

APPLICATION: MA/09/0961 Date: 29 May 2009 Received: 11 August 2009

APPLICANT: Mr & Mrs J Woodlands

LOCATION: SUNNYSIDE FARM, MAIDSTONE ROAD, MARDEN, TONBRIDGE, KENT, TN12 9AP

PARISH: Marden

PROPOSAL: Construction of a replacement dwelling with new access including change of use of land to residential as shown on drawing nos. 9-0, 100, 110a, 111a, 140, bat survey April 2008, protected species survey dated April-June 2008 prepared by Marsh Environmental, supported by Design and Access Statement and Planning Appraisal received on 4 June 2009, letter received on 11 August 2009, drawing nos. 120b and 121 received on 12 August 2009, e-mail received on 9 October 2009, drawing nos. 101a, 103a and letter received on 20 October 2009, drawing no. 150a received on 28 October 2009 and drawing no.102b received on 21 December 2009.

AGENDA DATE: 4th February 2010

CASE OFFICER: Janice Tan

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, ENV28, H31, H32
South East Plan 2009: CC1, CC2, CC3, CC4, CC5, CC6, T4, NRM2, NRM5, NRM11, NMR13, W2, C4
Village Design Statement: N/A
Government Policy: PPS1, PPS3, PPS9, PPG13

HISTORY

MA/07/1140 - Construction of a replacement dwelling with new access - APPROVED WITH CONDITIONS

MA/05/0658 - An application for a certificate of lawfulness for an existing development being the use of the building as a single dwelling house – APPROVED

MA/03/0412 Demolition of existing barn and erection of a double two storey side extension to existing dwelling – WITHDRAWN

MA/99/1339 - Replacement of corrugated iron roof with tiled roof- APPROVED WITH CONDITIONS

There is no other planning history relevant to this site.

CONSULTATIONS

Marden Parish Council were consulted and objected to the proposal on the following grounds:

- The revised proposal compared to the previously approved replacement dwelling is larger in terms of its scale, mass and is completely different in design.
- The previous application was based on exceptional circumstances of the environmental aspect of the proposed building.
- The current application is misleading in respect of the footprint of the proposed dwelling being stated as the same as the previously approved dwelling which is not the case. Although amendments have been received to remove the detached triple garage/workshop from the scheme it is felt that the property of this size would no doubt need a garage and therefore the parish would like to see an integral garage incorporated within the footprint of the dwelling.

Maidstone Borough Council Environmental Health were consulted and raised no objections subject to conditions requiring details of drainage works to be submitted to and approved by the Local Planning Authority.

Kent County Council Highway Services were consulted and had no objections subject to conditions relating to setback of entrance gates from the carriageway edge by 5.5m, access and parking implementation.

Kent Wildlife Trust raised no objection in principle to the development subject to the imposition of conditions to secure the completion of mitigation and enhancement measures recommended in the reports and as may be required by Natural England.

Natural England were notified but had no comments to make on the proposal. However they have highlighted that the Local Planning Authority should assess and consider the possible impacts resulting from the proposal when determining the application on protected species and biodiversity enhancements such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes.

REPRESENTATIONS

Neighbouring properties were notified but no representations were received.

CONSIDERATIONS

Site Description

The application site is located within the countryside of no specific landscape designation. It is approximately 1.6km to the north of Marden village on a sharp bend in Maidstone Road. It is also a corner site bounded by Milebush Lane on the southwest side and Maidstone Road on the southeast side. Orchard land owned by the applicant adjoins the northeast and northwest sides of the application site. The northwest side of the site is bounded by a row of conifer trees, approximately 12m high which screen views from the public footpath (KM238) which lies approximately 120m to the northwest of the site. There are 3m high, deciduous hedgerows forming the site boundaries along Maidstone Road and Milebush Lane.

The nearest neighbouring dwelling, Stable Cottage, is approximately 20m to the south of the proposed dwelling and is at the opposite side of the Milebush Lane junction with Maidstone Road. Milebush Nursery is approximately 80m to the northeast of the site of the proposed replacement dwelling.

Background history

The application site was formerly used for agricultural purposes. The south-western half of the application site including a pond and the existing two-storey building with its attached single storey corrugated barn have a lawful residential use by virtue of a Certificate of Lawful Development granted under MA/05/0657 on 17 November 2005 (attached at Appendix 1).

On 6 August 2008 planning permission MA/07/1140 (attached at Appendix 2) was granted to replace the existing lawful dwelling with a two-storey flat-roofed 4-bedroom house incorporating a double integral garage and the relocation of the existing vehicle access some 35m further northeast along Maidstone Road. The replacement dwelling was shown sited to the northwest of the lawful dwelling, stretching in a northwest direction, focusing on the eastern side of an existing pond.

The north eastern corner and the northwest third of the current application site are not within the lawful residential use of the land granted under the Certificate of Lawful Development approved under application MA/05/0657. However, the curtilage of the replacement dwelling was assessed as acceptable under the extant permission MA/07/1140.

Upon obtaining planning permission for the replacement dwelling under MA/07/1140, a timber summer house located beside the southwest side of the pond, and a garden shed positioned at the south corner of the site have been erected within the existing lawful residential curtilage of the dwelling. Since these structures are nearer to the highway than the existing lawful dwelling they are not permitted development. In addition, a small timber 'tea-house' and a canopied decked area for a table and sitting

area have also been erected outside the lawful residential curtilage of the site and therefore these also require planning permission. No formal planning application has been received for the four aforementioned structures and therefore they are currently in breach of planning control. An informative has been added to the end of this report to advise the applicant of the aforementioned breach and to submit a planning application for these erected structures as they are considered to be acceptable.

Proposal

The current application seeks to amend the design of the replacement dwelling granted under MA/07/1140 and also to include the change of use of agricultural land to residential use.

The north eastern half of the application site is not within the lawful residential use of the land granted under the Certificate of Lawful Development approved under MA/05/0657 and therefore this part of the site requires a formal change of use of land to residential use. Within this part of the site stands a large prefabricated agricultural storage shed with a footprint dimension of 7m by 9.5m which would be removed as part of the development of the site.

Initially the current scheme included the erection of a detached triple-bay garage/workshop located to the southeast corner of the proposed dwelling. However, the garage/workshop was subsequently removed from the scheme and therefore it does not form part of the current application. Further amendments were received to change the roofing material of the proposed dwelling from Kent peg tiles to natural slate with the addition of a new tree planting scheme, using indigenous species at the south corner of the site (adjacent to the junction of Milebush Lane and Maidstone Road) and at the proposed relocated vehicle entrance into the site on Maidstone Road (shown on drawing no. 102b).

The location of the access driveway, the application site area and the removal of the detached agricultural storage shed remain as previously approved under MA/07/1140.

The differences between the current development and the previously approved replacement dwelling granted under MA/07/1140 are as follows:

1. The current proposal sites the replacement dwelling 9m nearer to the site boundary with Milebush Lane.
1. The form and design of the replacement dwelling has now been amended from a two-storey flat roofed building (maximum height of 6.9m) to a chalet-styled bungalow with undercroft accommodation, chimney stacks, a 39° pitched natural slate tile roof with a maximum ridge height of 7m and eaves height of 2.2m.
2. The current proposal would have a ridgeline 100mm higher than the height of the previously approved two-storey flat-roofed dwelling, however, the width of the replacement dwelling has now been reduced from 24m to 19m

3. The footprint area of the current proposal is approximately 25m² more than the footprint area of the previously approved dwelling. It not have an integral garage but instead 3 to 4 external car parking spaces are proposed on the new gravelled driveway.
4. The volume of the current proposal would be approximately 220m³ less than previously approved flat roofed dwelling including the integral garage.
5. The current proposal with its undercroft accommodation would provide significantly larger accommodation being 5 bedrooms, a kitchen/diner, utility, games room and 4 reception rooms when compared with the previously approved dwelling which only provided 4 modest sized bedrooms, two reception areas, kitchen, a utility room and an integral single garage.

Principle of Development

The principle of the erection of a replacement dwelling larger than the lawful dwelling was established by the previous permission (MA/07/1140). The relocation of the access driveway including the extended residential curtilage of the replacement dwelling were also accepted under the previous permission.

Planning Assessment

The main issue to consider is whether the design, bulk and height of the current replacement dwelling would be acceptable given that there is an extant planning permission for a replacement dwelling larger than the existing lawful dwelling.

The currently proposed replacement dwelling is some 220m³ less than the volume of the extant permission for the replacement dwelling. Although the 7m ridge height of the 39° pitched-roof dwelling is higher than the previously approved 6.9m high flat-roof dwelling, the form and volume of the current proposal (having a 2.2m eaves height) would be significantly reduced when compared with the flat-roof form of the previously approved two-storey house. In addition, the use of natural slates for the pitched roof would reduce the prominence of the building, making it visually lighter and less intrusive in the open countryside than the previously approved dwelling. The form of the current proposal would also complement existing traditional agricultural buildings in the area and the character of the neighbouring dwellings which also have pitched roofs.

To maintain the visual screening provided by the existing 3m high site boundary hedgerows adjacent to the Maidstone Road and Milebush Lane, it is considered appropriate to impose a condition to ensure that the hedgerows are maintained at 3m in height. Given that the maximum ridge height of the development is 1m lower than the 8m ridge height of the lawful dwelling and when taken in context with the proposed

planting of a group of trees at the south corner of the site adjacent to the Milebush Lane/Maidstone Road junction, the currently proposed replacement dwelling would not be more visually intrusive than the existing lawful dwelling. Furthermore, it would be significantly less visually intrusive than the previously granted replacement dwelling under MA/07/1140.

It is noted that the current proposal would not include an integral garage and would be larger by some 60m² in footprint area than the existing lawful dwelling. Given that the existing lawful dwelling benefits from permitted development rights to extend on the northwest side of the attached ancillary storage area by approximately 40m², I consider that a 60m² area in excess of the footprint area of the lawful dwelling is acceptable.

Whilst concerns have been raised regarding the incremental enlargement of the current development from the existing lawful dwelling in terms of its scale, size and height, it is important to note that weight has to be given to the extant permission as a material consideration that allow a replacement dwelling that is larger than the existing lawful dwelling. Given that the existing lawful dwelling has a maximum pitched roof ridge height of 8m, the current proposal would be visually less prominent and intrusive than the existing lawful dwelling and also the previously approved flat-roofed two-storey dwelling in terms of height and bulk.

Marden Parish Council have concerns that there would be future development pressure on the site to accommodate a garage block that was removed from the current scheme, given the size of the replacement dwelling. Whilst this concern is recognised, the current assessment is for a replacement dwelling with 3 to 4 open car parking spaces and no garaging. However, I consider it appropriate to remove permitted development rights from the property in order to enable the Local Planning Authority to control future development of the site to maintain the openness and rural character of the site and its surroundings.

Other matters

The current proposal would provide living accommodation within the basement floor area; however this accommodation would be below ground level and therefore would not add to the visual bulk of the dwelling.

The submitted application indicates the proposed dwelling would aim to achieve Level 2 of the Code of Sustainable Homes. This level is considered inadequate for a new replacement dwelling as policies CC4 and H5 of The South East Plan 2009 places greater emphasis on raising the sustainability levels of new dwellings. A condition has therefore been imposed on the consent to achieve Level 3 of the Code of Sustainable Homes.

In terms of the ecological issues of the site the submitted ecological survey relating to protected amphibians and the bat and owl survey were considered as acceptable by Natural England. The amphibian survey report concludes that the development of the site would have a low impact on amphibians and therefore licensed mitigation works would not be required.

The bat and owl survey report concludes that there is no evidence of breeding barn owls or roosting within the barn and the barn was found to be unsuitable to support barn owls. However, evidence of a bat roost was found in the existing lawful dwelling which is to be demolished. The report recommends that appropriate mitigation should be included into the design to ensure that the bat roost is protected and no live animals are killed. Although enhancement opportunities for the bats are listed in the bat survey report, no mitigation information or details of built-in features incorporated within the design of the replacement dwelling to enhance opportunities for bats to roost have been submitted. I have therefore imposed a condition for such details to be submitted.

Whilst the submission states that the foul sewage will be dealt with via a "package treatment plant" and surface water via a "sustainable drainage system" no details have been submitted. I have imposed a condition requiring these details to be submitted to the Local Planning Authority for written approval.

The relocation of the existing vehicle access of the previous permission remains unchanged in the current application. The reason for the relocation is to allow a safe access for the occupiers of the replacement dwelling. Kent Highways Services have no objections to the development in terms of highway safety but has recommended that a condition be imposed for the vehicle access gates to be set back a minimum distance of 5.5m from the carriageway and opening away from the highway. Given the aforementioned condition, it is considered that the position of the new access would have adequate visibility splays as shown on drawing no. 101 received on 4 June 2009.

Conclusion

Whilst concerns have been raised regarding the incremental enlargement of the development from the existing lawful dwelling in terms of its scale, size and height, it is considered that the pitched-roof form, bulk and scale of the development when considered in context with the proposed tree planting at the south corner of the site adjacent to the junction of Milebush Lane and Maidstone Road, the retained site boundary hedgerows of above 3m in height and the removal of permitted development rights of the property would result in a development which would not be visually more intrusive than the existing lawful dwelling. In addition to this the proposed slate roof would appear less heavy and prominent than a Kent peg-tiled roof. The current proposal in terms of bulk would also be less prominent than the previous scheme approved under MA/07/1140 (Appendix 2)

The proposed development is therefore in accordance with the policies of the Development Plan I therefore recommend the application be approved.

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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class(es) A, B, C, D, E and F to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To ensure that the architectural integrity of the dwelling hereby permitted is maintained and to safeguard the character and appearance of the surrounding area in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of The South East Plan 2009.

3. The development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) and written details of the surface for the driveway 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 in accordance with policies ENV28 and H32 of the Maidstone Borough-Wide Local Plan 2000.

4. The development shall not commence until, details of all fencing, walling and other boundary treatments have been 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 in accordance with policies ENV28 and H32 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of The South East Plan 2009.

5. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall

thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policy T4 of The South East Plan 2009.

6. Before the dwelling hereby permitted is first occupied the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and points on the carriageway edge 90m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 0.9m above the nearside carriageway level and thereafter maintained free of obstruction at all times;

Reason: In the interests of highway safety in accordance with policy C4 of The South East Plan 2009.

7. Any entrance gates erected shall be hung to open away from the highway only and shall be set back a minimum distance of 5.5m from the carriageway edge;

Reason: In the interests of highway safety in accordance with policy C4 of The South East Plan 2009.

8. The development shall not commence 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;

Reason: To ensure a satisfactory appearance to the development in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of The South East Plan 2009.

9. 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 in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of The South East Plan 2009.

10. The site boundary hedgerows adjacent to the highways of Maidstone Road and Milebush Lane shall be retained at a height of 3m.

Reason: To ensure satisfactory screening of the development from the adjacent highways and to ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of The South East Plan 2009.

11. The dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final code certificate has been issued for it certifying that Code Level 3 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development in accordance with policies CC4 and H5 of The South East Plan 2009, Kent Design Guide 2000 and PPS1: Delivering Sustainable Development,

12. The development shall not commence until a detailed mitigation strategy incorporating information to ensure that the bat roosts are protected and no living animals are killed during the demolition of the existing buildings and enhancement opportunities for bats to roost are incorporated within the details of the replacement dwelling hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved mitigation strategy with any amendments agreed in writing;

Reason: In the interests of the protection, conservation and enhancement of biodiversity in accordance with policy NRM5 of The South East Plan 2009 and PPS9: Biodiversity and Geological Conservation.

13. The existing buildings shown to be demolished on drawing no. 101a received on 20 October 2009 shall be fully demolished and the resulting materials and debris removed from the site to the satisfaction of the Local Planning Authority within 2 month(s) of the first occupation of the building hereby permitted;

Reason: To prevent an overdevelopment of the site and to safeguard the character and appearance of the surrounding area in accordance with policies ENV28 and H32 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of The South East Plan 2009.

14. The development shall not commence until details of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority and these works shall be completed in accordance with the approved details before the first occupation of the buildings.

Reason: To ensure adequate sewage disposal arrangements in accordance with policy NRM2 of The South East Plan 2009.

Informatives set out below

The existing timber summer house on the southwest side of the pond, the garden shed at the south corner of the site, the small timber tea house and the canopied decked area to the northwest of the site require formal planning permission. No such permission has been granted. The applicant/developer is therefore required to submit a retrospective planning application for these structures which are in breach of planning control within one month of the date of the permission hereby granted for the replacement dwelling under MA/09/0961

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.