED FROM NINE LOCAL RESIDENCES. The following objections are raised:

- a) The development constitutes backland development and an overdevelopment of the site. The scheme would be out of character with the area and harmful to visual amenity. Revisions to PPS3 mean that this form of development on garden land can be resisted. The design of the properties is inappropriate.
- b) There is already highways congestion in Salts Avenue: this development would make the situation worse. Access arrangements are not adequate.
- c) Parking problems on Salts Avenue would get worse.
- d) The scheme would be harmful to residential amenity. Unacceptable noise and disturbance would be experienced by neighbours. There would be problems from headlights and fumes. Proposed boundary treatments are inadequate.
- e) Overlooking of neighbours would occur and the new houses themselves would be overlooked.
- f) Provision for refuse storage is inadequate. There would be an excess of wheelie bins parked on the road.
- g) The new housing would lead to unacceptable additional wear and tear on the surface of the carriageway.
- h) The plans are inaccurate in that the extent of the application site is not correctly portrayed on the submitted drawings.
- i) To permit this development would be to set a precedent for further development in this area.

THE OWNER OF THE LAND makes the following points:

- a) The existing property is already used quite intensively.
- b) An analysis of the character of the area should take into account the character of the area to the south and west of the site as well as that of Salts Avenue.
- c) Overlooking of neighbours is ameliorated by vegetation which could be supplemented if necessary.
- d) Vegetation has grown significantly since the last application and would help shield views from Linton Road.

COUNCILLOR GRIGG has requested committee consideration for the following reasons: "Over development and Local concern".

4. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located on the south side of Salts Avenue within the bounds of the village of Loose as defined in the Local Plan. The site currently accommodates a chalet style dwelling in the northern part of the site, with a driveway leading from the highway to a single detached garage to the side of the house. The house has a large rear garden with small sheds, lawns and small trees and bushes. Trees on site are not TPO protected. The rear garden is approx. 45m long and 23m wide and, like many properties in Salts Avenue, is largely undeveloped.

5.1.2 The land is bounded to the sides by similar housing fronting Salts Avenue, again with substantial garden areas. To the south is a parking court at the head of Holmesdale Close separated from the site by hedging. Beyond the south west corner of the site is a commercial yard and housing plots that face Linton Road.

5.2 Proposal

5.2.1 Planning application MA/10/1714 for six dwellings was refused: that involved a pair of semi-detached properties on the Salts Avenue frontage with a terrace of four houses in the rear garden. This application represents a further attempt to redevelop the site for housing. This latest application involves the demolition of the existing house and buildings on the site and the erection of four new dwellings: two detached, two storey houses on the site frontage (in the area of the existing dwelling); and a semi-detached pair of bungalows in the southern portion of the site. The existing access into the site would be closed and a new, centrally located access formed, running between the new detached properties and leading to a detached double garage on the western side and a parking and turning area in front of (ie to the north of) the proposed bungalows.

5.2.2 The detached dwellings are shown as two storey facing Salts Avenue. They both exhibit barn-hipped roofs and would be constructed of a mix of red/brown brickwork, tile hanging and timber framed render panels under a concrete tile roof. These dwellings would have three bedrooms. Both would have a rear conservatory and the easternmost property would have an integral garage. The westernmost would have the benefit of a double garage in its rear garden. The houses in the rear portion of the site would be single storey with a height to ridge of approx. 6m. They would be constructed of brick under a hipped, tiled roof. They would both have two bedrooms and would use the proposed 'open air' car parking spaces to their front (two for each property). A total of eight spaces serving the four properties is proposed.

5.3 Principle of Development

5.3.1 The site is located within the defined built up area of Loose under saved Local Plan Policy H27. This is a sustainable location for new housing with good access to

basic services and public transport. Such a general location is acceptable in principle for new housing development but clearly the detail must be appropriate.

5.3.2 PPS3 'Housing' was revised so that garden land no longer falls within the definition of 'previously developed land' and there is no longer a presumption in favour of developing such land for housing. There is no longer a minimum housing density requirement in that guidance. Whilst this does not mean that all proposals involving garden land will be unacceptable it does strengthen the Council's hand in seeking to resist housing development that is deemed unacceptable for sound planning reasons such as, for example, adverse impact on the character of an area, residential amenity impact, etc.

5.4 Visual Impact

5.4.1 The refused scheme proposed the erection of a substantial new two storey terraced block in the southern third of this land that would have essentially filled the width of the site. The application was refused partly because the Council considered that would be a visually jarring element in the general pattern of development and character of the area. Salts Avenue is a visually attractive environment with a spacious layout characterised by frontage housing in detached or semi-detached form and long rear gardens. These rear gardens are free from significant buildings and have a semi-natural feel with established trees and hedging. The establishment of such a large building in this area, combined with the garaging, hardstandings, associated development, parked vehicles, etc. would be in sharp contrast to the current rather undisturbed and secluded situation behind the main frontage.

5.4.2 The amended plans now before the Council show a pair of semi-detached bungalows in the rear portion of the site which clearly represents a reduction in scale from the previous scheme. Nevertheless, the development would still virtually fill the width of the site and, at a height of 6m, would be well in excess of the scale of buildings that one would expect in rear gardens. I consider such development to be out of character with the prevailing pattern of development in Salts Avenue and harmful to the appearance of the area.

5.4.3 The scheme continues to show substantial areas of hardstanding in this area with very little land available for landscaping and these aspects add to the adverse impact. This is essentially 'backland development' and I acknowledge that views from public areas (like Salts Avenue and Linton Road) would be likely to be restricted to glimpses of the upper elevations. Nonetheless, the development would be clearly apparent to a wide range of houses in the general locality and I consider it unacceptable in terms of its impact on the character of the area. The presence of a utilitarian shed, garaging, etc. beyond the south and west boundaries of the south does not alter my view that the proposed development is out of character with the area.

5.4.4 The frontage development is acceptable in terms of its visual impact being broadly in line with other housing and being a replacement for an existing structure. I have no objection to the design detailing of the proposed housing.

5.5 Residential Amenity

5.5.1 The occupants of the proposed housing would enjoy at least a reasonable standard of living, given that this area does not suffer significant road noise problems, whilst each dwelling would be provided with an adequate private garden space.

5.5.2 With the previous application MA/10/1714, the Council refused that application partly because of significant concerns over the impact of the development on the neighbouring property No. 45. In that earlier application, the revised and widened new drive would have passed closer to the neighbour and would have accommodated the traffic from six dwellings. There was also the issue of the proposed parking and turning areas behind the main frontage causing noise and disturbance in a relatively quiet area close to neighbours' back gardens.

5.5.3 In my view the new development goes some way to solving the problem in that the main access no longer runs close to the boundary with No. 45. However, it still remains the case that the parking and turning spaces for three of the four houses would be located in the backland area behind the built frontage and it seems to me that activities on the extensive hardstandings there would generate a considerable level of noise, fumes and general disturbance to neighbours, particularly the neighbour to the east, No. 45. At the nearest point, the proposed parking and turning area is approx. 1.5m from the boundary with No. 45. No specific acoustic treatment has been put forward to protect the residential amenities of neighbours.

5.5.4 The new development would be of a design and position such that it would not cause a significant loss of privacy, loss of light or loss of outlook to any neighbour. However, my concerns as to the impact on No.45 are such that I recommend that permission be refused for that reason.

5.6 Highways

5.6.1 No objection was raised to the previous application which proposed more dwellings (six as opposed to the four now proposed). I have considered the adequacy of Salts Avenue, the access arrangements and the parking provision to serve this application and have no objection. There are no valid grounds to refuse planning permission for highway safety reasons. The parking provision of 8 spaces for 4 dwellings is appropriate in this sustainable location but clearly the hardsurfacing proposed has an adverse visual impact (discussed above).

5.7 Landscaping

5.7.1 The replacement of landscaped rear gardens with substantial buildings, hardstandings, etc. is not acceptable in my view (see above). A tree survey accompanied the previous application which concluded that the only tree of note is the yew at the front of the site that should be retained if possible. The Council's Landscape Officer agreed with the conclusions of the survey and pointed out that the health of the yew tree on the site frontage close to the access could be protected by the use of conditions to govern the construction of the access track in that vicinity. If permission were to be granted conditions would be needed to govern the means of construction of the driveway, to protect trees and hedging during construction and to secure additional landscaping.

5.8 Other Matters

5.8.1 An ecological report was submitted with the last application which concluded that there is some limited wildlife potential at the property, as would be expected with almost any garden. Breeding birds are present, and there is some potential for bat roosts. There is no evidence of badgers, dormice, reptiles or great crested newts. With simple precautions there are no ecological reasons why the redevelopment could not go ahead.

5.8.2 The maintenance of the road surface is a matter beyond the scope of planning control, whilst inadequate provision for wheelie bins, or an excess of bins on the highway, is not a justifiable ground for refusing planning permission.

5.8.3 As stated earlier, the issue of the accuracy of the plans has been raised with the agents who have looked into the matter and revised the drawings. Various parties maintain that the drawings are still inaccurate but the issue has been addressed and I consider the application should now be determined.

5.8.4 The consultation draft of the National Policy Framework has recently been published and whilst regard has been paid to it this decision does not turn on matters raised by this consultation document.

5. CONCLUSION

6.1 The new application goes some way to resolving the previously expressed objections but I consider that fundamental problems persist. I conclude that permission should be refused due to the adverse impact on the character of the area and on the amenities of the neighbouring dwelling at 45 Salts Avenue.

6. RECOMMENDATION

REFUSE PLANNING PERMISSION for the following reasons:

1. The development is considered to be contrary to Policies CC1 and CC6 of The South East Plan 2009 in that, by virtue of its scale and backland location, the proposed block of semi-detached bungalows (and associated development and paraphernalia) would be a visually jarring element, out of character and harmful to the visual amenities of the area.
2. The proposed access road and vehicle parking and turning areas would, by virtue of their position and intensity of use, cause a significant level of noise and general disturbance that would be harmful to the residential amenities of the neighbouring dwelling No. 45 Salts Avenue, contrary to the Central Government Guidance contained within PPS1 and PPS3.

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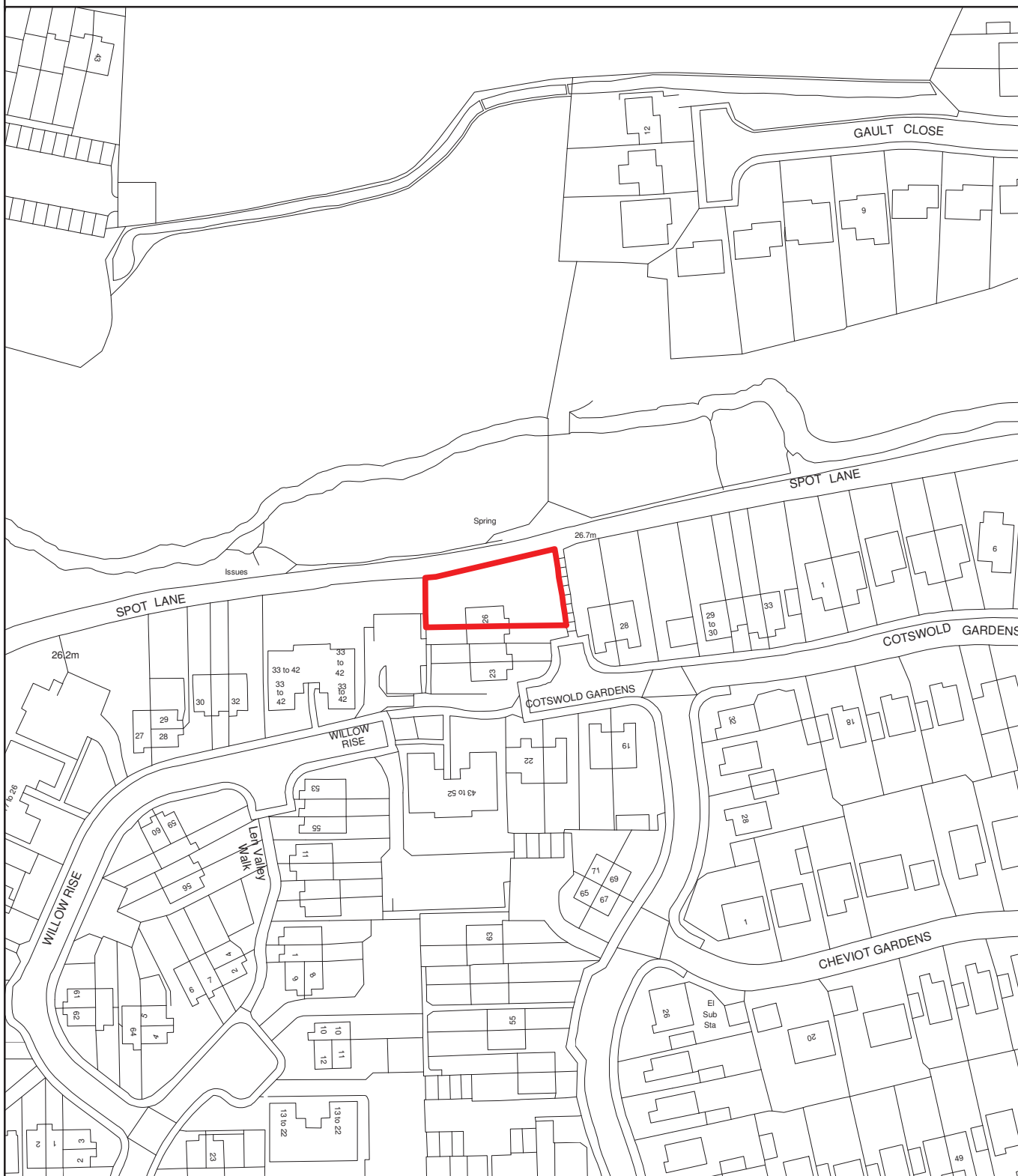
18.11.2010

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1039

GRID REF: TQ7954

26 COTSWOLD GARDENS,
DOWNSWOOD.



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Rob Jarman
Head of Development Management

APPLICATION: MA/11/1039 Date: 12 July 2011 Received: 12 July 2011

APPLICANT: Mr Zoren Cheek

LOCATION: 26, COTSWOLD GARDENS, DOWNSWOOD, MAIDSTONE, KENT, ME15 8TB

PARISH: Downswood

PROPOSAL: Application for new planning permission to replace extant planning permission in order to extend the time limit for implementing planning permission MA/08/1275 (erection of 1 No. dwelling) as shown on drawing numbers 180-E/01, 180-E/02, 180-E/03, 180-E/04, 180-L/01, 180-L/02 and 180-L/03, supported by a design and access statement and flood risk assessment received 20th June 2008.

AGENDA DATE: 1st September 2011

CASE OFFICER: Catherine Slade

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

- it is contrary to views expressed by the Parish Council.
- Councillor Newton has requested it be reported for the reason set out in the report.

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13

South East Plan 2009: SP3, CC1, CC4, CC6, H4, T4, NRM4, BE1

Village Design Statement: Not applicable

Government Policy: PPS1 Delivering Sustainable Development, PPS3 Housing, PPG13 Transport, PPS25 Planning and Flood Risk

Other: Kent Design Guide 2005 (SG), Maidstone Borough Council Policy/Development Advice Note – Changes to PPS3

2. HISTORY

2.1 The site is the subject of a great deal of planning history which relates to the development of Spot Quarry as a housing estate, but none of any direct relevance to the current application in addition to that summarised below:

MA/09/1879 An application for a Certificate of lawfulness for a proposed development for the erection of a single storey front extension – APPROVED

MA/08/1275 Erection of 1 No. dwelling – APPROVED WITH CONDITIONS
MA/95/0984 Erection of two storey side extension - APPROVED WITH
CONDITIONS

2.2 The current application is for a replacement permission to extend the time limit for the implementation of planning permission MA/08/1275. The principle and detail of the proposed development has therefore previously been accepted. Conditions 2 (materials), 4 (boundary treatments) and 5 (landscaping) have been discharged under MA10/1443.

3. CONSULTATIONS

3.1 **Downswood Parish Council:** Raise objection to the application on the grounds of over development and harm to ecological interests, and made the following detailed comments:

“...Our Parish is one of the densely populated parishes in the county of Kent with parking problems as it is. The proximity to a proposed Nature Reserve is a worry. With the fact that Downswood is overdeveloped as it is this could set a dangerous precedent.”

3.2 **Kent County Council Ecology Officer:** Raises no objection to the application and makes the following detailed comments:

“No ecological information has been submitted with this application. However as a result of carrying out a site visit, reviewing aerial photos and information supplied by the planning officer we feel that there is minimum potential for the site to contain protected species. As a result we do not require an ecological survey to be submitted.

...

We are aware that the River Len and a woodland area are adjacent to the site and concerns have been raised about the potential impact this development may have on this area. As a result of visiting the site we have identified the following:

- There is a large 3m high stone barrier on the boundary of the proposed development.
- There is a 5m wide path between the proposed development site and the woodland area.

- There is a tightly fitting fence around the boundary of the proposed development.

As a result we feel that the impact will be minor as all the above points will minimise the potential of any species moving from the woodland area to the proposed development site.”

The officer also suggested possible enhancements that could be incorporated into the development, including bat bricks and tiles and bird boxes.

3.3 Maidstone Borough Council Landscape Officer: Raised no objection to the application, and made the following detailed comments:

“I am satisfied that the proposal will not result in any harm to the roots of trees in the adjacent Len Valley corridor, due to the difference in ground level and separation by existing hardstanding. There are no trees present on the site that I consider to merit protection by a Tree Preservation Order.

As far as I am aware, condition 5 of the original consent has never been discharged, and if you are minded to grant consent, I would like to see the same condition used again. The applicant should be guided (by condition or informative as appropriate) to submit a landscaping scheme that reduced the total area of hardstanding and introduced more soft landscaping, using native species where possible, particularly on the site boundaries, to better integrate the proposal into its surroundings and to enhance biodiversity.”

4. REPRESENTATIONS

4.1 Councillor Newton wished to call the application in to Planning Committee for the following reasons:

- “1. The proposed development will affect the ecological balance of the Spot Lane/Len Valley that may impact on the habitat of the rare Woodland Grasshopper (*Omocestus rufipes*) recently discovered in the vicinity of the proposed development.
2. Overdevelopment of the area.”

4.2 No neighbour representations have been received.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The proposal site is located within a late twentieth century housing estate located within the defined urban boundary of Maidstone, in the parish of Downswood. The site is located on the northern periphery of the estate at the end of a residential cul de sac.

5.1.2 The application site comprises the side and front garden of number 26 Cotswold Gardens, which is the northernmost property in a terrace of four two storey dwellinghouses. The properties that form the terrace are narrow, having widths of just over 4m. The site is level and the rear is laid to turf with some landscaping to the sides. The front of the site is partially hard surfaced with concrete and partially landscaped, the landscaping including a mature fruit tree which was bearing fruit at the time of the site visit. The rear of the site is currently enclosed with a 1.8m close boarded fence. There is an existing vehicle access to the public highway, and the front garden currently provides off road parking for three vehicles.

5.1.3 The site is surrounded to the south, east and west by residential development, however the north boundary of the site is adjacent to Spot Lane and its verges, which is not used by public vehicles at this point. The proposal site is elevated by approximately 3m in relation to Spot Lane, and the boundary between the highway and the proposal site is marked by a Gabion Wall. A footpath located immediately to the east of the site links Cotswold Gardens with Spot Lane via steps leading down to the lower land to the north.

5.1.4 On the northern side of Spot Lane lies an area of woodland which separates Spot Lane from the River Len, which is located 25.8m to the north of the proposal site. The land to either side of the River Len in this location is recorded on the Environment Agency Flood Risk Map as falling within Zone 3 Flood Zone. The proposal site falls within this zone.

5.1.5 The site has no specific environmental or economic designations in the Local Plan, and whilst comments have been received in response to the consultation drawing attention to the intention to allocate the land to the north of the proposal site as part of the Len Valley Nature Reserve, the designation has not been formally adopted, and therefore neither does any of the land adjacent to the site. Notwithstanding this, the area of woodland between Spot Lane and the River Len to the north of the proposal site is covered by TPO 9 of 1975.

5.1.6 The documentation relating to the application is that approved under MA/08/1275.

5.2 Proposal

5.2.1 The proposal under consideration is the erection of a two storey dwellinghouse to the north elevation of number 26 Cotswold Gardens, which would effectively become the end dwelling in a terrace of five dwellings.

5.2.2 The current application is for a new planning permission to replace an extant planning permission for the erection of a single dwellinghouse, as detailed in the documentation submitted in support of MA/08/1275. The application shall be determined on basis of the details previously submitted, and cannot be modified at this

time. The existing permission was granted subject to conditions by Planning Committee at the meeting on 18th September 2008. A copy of the Committee report is attached as Appendix 1.

5.2.3 As stated above, the proposed dwelling has previously been assessed by Planning Committee and found to be acceptable in the context of the planning policy framework in place at the time of the previous decision. The application has therefore been fully considered in terms of design and scale; the visual impact upon the existing terrace of four dwellings, the streetscene of both Cotswold Gardens and Spot Lane, and the character and appearance of the Len Valley; flood risk; highways; and the impact of the proposal on the residential amenity of the occupiers of neighbouring residential properties.

5.2.4 The current application must therefore be considered in the context of whether there have been any changes to the physical circumstances of the site or surroundings, or in planning policy terms since then, such that a different decision (or additional conditions) would be warranted.

5.2.5 In this case, there have been no significant changes to the physical setting of the proposal site. The Gabion wall was in place at the time of the determination of the previous application, and whilst some settling of this structure may have occurred in the intervening period, there is no evidence to suggest that it has been deformed in this time. In any case, the structural integrity of the wall is not a matter for consideration under the provisions of the planning system. Since the time of the previous determination an application for a Certificate of Lawful Proposed Use or Development has been granted under MA/09/1879 for a single storey front extension to number 26 Cotswold Gardens, which has not yet been implemented. It is not considered that the erection of the structure considered under MA/09/1879 on the appearance of the development currently under consideration. Otherwise, there are no extant planning permissions for development in the close vicinity of the site.

5.2.6 With regard to amendments to the policy framework since the time of the previous decision, the key modification is the change of PPS3: Housing in June 2009 which had the effect of removing private residential garden land from the scope of previously developed land as defined in Annex B of the PPS as republished in June 2011.

5.2.7 As Members will be aware, the Maidstone Borough Council response to the changes to PPS3 is set out in a "Development Advice Note – Changes to PPS3" which is attached as Appendix 2. The position of the Council is that the effect of the policy change is to remove a presumption in favour of development of garden land. However, whilst the 'old' PPS3 didn't allow for the development of all garden sites, it is not now the case that the amended PPS3 means that all development in gardens should be refused. It follows that each application must be judged on its own merits.

5.2.8 In this case, given the crucial change to national planning policy outlined in paragraphs 5.2.6 and 5.2.7 above, whilst the detail of the proposal is considered to be acceptable, as stated above in paragraphs 5.2.2 and 5.2.3, the principle of the development is the primary matter for consideration under the provisions of the current application.

5.3 Principle of Development

5.3.1 The current application is for the renewal of an extant permission, MA/08/1275. Three out of four pre-commencement conditions attached to the existing permission have been discharged, and, given that the current permission does not expire until 17th September 2011, it is possible for the extant permission to be implemented. This is a significant material consideration in the assessment of the current application.

5.3.2 Notwithstanding the above, the proposal site comprises the side and front garden of number 26 Cotswold Gardens, and therefore no longer falls within the scope of previously developed land, as detailed above. However, the proposal site is located in a sustainable location in close proximity to services and facilities including shops, schools and transportation links within the defined built up area of Maidstone, in accordance with central government planning guidance and policy as set out in PPS1: Delivering Sustainable Development and PPS3: Housing, notwithstanding the change to the definition of previously developed land in Annex B of PPS3. The proposal site is therefore considered to represent a suitable site for residential development, subject to the impact of the proposal on the character and appearance of the area. As set out above, these matters have been previously considered by Planning Committee, however I will revisit these elements of the impact of the development in the light of the policy change to PPS3.

5.3.3 The proposal site is located to the northern periphery of the residential estate at the end of a cul de sac. As such, the space plays a limited role in maintaining the openness of the residential development, and its overall visual impact upon the streetscene of Cotswold Gardens is limited. The design of the proposed dwelling would match that of the existing properties in the terrace, and would not have any significant effect of eroding the openness of the area.

5.3.4 In respect to the impact on Spot Lane, as set out above in paragraph 5.1.3, there is a difference in land levels of approximately 3m between the site and the adjacent land to the north, and as such the visual impact of the development on the character and appearance of Spot Lane would be restricted.

5.3.5 Although the site lies within an area recorded by the Environment Agency as being susceptible to flooding, a flood risk assessment was submitted in support of the previous application, and the Environment Agency did not raise objection to the proposal at that time.

5.3.6 In the light of the above, it is considered, notwithstanding the amendments to PPS3 since the time of the previous determination, that the principle of the development remains acceptable in policy terms.

5.4 Other Matters

5.4.1 Various concerns have been raised by Downswood Parish Council and Councillor Newton. I will address these in turn.

5.4.2 The consideration of whether the proposal would result in overdevelopment of the site was previously considered under MA/08/1275. The assessment of the officer was as follows:

"The applicant has sought to achieve a design which reflects other property in the area and I consider this to be the correct approach. The new dwelling would have approximately the same footprint and height as those adjoining it, and I do not [consider] that it would be 'tall, thin or crammed on the site' or seriously erode the area of green land between the two settlements. I note that the Parish Council feels that it constitutes overdevelopment, but since the plot is very similar to others nearby, cannot accept this view."

5.4.3 I concur with the previous officer's conclusion.

5.4.4 Concern was also raised by the Parish Council in regard to parking. As Members will be aware, the Council is dependent on central government planning guidance as set out in PPG13 Transport, which allows developers great latitude in what level of parking they wish to provide for developments. Whilst PPG13 has been amended since the previous determination to allow more scope for local needs for parking to be taken into consideration, in the absence of any local adopted parking standards the Council should accept what is proposed, which in this case, being 4 off road parking spaces for number 26 and the proposed dwelling, is considered to be acceptable in the context of the location of the site.

5.4.5 In addition to the above concerns, Councillor Newton also raised concern over the impact of the development on the "ecological balance" of the Len Valley. The Kent County Council Ecology Officer has been consulted on the application, and the comments received in response are set out above, which concluded that the character of the proposal site, which is landscaped and partly hard surfaced and as a result of limited potential as habitat for species, and the physical barriers between the site and the River Len and woodland are such that the proposed development would have no impact upon the ecological value of the Len Valley.

5.4.6 It is noted that the process of designating the land to the north of the proposal site as part of the Len Valley Nature Reserve is in progress, however it is not yet formally designated, and there is no guarantee that this will ever take place. This

cannot, therefore, be taken into consideration in the determination of the current application. In any case, as set out above it is not considered that the development would result in harm to the ecological or biodiversity value of the land.

5.4.7 In respect of conditions attached to the previous permission, as discussed above the applicant has discharged conditions 2 (materials), 4 (boundary treatments) and 5 (landscape). The details submitted in relation to materials and boundary treatments are considered to be acceptable, however it is considered appropriate in the circumstances of this case, and in the context of the comments from the Maidstone Borough Council Landscape Officer and the concerns of Downswood Parish Council and Councillor Newton, to require the submission of further details of hard and soft landscaping which should include, notwithstanding the details of hard surfacing shown on drawing number 180 L/01 received 20th June 2008, the retention of the fruit tree in the front garden of the property and robust planting to the northern boundary of the site with Spot Lane. This will require the imposition of an amended condition requiring the submission of details of car parking.

5.4.8 Conditions should also be attached requiring the development to be undertaken in accordance with the materials and boundary treatments approved under MA/10/1443, and a further condition requiring the development to achieve at least Level 2 of the Code for Sustainable Homes, in line with condition 2 attached to MA/08/1275, amended to be in accordance with current suggested wording of such conditions.

6. CONCLUSION

6.1 In the circumstances of this case the application to a new planning permission to replace an extant planning permission for the erection of a single dwellinghouse is considered to be acceptable in principle in this location, notwithstanding the changes to PPS3: Housing set out above, and it is not considered that the loss of garden land in this case would be detrimental to the appearance of the streetscene or the character of the area.

6.2 For the reasons set out above and having regard to the policies of the Development Plan and any other material considerations, the proposed development is considered to be in accordance with the policies of the Maidstone Borough-Wide Local Plan 2000, the South East Plan 2010 and central government planning policy guidance and advice, and I therefore recommend the application for approval subject to the conditions set out above.

7. 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 hereby permitted shall be constructed using the materials approved under reference MA/10/1443 being Draycott Multi Red bricks; Marley Modern brown roof tiles, cedar panelling and cream-coloured render, unless otherwise agreed in writing by the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development in accordance with policies CC1, CC6 and BE1 of the South East Plan 2009.

3. 'The dwelling shall achieve Level 2 of the Code for Sustainable Homes, and shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 2 has been achieved:

Reason: To ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009 and central government planning policy guidance in PPS1 Delivering Sustainable Development.

4. The details of all fencing, walling and other boundary treatments approved under MA/10/1443 shall form part of the development, unless otherwise agreed in writing by the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development in accordance with policies CC1, CC6 and BE1 of the South East Plan 2009.

5. Notwithstanding drawing number 180 L/01 received 20th June 2008 and the landscape details approved under MA/10/1443, no development shall take place until a revised hard and soft landscaping scheme, showing a reduction in the hard surfacing to the front garden of the proposed dwelling shall be submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, 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, and shall include, inter alia, the retention of the existing fruit tree; landscaping along the northern boundary of the site with Spot Lane; and details of all hard surfacing and car parking and turning areas, which shall incorporate permeable surfaces;

Reason: To ensure a satisfactory appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009.

6. 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; 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 CC1, CC6 and BE1 of the South East Plan 2009.

7. The areas shown on the details submitted and approved in accordance with condition 5 as vehicle parking and turning areas shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to these areas;

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity, contrary to policies T13 of the Maidstone Borough-Wide Local Plan 2000 and T4 of the South East Plan 2009 and guidance in PPG13 Transport.

8. The development hereby permitted shall be carried out in accordance with the following approved plans:

180-E/02, 180-E/03, 180-E/04, 180-L/02, 180-L/03 received 20th June 2008;

Reason: To ensure the quality of the development is maintained in accordance with policies CC1, CC6 and BE1 of the South East Plan 2009.

Informatives set out below

The Environment Agency encourages the installation of grey water recycling facilities and methods for rainwater collection for domestic purposes. Although the benefits of

such systems are small regarding reduced storm water storage and discharge from developments, there is the additional benefit of reduced consumption of domestic potable water. This results in reduced abstraction of water and therefore helps maintain the wetland environment during prolonged dry periods. The publication PPS1 (Delivering sustainable development), gives weight to the installation of both SUDS (sustainable drainage systems) and grey water recycling systems for new developments.

The Local Planning Authority's drainage engineers should be satisfied with the method of surface water drainage on the site. If soakaways are permitted, the Environment Agency normally recommends that they should be designed to accommodate the 100 year rainfall event plus climate change, which according to PPS25 (Development and flood risk) represents an additional 30% increase in peak rainfall intensity.

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. 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.

Clearance and subsequent burning of existing woodland or rubbish must be carried out 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.

The occupants should register with the Environment Agency's Floodline Warnings Direct Service.

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 the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/08/1275

GRID REF: 7903-5452

26 COTSWOLD GARDENS, DOWNSWOOD



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Alison Broom
Director of Operations

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APPLICATION: MA/08/1275 Date: 12 June 2008 Received: 21 July 2008

APPLICANT: Mr Z. Check

LOCATION: 26, COTSWOLD GARDENS, DOWNSWOOD, MAIDSTONE, KENT,
ME15 8TB

PROPOSAL: Erection of 1 No. dwelling as shown on Design and Access
Statement, Flood Risk Assessment and drawing numbers 180-E/01,
180-E/02, 180-E/03, 180-E/04, 180-L/01, 180-L/02, 180-L/03
received 20/06/08.

AGENDA DATE: 18th September 2008

CASE OFFICER: Phil Taylor

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

- It is contrary to views expressed by the Parish Council

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13
Kent & Medway Structure Plan 2006: SP1, QL1, HP4, TP19, NR1, NR10
Village Design Statement: N/A
Government Policy: PPS1, PPS3, PPS25

HISTORY

There is a great deal of planning history relating to the housing estate which includes the application site, but none of direct relevance to the proposal currently being considered, other than:

MA/95/0984 - 26 Cotswold Gardens. Erection of side extension - APPROVED
(07/09/1995)

CONSULTATIONS

Downswood Parish Council were notified and object: *'on the grounds of overdevelopment'*.

Maidstone Borough Council Environmental Health Officer was consulted and raised no objection subject to a number of informatives, as set out below.

Kent Highway Services were consulted and to date no response has been received.

The Environment Agency were consulted and raises no objection to the application, but would like to offer several points of advice, as follows:

"Part of the site is located in the High Probability Flood Zone (Flood Zone 3) as shown on the Agency's Flood Map. However the Flood Risk Assessment (FRA) has demonstrated that ground levels for the site are approximately 1.9m above the highest available recorded flood level in the locality (26.88m AOD).

The Agency does not have modelled flood levels for the adjacent watercourse (River Len), therefore the applicant could consider raising the finished floor level of the ground floor of the proposed dwelling to a minimum of 300mm above the lowest ground level on the site. We note that surface water drainage will be to either mains sewer or soakaways. If soakaways are permitted, the Agency normally recommends that they should be designed to accommodate the 100 year rainfall event plus climate change, which according to PPS25 (Development and flood risk) represents an additional 30% increase in peak rainfall intensity (PPS25, Annex B, Table B.2).

The Agency encourages the installation of grey water recycling facilities and methods for rainwater collection for domestic purposes. Although the benefits of such systems are small regarding reduced stormwater storage and discharge from developments, there is the additional benefit of reduced consumption of domestic potable water. This results in reduced abstraction of water and therefore helps maintain the wetland environment during prolonged dry periods. The publication PPS1 (Delivering sustainable development), gives weight to the installation of both SUDS (sustainable drainage systems) and grey water recycling systems for new developments. In particular, paragraph 22 of PPS1 states 'local authorities should promote....the sustainable use of water resources; and the use of sustainable drainage in the management of runoff.'

We recommend the following conditions:

Condition: *The Local Planning Authority's own drainage engineers should be satisfied with the method of surface water drainage on the site.*

Reason: *To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.*

Condition: *The occupants should register with the Agency's Floodline Warnings Direct Service.*

Reason: *To protect the occupants from the effects of flooding"*

Other:

The Campaign to Protect Rural England (CPRE) request that the application is refused. Their letter expresses serious reservations because the area was built to a relatively high density for a settlement on the edge of Maidstone, with a rather narrow area of green land between the settlements of Downswood and Bearsted. It is argued that the development would reduce the air quality and water percolation potential of the site, although accepting that the applicant's Flood Risk Assessment shows that loss of percolation is not critical to flood control in the area. The necessity for underground storage may compromise underground waterflows, contrary to policy NR10 (iv) of the Kent and Medway Structure Plan 2006. The letter goes on to express the view that the building would be 'tall, thin and seemingly crammed onto the site', having 'an adverse

effect on the character and appearance of the locale' contrary to Kent and Medway Structure Plan 2006 policy QL1.

REPRESENTATIONS

Neighbouring occupiers were notified and no comments have been received.

CONSIDERATIONS

The Site

Cotswold Gardens is a cul-de-sac accessed off Grampian Way, part of a modern estate within the built up area. Nos.23 to 26 form a terrace of four houses at its northern end.

No. 26 benefits from having a side garden enclosed behind a close boarded fence. This garden area, the application site, has a frontage width of 9m, but narrows to 7m at the back, the northern boundary following the edge of an embankment to a watercourse (the River Len) about 2 -3m below. The length of the site is 30m, reflecting the other plots in the terrace. In front of no.26 lies a turning/parking area serving the houses; there is a private parking area at the rear.

The design of this terrace of houses is reflected throughout this part of the estate. Each house in the terrace is narrow (a little over 4m wide) and has a front garden and a rear garden with a depth of 8-9m.

As stated above, immediately to the north of the garden, the land falls sharply; steps lead down to a footpath running along the bank of the River Len. The site lies in Flood Zone 3 as shown on the Environment Agency's Flood Risk Map. The area shown as liable to flooding lies on both sides of the watercourse, and includes part of the side garden where the new property would stand.

The Proposal

The application proposes to continue the terrace by adding a 3-bedroomed house on the northern end, although separated physically by a new independent wall. Its northern side wall would lie within 3-4m from the boundary.

The width would be very similar to the others in the terrace. The rear garden would be similar in size to the other properties; the new house would retain a side garden and have 4 parking spaces in front of the site and no.26, to serve both houses, and a small area of front garden.

The dwelling would consist of kitchen/lounge etc on the ground floor, with two bedrooms, bathroom etc on the first floor and a third bedroom on the second floor, gaining light from a window facing northwards to the watercourse - which serves a stairwell, and a "velux" window in the rear roof slope.

The height of the proposed dwelling would match the rest of the terrace, and has the appearance of a 2-storey property when viewed from the front. The design approach reflects the others nearby, with a front projection having a gabled dormer above,

serving the first floor bedroom. The side also projects slightly with windows on each floor.

The application is accompanied by a Design and Access Statement. Amongst other things, it is argued that the wooded valley formed by the River Len provides a natural separation between Downswood and the southern stretches of Bearsted. The site has a significant paved forecourt accessed off a non-adopted highway. A new independent wall would be created, retaining the existing side wall to no.26. The front indent maximises forecourt parking. The dormer roof repeats the theme of no.24. The staggered ridge is the same as the abutment between nos. 24 and 25. The north façade has a barn gable replicating the opposite end of the terrace. The Design and Access Statement goes on to explain that the facing materials mirror the terrace (red brick at ground floor with render at 1st floor). It is argued that this serves to compact the façade, reducing its scale. The northern elevation would be full height brick either side of the bay, with render and a central indented zone of cedar or ash weatherboarding framing the stair windows. Interlocking roof tiles would match the existing terrace. No new highway access is required. Refuse bin storage would lie behind the fenced enclosed area to the side garden.

The River Len is a tributary to the River Medway. The entire reach of the river is located within the MBC area. Its source is located near Lenham and Harrietsham. The river flows in a North West direction through Leeds Castle and the centre of Maidstone town, joining the River Medway near Maidstone town centre.

The Council commissioned a Strategic Flood Risk Assessment and the final report was published in May 2008. It notes that the Environment Agency commissioned a national study of watercourses to obtain modelled flood extents for all catchments of an area greater than 3 km², and that further work should be carried out to model the River Len, River Loose and their tributaries. It states that currently there is a lot of uncertainty regarding the flood modelling techniques adopted along the River Len and the River Loose.

A Flood Risk Assessment has also been submitted. This is lengthy and available for inspection; and it is pointed out that the Environment Agency was consulted during its preparation.

The Flood Risk Assessment examines PPS25 and the Environment Agency's Flood Risk Map, and notes that the site is at the very edge of Flood Zone 3. On the map it is not shown as benefiting from the flood defences constructed within the last 5 years.

The Environment Agency's recommendation that the minimum floor level of buildings at risk of flooding should be 300mm above the design flood level has been considered, (see their comments) but thought to be unnecessary, given that the land is approximately 2m above the level of past flood events; the report concludes that floor raising is not required in this instance.

The report's main conclusions are that the development is suitable for its location, but that surface water management strategy will need to be developed, including underground storage to attenuate water discharge rates, and the appropriate SUDs techniques should be considered. Porous surfaces for all hardstandings are also recommended.

Planning Issues

In my view, there are three principal issues to be considered in assessing the merits of this application. Firstly, whether a dwelling here is acceptable in principle and accords with policy at all levels; secondly, whether the risk of flooding or impact on local drainage is so great as to warrant refusal or can be sufficiently mitigated, taking into account the Flood Risk Assessment and the views of the Environment Agency; and thirdly, whether, if the proposal is acceptable in these respects, it has been designed in a sympathetic way in accordance with policy QL1 of the structure plan and would not have an adverse impact on the character and appearance of the area.

1. The Principle

The Government's policy (particularly as set out in PPS3) is to ensure that housing is developed in suitable locations which offer a range of community facilities and with good access to jobs, key services and infrastructure. This should be achieved by making effective use of land and existing infrastructure. The priority for development should be previously developed land, in particular vacant and derelict sites and buildings.

Kent and Medway Structure Plan policies (SP1, HP4, amongst others) emphasise that land should be used for development more efficiently, and require a sequential approach to development, encouraging the use of previously developed land before greenfield sites. Local Planning Authorities are encouraged to ensure that development is well served by public transport.

The site is located within the defined urban area of Maidstone and has access to a range of community facilities, jobs and services. The site lies within reasonable walking distance of facilities and represents a sustainable location. The proposal would involve the use of vacant land and as such, in principle, additional residential development within this area is acceptable.

2. Flood and drainage issues

Planning Policy Statement 25 (Development and Flood Risk) states that the 'Sequential Test' should be applied to all levels of the planning process. Flood Risk Assessments should be carried out for development in areas of flood risk. A risk based approach should be adopted. Reference should always be made to the Environment Agency's Flood Risk maps.

Policy NR10 of the Kent and Medway Structure Plan 2006 states that development should be planned to avoid the risk of flooding and applications should not be permitted if, amongst other things, it would be subject to an unacceptable risk of flooding, or adversely affect the ability of land to drain.

The applicant has submitted a comprehensive Flood Risk Assessment, in consultation with the Environment Agency. It is apparent from a site inspection that the no. 26 Cotswold Gardens and garden are set on much higher ground than the watercourse. The site lies on the very edge of the flood risk area, as the applicant's document points out.

The Environment Agency raises no objection to the application. Their letter gives advice on possible methods of drainage, which have been included in the list of informatives below, rather than as conditions. Their response states that the applicant

'could consider' raising the finished floor levels, but this is discounted as unnecessary in the applicant's Flood Risk Assessment.

I acknowledge the concerns of CPRE (Kent) but in light of the above, it would in my view be unreasonable to oppose the scheme for reasons related to the likely flood risk or drainage impacts.

3. Visual impacts

Policy QL1 of the Structure Plan states that development should be well designed, be of high quality and respond positively to the scale, layout, pattern and character of local surroundings and respects residential amenity.

The applicant has sought to achieve a design which reflects other property in the area and I consider this to be the correct approach. The new dwelling would have approximately the same footprint and height as those adjoining it, and I do not agree that it would be 'tall, thin or crammed on the site' or seriously erode the area of green land between the two settlements, as alleged by the CPRE. I note that the Parish Council feels that it constitutes overdevelopment, but since the plot is very similar to others nearby, cannot accept this view. There are no overlooking issues to warrant opposing the scheme.

The design and scale of the proposal is in my view acceptable and would be in keeping with the area.

4. Highways

Whilst no comments have been received from the Highways Authority, it is considered that the proposal would provide a sufficient level of vehicle parking, and would allow (within the rear garden, or internally) for the provision of bicycle storage. It is on this basis that the application is considered to comply with Policies TP11 and TP19 of the Kent and Medway Structure Plan.

5. Impact upon Amenities of the Neighbouring Occupiers

It is not considered that the proposal would have any significantly detrimental impact upon the amenities of the neighbouring occupiers. The proposal would be sited to the side of an existing building, and would be constructed in line, both at the front and the rear, therefore ensuring that there would be no overshadowing or the creation of a sense of enclosure. There would also be no windows that would directly overlook the neighbouring properties, and as such, it is considered that this proposal complies with the Policies within the Development Plan.

Conclusion

Taking all of the above into consideration, the proposal is considered to comply with Development Plan Policy and there are no overriding material considerations to indicate a refusal. I therefore recommend that Members grant Planning Permission subject to the conditions set out below.

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. Prior to the commencement of the development, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted shall be 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. This in accordance with policy QL1 of the Kent and Medway Structure Plan 2006.

- 3. No development shall take place until an independently verified report has been submitted to and approved in writing by the Local Planning Authority showing that the development achieves a score of Level 2 or better for each residential unit under 'The Code for Sustainable Homes'. Each residential unit shall be provided strictly in accordance with the approved report before it is occupied.

Reason: To ensure a sustainable and energy efficient form of development in accordance with policy NR1 of the Kent and Medway Structure Plan 2006, Kent Design 2000 and PPS1.

- 4. Prior to the commencement of the development, details of all fencing, walling and other boundary treatments shall be 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 building(s) or land 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. This in accordance with policy QL1 of the Kent and Medway Structure Plan 2006.

- 5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, 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. Details of all hardstanding surfaces shall be included, incorporating porous paving;

Reason: No such details have been submitted. This in accordance with policy QL1 of the Kent and Medway Structure Plan 2006 and policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

- 6. 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. This in accordance with policy QL1 of the Kent and Medway Structure Plan 2006 and policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

- 7. The area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of 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 parking inconvenient to other road users and be detrimental to highway safety and amenity, contrary to policy QL1 of the Kent and Medway Structure Plan 2006.

Informatives set out below

The Local Planning Authority's drainage engineers should be satisfied with the method of surface water drainage on the site. If soakaways are permitted, the Environment Agency normally recommends that they should be designed to accommodate the 100 year rainfall event plus climate change, which according to PPS25 (Development and flood risk) represents an additional 30% increase in peak rainfall intensity.

The occupants should register with the Agency's Flood line Warnings Direct Service.

The Environment Agency encourages the installation of grey water recycling facilities and methods for rainwater collection for domestic purposes. Although the benefits of such systems are small regarding reduced storm water storage and discharge from developments, there is the additional benefit of reduced consumption of domestic potable water. This results in reduced abstraction of water and therefore helps maintain the wetland environment during prolonged dry periods. The publication PPS1 (Delivering sustainable development), gives weight to the installation of both SUDS (sustainable drainage systems) and grey water recycling systems for new developments.

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. 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.

Clearance and subsequent burning of existing woodland or rubbish must be carried out 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.

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 Kent Structure Plan 1996) and there are no overriding material considerations to indicate a refusal of planning consent.

Garden development in Maidstone Borough 100806

On 9th June 2010, a new PPS3: Housing was published that contained two significant changes from the previous version:

- Reclassification of private garden land as 'excluded' from the definition of previously developed land (PDL)
- Removal of the national minimum density target for housing developments of 30 dwellings per hectare

CURRENTLY, what this means for Maidstone Borough is:

- Essentially the same process for determining garden development proposals applies
- Private garden land no longer being PDL does not apply a blanket restriction to this kind of development proposal
- There is no emphasis that garden development proposals should be refused, just as there was previously no presumption that all proposals should be accepted
- Each application will continue to be judged on its individual merits
- Consideration will still be given to the impact of development on the amenities of adjoining occupiers e.g. from overlooking, and noise and disturbance from vehicular movement etc.
- Particular consideration will need to be given to the characteristics of the local area in assessing whether the proposed development would give rise to harm to its character
- Proposals will not need to conform to a minimum density, therefore strengthening the council's ability to apply judgement based on local characteristics e.g. if the surrounding area is less densely developed

IN THE FUTURE, Maidstone Borough Council will use this approach in conjunction with the Core Strategy by:

- Demonstrating that the borough has enough housing land to be able to reject what it considers inappropriate garden development proposals
- Drafting and adopting through consultation a Core Strategy policy that takes into account these factors –
 - Consideration of local character and distinctiveness
 - Considering and complementing the historic, architectural and landscape context
 - Judging on principles of scale, density, massing, height, layout and access in relation to neighbouring buildings and local area generally
 - Ensuring proposals do not adversely affect the character of an area in relation to the above principles
 - Demonstration of how proposals usefully take account of further design guidance whether it be borough-wide or specific to that area, e.g. character area assessment SPD, or village design statements (VDS)

FURTHER to the last bullet point, the council will look to prepare and adopt more character area assessment SPD as appropriate and subject to resources, as well as encouraging rural areas to continue to prepare VDS and parish plans.

Over the period 2003/04 to 2007/08 approximately:

- 1/3 of garden development applications were refused

And of those subsequently appealed;

- Only 1/3 were successful
- Only 8% of all housing permissions (by unit) in the borough (either by application or appeal, although not necessarily completed) were as a result of garden development proposals

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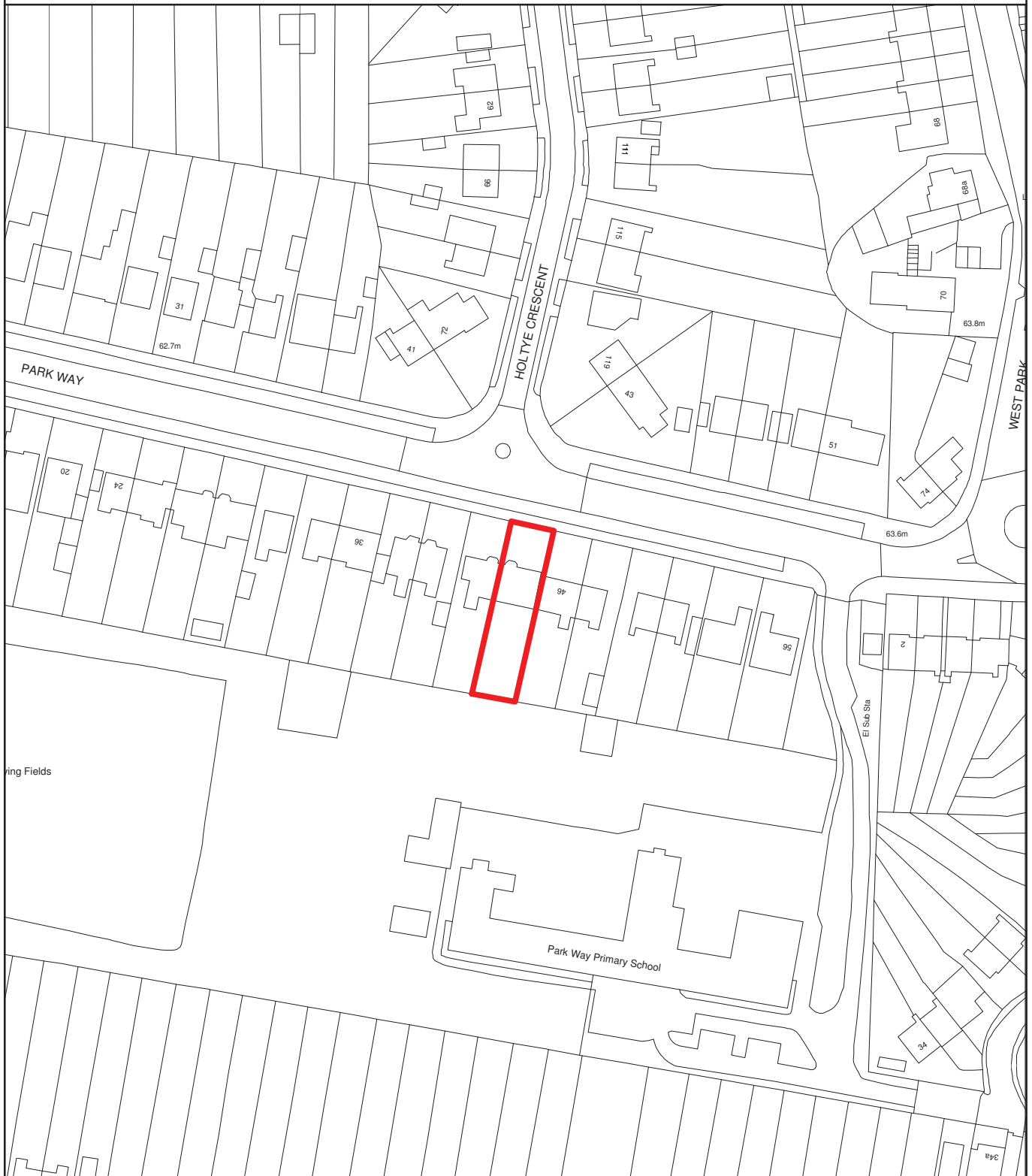
Agenda Item 15

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1154

GRID REF: TQ7654

44 PARK WAY,
MAIDSTONE.



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Rob Jarman
Head of Development Management

APPLICATION: MA/11/1154 Date: 6 July 2011 Received: 15 July 2011

APPLICANT: Mr S Nagar

LOCATION: 44, PARK WAY, MAIDSTONE, KENT, ME15 7DN

PARISH: Maidstone

PROPOSAL: Erection of a rear conservatory, first floor lean-to extension over existing garage, single storey front extension to garage, front canopy and extension to drive - amended scheme to MA/10/1295 to include garage extension, front canopy and additional parking space shown on a site location plan received on 11/07/11, and drawing no.s M1991.10/05 received on 15/07/11 and M1991.10/02 Rev B received on 01/08/11.

AGENDA DATE: 1st September 2011

CASE OFFICER: Louise Welsford

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

- the applicant's wife is an officer of the Council.

POLICIES

Maidstone Borough-Wide Local Plan 2000: H18.

South East Plan 2009: BE1.

Government Policy: PPS1.

Supplementary Planning Guidance document "Residential Extensions".

1.0 HISTORY

- 1.1 MA/10/1295 Erection of a rear conservatory and first floor lean-to extension over existing garage – Approved. This application was taken to Committee, and the principle of the side extension and conservatory has therefore already been agreed. There has been no significant change in policy since then in relation to this application. (The South East Plan has come back into effect, but this does not contain a significant change in policy in respect of this development).

2.0 CONSULTATIONS

- 2.1 **Parish Council:** Not applicable.

3.0 REPRESENTATIONS

3.1 None received to date.

CONSIDERATIONS

4. SITE AND SITUATION

4.1 This application relates to a semi-detached dwelling, which is located upon the south side of Park Way, in the urban area of Maidstone. The house is constructed of facing brickwork and render, under a plain tiled roof. There is a low wall to the front of the site.

4.2 The road is a fairly wide street of generally 1930s character. Dwellings are a mixture of mainly detached and semi-detached properties, mostly being of two storeys in height, although there are some bungalows. Spacing between dwellings is not wholly fixed and there are no strong uniform patterns to the street in general. A number of properties have large areas of hardstanding to their frontages and this is quite characteristic of the street.

5. PROPOSAL

5.1 Planning permission was granted under reference MA/10/1295 for the erection of a first floor side extension and a rear conservatory. The first floor side extension takes the form of a catslide extension to the main roof, over the existing garage. This development is under construction.

5.2 Planning permission is now sought for an amended scheme. In addition to the previously approved side extension and conservatory, an extension to the front of the existing garage is proposed, a canopy over the existing front door and an extension to the existing driveway to provide a further parking space. The front extension/canopy would be approximately 1m deep, and would be constructed in materials to match the existing house. The parking space would be finished in tarmac.

PLANNING CONSIDERATIONS

6. Visual Impact/Impact upon the Character and Appearance of the Street-scene

6.1 As stated at the previous report (and for the reasons stated in the previous report), the conservatory and side extension would be visually acceptable in this location and these items remain as previously approved. A copy of the previous Committee report is attached as an appendix. As there has been no significant change in policy in respect of this development, there is no need to re-visit this.

- 6.2 The front extension to the garage and canopy would be of a modest scale, being only approximately 1m deep, and would have a lean-to roof, which would be sympathetic to the existing house. Due to the scale and design of the front additions, they would appear subordinate to the existing building.
- 6.3 The building line would not be affected by the proposal, because the front additions would be in line with the existing bay window. In any case, there are other properties within the road which have front extensions sited forward of the subject dwelling and proposed additions.
- 6.4 The additional parking space would not cause visual harm in this location, because this is an urban site, with a number of surrounding properties having high levels of hardsurfacing to their frontages, so the proposal would not be out of character with its surroundings. A number of surrounding properties have tarmac drives and other urban materials, such as concrete. Moreover, the additional parking space would be likely to constitute permitted development, (as I understand that a soakaway has been constructed and the drive would drain within the curtilage of the site) and not require planning permission. Tarmac is not out of character in this location.
- 6.5 Due to the scale and design of the proposal and the character of the area, I conclude that the development complies with the Development Plan and the supplementary planning guidance on residential extensions in respect of its visual impact.

7. Impact upon Residential Amenity

- 7.1 The proposed side extension would not cause a significant loss of residential amenity for any neighbouring property, due to its design and positioning. Due to the design and height of the conservatory, it is considered that it would not cause a significant loss of light to, overshadowing of, or overbearing impact upon, any neighbouring property. The proposed conservatory would not cause a significant loss of privacy for any neighbouring property, because it would be sited upon an existing patio and would give substantially the same views which could be gained from the existing garden area. There is a close boarded fence to the western boundary. As there has been no significant change in policy in respect of this development, there is no need to re-visit these issues. They are discussed in more detail in the previous Committee report (see appendix).
- 7.2 Due to their scale and siting, the front extension and canopy would not cause a significant loss of residential amenity for any neighbouring property. The extension to the drive would not cause a significant loss of residential amenity (in terms of noise and disturbance), again because of its siting.
- 7.3 In summary, due to the design, positioning and scale of the proposal, I conclude that the development complies with the Development Plan and the supplementary planning guidance on residential extensions in respect of its impact upon residential amenity.

8.0 Other issues

- 8.1 No additional bedrooms are proposed and the proposal would not affect the parking provision, because three off road parking spaces would remain – one in the garage and two upon the drive. (The length of the drive in front of the garage would be decreased, but an additional space is being provided to mitigate for this).
- 8.2 No trees would be lost to accommodate the amendments and the nature of the proposal and location of the site are such that it would have no significant impact upon ecology.

9.0 Conclusion

- 9.1 The proposal would preserve the character and appearance of the streetscene and would not result in significant harm to residential amenity for any neighbouring property.

Approval is therefore recommended.

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 bricks, render and tiles to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building:

Reason: To ensure a satisfactory appearance to the development in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000, and PPS1.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan received on 11/07/11, and drawing no.s M1991.10/05 received on 15/07/11 and M1991.10/02 Rev B received on 01/08/11;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000, and PPS1.

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 the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

APPLICATION: MA/10/1295 Date: 22 July 2010 Received: 23 July 2010
APPLICANT: Mr S Nagar
LOCATION: 44, PARK WAY, MAIDSTONE, KENT, ME15 7DN
PARISH: Maidstone
PROPOSAL: Erection of a rear conservatory and first floor lean-to extension over existing garage
AGENDA DATE: 4th November 2010
CASE OFFICER: Louise Welsford

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

- the applicant's wife is an officer of the Council

POLICIES

Maidstone Borough-Wide Local Plan 2000: H18.
Government Policy. PPS1.
Supplementary Planning Guidance document "Residential Extensions".

1 HISTORY

1.1 None relevant.

2 CONSULTATIONS

2.1 **Parish Council.** Not applicable.

3 REPRESENTATIONS

3.1 None received to date.

4 CONSIDERATIONS

SITE AND SITUATION

4 1 This application relates to a semi-detached dwelling, which is located upon the south side of Park Way, in the urban area of Maidstone. The house is constructed of facing brickwork and render, under a plain tiled roof.

- 4.2 The road is a fairly wide street of generally 1930s character. Dwellings are a mixture of mainly detached and semi-detached properties, mostly being of two storeys in height, although there are some bungalows. Spacing between dwellings is not wholly fixed and there are no strong uniform patterns to the street in general.

5 **PROPOSAL**

- 5.1 Planning permission is sought for the erection of a first floor side extension and a rear conservatory.
- 5.2 The first floor side extension would take the form of a catslide extension to the main roof, over the existing garage. The only fenestration proposed to that extension would be the insertion of two rooflights to the catslide roof. The render and tiles used would match those existing upon the house.
- 5.3 The conservatory would have a footprint of 4.2m x 3.35m. It would be approximately 2.2m high to eaves and 3m to ridge. It would have a partially solid wall (approximately 3m of its length) facing the attached property, with the remainder of the elevations being glazed upon dwarf walls (approximately 0.6m high) The roof would be glazed.

6 **PLANNING CONSIDERATIONS**

Visual Impact/Impact upon the Character and Appearance of the Street-scene

- 6.1 The proposed rear conservatory would be of a subordinate scale to the existing house and sympathetically related to it. It would not affect the visual amenity of the street-scene, because it would be positioned to the rear of the existing house, and, therefore, not visible from the road.
- 6.2 The proposed side catslide extension would maintain the form of the existing house, as the shape of the main roof would be maintained – the side roof slope would simply be lengthened over the existing garage.
- 6.3 Due to its design and height, the extension would appear subordinate to the existing house and sympathetically related to it.
- 6.4 The adopted supplementary planning guidance upon residential extensions advises that, for two storey side extensions, a minimum gap of 3m at first floor level should be maintained between the flank walls of the buildings. The purpose of this is to prevent a terracing effect in streets where terracing is out of character and also to preserve the rhythm or pattern of development, in streets where this is a positive and important feature.
- 6.5 In this case, a minimum gap of 3.5m would remain, increasing to more than 4m to the higher part of the extension. The development therefore accords with the adopted guidance and sufficient gap would remain to prevent a terracing effect. Moreover, the street-scene is not of fixed character or spacing, so the proposal would not interrupt the rhythm or pattern of the

street. I consider that the development could be absorbed within this locality without any significant detriment to visual amenity.

7 **Impact upon Residential Amenity**

- 7.1 The proposed side extension would not cause a significant loss of residential amenity for any neighbouring property, due to its design and positioning. It would be located alongside a garage and part of the kitchen of no. 46, to the east, which has kitchen windows located upon its rear elevation. To the first floor of the flank elevation of no. 46 is a small window, understood to serve a staircase. Therefore, the side extension would not face any key openings of no. 46 and due to its design and positioning, would not cause a significant loss of light to, overshadowing of, or loss of outlook or privacy for, the occupiers of no. 46. The rearmost rooflight would serve only a cupboard and any views for the rooflights towards the rear garden of no. 46 would only be oblique.
- 7.2 Although at 4.2m in depth the extension would be longer than that suggested in the residential extensions guidelines (3m is suggested), only 3m of that length would be a solid wall. Also the heights would be lower than the maximums suggested in the supplementary guidance. The guidance suggests maximums of 3m to eaves and 4m to ridge, whereas this proposal would be approximately 2.2m to eaves and 3m to ridge – significantly lower than the suggested maximums. The solid section would only be approximately 2.2m in height, which is only marginally higher than a 2m high solid brick wall which could be constructed along the boundary as permitted development.
- 7.3 A loss of light test undertaken in accordance with a method referred to in the British Research Establishment Report "Site Layout Planning for Daylight and Sunlight" does not indicate a significant loss of light to the attached property, no. 42, to the west. The development passes both the plan and elevation tests in respect of the conservatory and passes the elevation test in respect of the habitable room behind the conservatory. If the development passes either test, then a significant loss of light is unlikely to result. Also, the glazed sections of the proposal would obviously allow light transference and would therefore be of limited impact upon the neighbouring property.
- 7.4 Therefore, because of the design and height of the conservatory, it is considered that it would not cause a significant loss of light to, overshadowing of, or overbearing impact upon, the attached property, notwithstanding its length. Also, no. 42 has a conservatory to the rear elevation and this has obscure glazed high level windows facing the site (rather than its key openings). No other property would be close enough to the conservatory to be affected in these ways.
- 7.5 The proposed conservatory would not cause a significant loss of privacy for any neighbouring property, because it would be sited upon an existing patio and would give substantially the same views which could be gained from the existing garden area. There is a close boarded fence to the western boundary.

8 **Other issues**

8.1 No additional bedrooms are proposed and the proposal would not affect the parking provision.

9 **Conclusion**

9.1 The proposal would preserve the character and appearance of the streetscene and would not result in significant harm to residential amenity for any neighbouring property. Approval is therefore recommended.

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 bricks, render and tiles to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building;

Reason: To ensure a satisfactory appearance to the development in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000, and PPS1.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan and drawing no. M1991.10/02 received on 23/07/10;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000, and PPS1.

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 there are no overriding material considerations to indicate a refusal of planning consent.

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17.08.2011

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PARK WAY

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17.08.2011





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17.08.2011



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17.08.2011

Agenda Item 16

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – (1st September 2011)**

APPEAL DECISIONS:

1. -

Erection of a conservatory, as shown on drawing no.s 100/075/2011, 100/076/2011 and 100/077/2011 received on 28/03/11.

APPEAL: DISMISSED

THE VINES, FORSHAM LANE, CHART SUTTON,
MAIDSTONE, KENT, ME17 3EP

(Delegated Powers)

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

1 SEPTEMBER 2011

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT

Report prepared by Rob Jarman

1. Draft National Planning Policy Framework and Draft National Planning Policy Framework Consultation

1.1 Issue for Decision

1.1.1 To consider whether or not Planning Committee wish to express comments on the above document and, if so, in what format.

1.2 Recommendation

1.2.1 That Planning Committee do make written comments and that these are expressed to the Leader of the Council.

1.3 Reasons for Recommendation

1.3.1 The proposed National Planning Policy Framework seeks to replace and at the same time, streamline existing Planning Policy Statements (PPSs), Planning Policy Guidance Notes (PPGs) and some Circulars to form a single consolidated document.

1.3.2 The proposed Framework sets out the Government's key economic social and environmental objectives and the planning policies that will be used to deliver them. It deals with plan-making and development management.

1.3.3 The Framework will have the same legal status as current Government Policy documents. There will be a requirement that local and neighbourhood plans are prepared having regard to the content of national planning policy. Where there are circumstances where it is right for a community to depart from national policy, these circumstances would need to be justified by robust evidence.

1.3.4 The deadline for responses to the consultation is Monday 17 October 2011.

1.3.5 Planning Committee is not a policy-making committee and it is important that Maidstone Borough Council make comments as a single corporate entity.

1.3.6 Given the time factor, I would ask Members to respond prior to the meeting to the specific consultation questions. These are attached at Appendix One.

1.3.7 I will then collate the questions and produce an Urgent Update Report for the meeting which can then be discussed at the Committee meeting and each response agreed, together with my suggested responses.

1.3.8 The Committee's response and my observations will then, on the advice of the Head of Legal Services be forwarded to the Leader of the Council to consider in his response.

1.4 Alternative Action and why not Recommended

1.4.1 If no response was made the Council would lose the opportunity to make its views known to the Government regarding this significant and important change in approach to Government policy.

1.5 Impact on Corporate Objectives

1.5.1 The National Planning Policy Framework will be a significant document that will guide future spatial planning in the Borough and also development management decisions.

1.6 Risk Management

1.6.1 Risks are addressed within the report

1.7 Other Implications

1.7.1

1. Financial
2. Staffing
3. Legal
4. Equality Impact Needs Assessment
5. Environmental/Sustainable Development
6. Community Safety

- 7. Human Rights Act
- 8. Procurement
- 9. Asset Management

1.8 Relevant Documents

1.8.1 Appendices

ONE: Consultation Questions

1.8.2 Background Documents

Draft National Planning Policy Framework
 Draft national Planning Policy Framework: Consultation

IS THIS A KEY DECISION REPORT?

Yes No

If yes, when did it first appear in the Forward Plan?

This is a Key Decision because:

Wards/Parishes affected:

Part 3: Consultation questions

A. Policy questions

Q. No.	Section	Consultation Question
1a	Delivering sustainable development	<p>The Framework has the right approach to establishing and defining the presumption in favour of sustainable development.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</p>
1b		Do you have comments? (Please begin with relevant paragraph number)
2a	Plan-making	<p>The Framework has clarified the tests of soundness, and introduces a useful additional test to ensure local plans are positively prepared to meet objectively assessed need and infrastructure requirements.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</p> <p>Do you have comments? (Please begin with relevant paragraph number)</p>
2c	Joint working	<p>The policies for planning strategically across local boundaries provide a clear framework and enough flexibility for councils and other bodies to work together effectively.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</p>
2d		Do you have comments? (Please begin with relevant paragraph number)
3a	Decision taking	<p>In the policies on development management, the level of detail is appropriate.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</p>
3b		Do you have comments? (Please begin with relevant paragraph number)

Q. No.	Section	Consultation Question
4a		Any guidance needed to support the new Framework should be light-touch and could be provided by organisations outside Government. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
4b		What should any separate guidance cover and who is best placed to provide it?
5a	Business and economic development	The 'planning for business' policies will encourage economic activity and give business the certainty and confidence to invest. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
5b		Do you have comments? (Please begin with relevant paragraph number)
5c		What market signals could be most useful in plan making and decisions, and how could such information be best used to inform decisions?
6a		The town centre policies will enable communities to encourage retail, business and leisure development in the right locations and protect the vitality and viability of town centres. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
6b		Do you have comments? (Please begin with relevant paragraph number)
7a	Transport	The policy on planning for transport takes the right approach. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
7b		Do you have comments? (Please begin with relevant paragraph number)
8a	Communications infrastructure	Policy on communications infrastructure is adequate to allow effective communications development and technological advances. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
8b		Do you have comments? (Please begin with relevant paragraph number)

Q. No.	Section	Consultation Question
9a	Minerals	The policies on minerals planning adopt the right approach. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
9b		Do you have comments? (Please begin with relevant paragraph number)
10a	Housing	The policies on housing will enable communities to deliver a wide choice of high quality homes, in the right location, to meet local demand. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
10b		Do you have comments? (Please begin with relevant paragraph number)
11a	Planning for schools	The policy on planning for schools takes the right approach. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
11b		Do you have comments? (Please begin with relevant paragraph number)
12a	Design	The policy on planning and design is appropriate and useful. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
12b		Do you have comments or suggestions? (Please begin with relevant paragraph number)
13a	Green Belt	The policy on planning and the Green Belt gives a strong clear message on Green Belt protection. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
13b		Have you comments to add? (Please begin with relevant paragraph number)
14a	Climate change, flooding and coastal change	The policy relating to climate change takes the right approach. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
14b		Do you have comments? (Please begin with relevant paragraph number)

Q. No.	Section	Consultation Question
14c		The policy on renewable energy will support the delivery of renewable and low carbon energy. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
14d		Do you have comments? (Please begin with relevant paragraph number)
14e		The draft Framework sets out clear and workable proposals for plan-making and development management for renewable and low carbon energy, including the test for developments proposed outside of opportunity areas identified by local authorities Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
14f		Do you have comments? (Please begin with relevant paragraph number)
14g		The policy on flooding and coastal change provides the right level of protection. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
14h		Do you have comments? (Please begin with relevant paragraph number)
15a	Natural and local environment	Policy relating to the natural and local environment provides the appropriate framework to protect and enhance the environment. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
15b		Do you have comments? (Please begin with relevant paragraph number)
16a	Historic environment	This policy provides the right level of protection for heritage assets. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
16b		Do you have comments? (Please begin with relevant paragraph number)

Q. No.	Section	Consultation Question
17a	Impact Assessment	<p>The Framework is also accompanied by an impact assessment. There are more detailed questions on the assessment that you may wish to answer to help us collect further evidence to inform our final assessment. If you do not wish to answer the detailed questions, you may provide general comments on the assessment in response to the following question:</p> <p>Is the impact assessment a fair and reasonable representation of the costs, benefits and impacts of introducing the Framework?</p>

B: Impact assessment questions

QA1	We welcome views on this Impact Assessment and the assumptions/ estimates contained within it about the impact of the National Planning Policy Framework on economic, environmental and social outcomes. More detailed questions follow throughout the document.
QA2	Are there any broad categories of costs or benefits that have not been included here and which may arise from the consolidation brought about by the National Planning Policy Framework?
QA3	Are the assumptions and estimates regarding wage rates and time spent familiarising with the National Planning Policy Framework reasonable? Can you provide evidence of the number of agents affected?
QA4	Can you provide further evidence to inform our assumptions regarding wage rates and likely time savings from consolidated national policy?
QA5	What behavioural impact do you expect on the number of applications and appeals?
QA6	What do you think the impact will be on the above costs to applicants?
QA7	Do you have views on any other risks or wider benefits of the proposal to consolidate national policy?