

APPLICATION: MA/09/2103 Date: 27 October 2009 Received: 17 November 2009

APPLICANT: Maidstone Housing Trust

LOCATION: LAND OFF WINCH'S GARTH, WINCH'S GARTH, STAPLEHURST, KENT, TN12 0QX

PARISH: Staplehurst

PROPOSAL: Erection of 5 new dwellings as shown on drawing numbers WG/100 rev a, WG/101 rev a, WG/102 rev a, WG/110 rev c, WG/111 rev b, WG/112 rev a, WG/113 rev a, WG/114 rev a, WG/115 rev a, tree report, ground investigation report, amphibian and reptile survey and noise survey report received on 17/11/09.

AGENDA DATE: 8th April 2010

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Staplehurst Parish Council

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, H27, T13
South East Plan 2009: CC4, H4, H5, T4, NRM5, NRM10, M1, BE1
Government Policy: PPS1, PPS3, PPS9, PPG13, PPS23, PPG24

HISTORY

MA/08/1627 – Erection of 5 new dwellings – WITHDRAWN.

1. CONSULTATIONS

- 1.1 Staplehurst Parish Council** wishes to see the application REFUSED stating:-
“After much discussion and consideration of the difficult access to the site through the already very congested Market Street with much on-street parking, Councillors recommended REFUSAL because the loss of this former Council garage site was detrimental to the local amenity and would add to existing congestion and highway danger. Emergency services and refuse collectors already had great difficulty and potential construction traffic would add increasing difficulties in negotiating access to and from the site, to the detriment of existing residents. The proposal was an over-intensification of the small

garage site and surface water run-off would be difficult to manage. The proposal would add to the degradation of the quality of life of existing residents which was already blighted by poor and tortuous access. The garage site had fallen into disrepair and no adequate consultation with local residents had taken place prior to their closure. Councillors requested that this application be referred to MBC Development Control Committee."

1.2 Kent Highway Services raise no objections to the development stating:-

"I have considered the details contained in the application, the Design & Access statement, together with the plans accompanying the planning application. I have also visited the site.

The proposal seeks to provide 5 dwellings on land previously used for garaging, making use of an existing access, which is currently closed. The development would not lead to an intensification of vehicular movements when compared to the previous use. Improvements are to be made to the access to increase the width to 3.1m and resurfacing. The proposed new development will not affect the existing parking situation in the neighbouring roads, as adequate parking is proposed within the site for the bungalows.

I am sorry to hear that the nearby residents are experiencing problems associated with indiscriminate parking, however I do not consider that the traffic generated by an additional 5 bungalows is likely to have any significant effect.

In view of this I would not wish to raise objection to the proposal."

1.3 MBC Environmental Health Manager raises no objections to the application subject to a condition relating to a closure report.

2. REPRESENTATIONS

2.1 Six letters of objection have been received on the following grounds:-

- More dwellings would result in increased traffic and parking problems.

2.2 A petition containing 98 signatures has been received objecting and to stop illegal parking and speeding in Market Street before any further housing development takes place in Winch's Garth. The petition shows a photograph of an ambulance, which had to get parked cars moved to reach its destination.

3. CONSIDERATIONS

3.1 Site Description

3.1.1 The application site is at the north end of Winch's Garth, a cul-de-sac off Market Street within the village envelope of Staplehurst. The site is approximately 27

metres south of the railway line, which runs east to west. The surrounding area is predominantly residential in character with both two storey and single storey dwellings in the immediate area. The dwellings of 3-6 Winch's Garth to the west of the site are bungalows with other dwellings in Winch's Garth abutting the site being two storey.

- 3.1.2 The site itself is approximately 0.16 hectares in area and formerly contained two blocks of garages that were available for rent and hardstanding, which has an existing vehicular access off Winch's Garth. The access to the garages has been closed off and the garages are no longer in use and have been demolished. In the southern area of the site are a number of established fruit trees.
- 3.1.3 The nearest residential properties to the west of the site are 2 Winch's Garth, whose eastern flank elevation is approximately 3.5 metres from the boundary of the site and the properties 3-6 Winch's Garth, whose rear walls are approximately 6.5 metres from the boundary of the site. The dwellings to the south of the site are 8-10 Winch's Garth and the rear walls to these dwellings are approximately 9.75 metres from the boundary of the site.
- 3.1.4 To the north and the east of the site are areas of woodland with a number of mature trees, predominantly ash and oak trees. This wooded area also forms the embankment of the railway line located approximately 27 metres to the north of the application site. Within the immediate area there are a number of ponds. As a result of these features a tree report and ecological survey have been undertaken.

3.2 Proposal

- 3.2.1 The application is a full application for the demolition of the existing garages and the erection of five bungalows (four two bedroom units and a single one bedroom unit) with seven car parking spaces. The layout of the properties would include a detached bungalow in the northern portion of the site a second detached bungalow in the central part of the site and a terrace of three bungalows in the southern part of the site.
- 3.2.2 The dwellings would all be low rise bungalows of a scale that the roofspace would be incapable of being used for additional living accommodation. Each property would have an eaves height of 2.2 metres in height. The ridge height of the detached property to the north and the terrace of three bungalows to the south would have a ridge height of approximately 5 metres. The detached bungalow in the central part of the site would be approximately 4.5 metres to ridge. Each property would have a private garden area with additional landscaping proposed in communal areas.

3.2.3 The application is made by Golding Homes (formerly Maidstone Housing Trust) and the dwellings would be for the provision of affordable housing. However, due to the number of units proposed it would not be appropriate to insist on this by way of a condition or a legal agreement.

3.3 Principle of Development

3.3.1 The application is previously developed land as defined in Annex B of PPS3 and, as stated above is within the village boundary of Staplehurst. National guidance contained within PPS3 encourages the use of previously developed land for residential development. Furthermore, policy H27 of the Maidstone Borough-Wide Local Plan (2000) allows for minor residential development within village boundaries.

3.3.2 Staplehurst is designated as rural service centre and national guidance in PPS3 and PPS7 states that development should be focused...

'in or near to local service centres where employment, housing (including affordable housing), services and other facilities can be provided close together' (para 3 of PPS7: Sustainable Development in Rural Areas).

3.3.3 The application site therefore is clearly consistent with Development Plan Policy and Central Government advice. The proposed development complies with the definition of minor residential development and policy H27 of the Maidstone Borough-Wide Local Plan (2000) and national guidance and therefore is acceptable. The minimum density of residential development on appropriate sites advocated by PPS3 is 30 dwellings per hectare. The proposed five dwellings on this site of 0.16 hectares would equate to a density of 31 dwellings per hectare and as such conforms to the density requirements of PPS3.

3.4 Visual Impact

3.4.1 The surrounding area is a mix of residential properties, both bungalows and two storey dwellings. In this respect, the proposed bungalows would not appear out of place in the area.

3.4.2 The design of the bungalows is simple and unremarkable, however, in this area with similar styles of properties all of a simple design the approach would fit in well with the surrounding character. The materials proposed would be clay plain tiles for the roof and a mix of red multi stock brick and light brown smooth render. These materials would match those used in the surrounding properties and would not look out of place.

3.4.3 There would be views of the development from the vehicular entrance at the north end of Winch's Garth and glimpses would be possible between buildings from the south. However, the low nature and small scale of the development and the fact that the surrounding area is a mix of residential properties would ensure that the bungalows would not be out of character.

3.4.4 The development would be a visual improvement on the derelict garages and expanse of hardstanding. The proposal would include additional landscaping that would soften the development and provide an appropriate setting for the proposed dwellings.

3.5 Impact on Residential Amenity

3.5.1 The proposed dwellings are all single storey and views into the neighbouring properties that are adjacent to the site would be screened by the 1.8m high close boarded boundary fences. This would ensure that there would be no loss of privacy to the occupiers of the existing properties that surround the site.

3.5.2 The approximate separation distances between the proposed bungalows and the existing dwellings that surround the site are set out below:-

Number 2 – 14m

Number 3 – 8.5m

Number 4 – 10m

Number 5 – 10.5m

Number 6 – 13m

Numbers 8-10 – a minimum of 18m

3.5.3 These separation distances and the low height of the proposed bungalows would be sufficient to prevent any loss of light or an overwhelming impact on the occupiers of the dwellings.

3.5.4 The vehicular access would be located between 2 and 3 Winch's Garth, in the same position as the access to the existing blocks of garages. I consider that the noise and disturbance from cars using the access to be no greater than the previous use. Furthermore the separation distance and the orientation of 2 and 3 Winch's Garth is such that vehicles would not be passing immediately adjacent to habitable rooms or significant areas of private garden.

3.6 Landscaping

3.6.1 Although there are no protected trees on or near the site a tree survey has been submitted to assess the quality of the trees within the adjacent wooded area that surrounds the site and the fruit trees within the southern part of the site.

The trees have been categorised and as such the development would only result in the loss of three category C ash trees on the northern boundary of the site.

3.6.2 The retained fruit trees and the protection of the trees surrounding the site would ensure that there would be an adequate setting for the development. In addition, there would be landscaping to the frontages of the bungalows and areas of communal garden.

3.7 Highways

3.7.1 The proposal would utilise an existing vehicular access point onto Winch's Garth. The visibility of the access point would be from the head of Winch's Garth and therefore vehicles emerging from the development would have full visibility of any vehicles using Winch's Garth. The width of the access would be 3.1m and as such would be adequate to allow for emergency vehicle access and, moreover, a refuse freighter.

3.7.2 The proposed parking for the development would provide seven spaces for the five bungalows (four two bedroom units and a single one bedroom unit). This level of parking has been accepted by Kent Highways as adequate to prevent any additional significant on street car parking within Winch's Garth or Market Street. All the letters of objection and the petition are objecting to the development on the grounds that there would be additional cars parking on Winch's Garth and Market Street, which would cause highway safety problems. The response from neighbours including the number of people who have signed the petition clearly shows that the parking situation in the area is currently inconvenient, despite many of the properties having some form of off road parking facilities. However, an inconvenient parking situation is not a justified planning reason for refusal.

3.7.3 Winch's Garth and Market Street are covered by existing parking restrictions and long stay spaces are limited to permit holders. In the last 12 months there have been a total of 13 penalty charge notices served in Winch's Garth and Market Street for parking within marked bays but beyond time or with no permit. There have only been 5 penalty charge notices served in the same period for parking on yellow line restrictions. There are no records of accidents in the area that can be attributed to the current parking situation. It is noted that many of the signatories of the petition are visitors to the properties in Market Street and Winch's Garth rather than all residents.

3.7.4 Furthermore, Kent Highway Services have assessed the application and consider that the level of parking provision is adequate for the proposed accommodation and that there would be no significant impact on highway safety.

3.8 Ecology

- 3.8.1 An amphibian and reptile survey was undertaken due to the existence of a number of ponds in the surrounding area. The survey found one pond approximately 140m from the site supported a low number of great crested newts. In addition, one slow worm was found on the site, although the area of suitable habitat within the site is low.
- 3.8.2 There is a low risk of great crested newt using the area of suitable habitat of approximately 0.02 hectares on the site as terrestrial habitat. There are recommendations within the report requiring a careful destructive search with fencing to prevent recolonisation by slow worms once this work is completed.
- 3.8.3 The trees to be removed have also been assessed and identified with regard to their potential for bat roosts. There is one particular tree to be removed that would have potential for a bat roost due to a cavity in the trunk. However, due to the position of the cavity close to the base of the tree, which was flooded in May it is highly unlikely to be used by bats. However, recommendations are included with regard to the felling of this tree to ensure that no bats are present.
- 3.8.4 I consider that the recommendations contained within the survey are adequate and appropriate for the proposed development. Natural England have considered the survey and find the results to be acceptable.

3.9 Other Matters

- 3.9.1 The proposed development being a Housing Association would achieve a level 3 on the Code for Sustainable Homes and a condition requiring this to be met would be appropriate. This may rise to a level 4 after the 1st April 2010, however, I consider a condition for a minimum of level 3 to be appropriate and consistent with the Council's approach to sustainable construction.
- 3.9.2 The application includes a noise survey to assess the noise from the railway line approximately 27 metres to the north. This survey indicates that the level of noise experienced by the future occupiers of the properties would be at an acceptable level and would fall in the Noise Exposure Category (NEC) 'A' zone and no specific mitigation is required. The Environmental Health Manager has no objections to the report or the application on noise grounds.
- 3.9.3 A ground investigation report has been submitted with the application. According to the report an intrusive investigation and lab analysis has established that there is a risk to human health due to the presence of arsenic, lead, nickel, benzo(a)pyrene, zinc and copper plus high levels of Total Petroleum Hydrocarbons; and the report suggests a suitable remediation/mitigation strategy which should be followed. A closure report will be required in order to finally discharge a contaminated land condition. The Environmental Health

Manager has no objections to the findings of the report subject to a condition requiring the submission of a closure report.

- 3.9.4 A letter from Kent Police has been included as part of the application, which indicates the development is likely to achieve Secured by Design.

3.10 Conclusion

- 3.10.1 The site is previously developed land within the village boundary of Staplehurst where residential development is acceptable in principle in accordance with national guidance and the Development Plan.
- 3.10.2 There would be no unacceptable visual impact or impact on residential amenity that would warrant refusal and the retained and proposed landscaping would provide a suitable setting for the development.
- 3.10.3 The issues of ecology, contamination and noise from the railway have been adequately addressed and subject to appropriate conditions would be acceptable.
- 3.10.4 The parking provision of 7 spaces for 5 bungalows is adequate and would not result in any significant impact on the current level of on street car parking. All the objections received are with regard to this issue, however, there is no evidence that the development would result in a hazard to highway safety and there have been no objections received from Kent Highway Services.
- 3.10.4 The application is acceptable in planning terms and permission is recommended.

4 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 shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been 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 H5 and BE1 South East Plan (2009).

3. 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;

Reason: No such details have been submitted in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and BE1 of the South East Plan (2009).

4. 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 buildings 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 of the Maidstone Borough-Wide Local Plan (2000) and BE1 of the South East Plan (2009).

5. 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 M1 of the South East Plan (2009), Kent Design Guide 2000 and PPS1.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A and B shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers in accordance with policy BE1 of the South East Plan (2009).

7. 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 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (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 policies T13 of the Maidstone Borough-Wide Local Plan (2000) and T4 of the South East Plan (2009).

8. The recommendations contained in the survey undertaken by Swift Ecology and dated 26 August 2009 shall be fully implemented and complied with at all times until the completion of the development;

Reason: To ensure that no damage occurs to protected species in accordance with policy NRM5 of the South East Plan (2009) and guidance contained in PPS9.

9. The recommendations and protection measures contained within the tree survey and arboricultural implications assessment undertaken by Duramen Consulting Ltd dated 2 October 2009 shall be fully implemented and complied with at all times until the completion of the development;

Reason: To ensure the protection of trees within and surrounding the site in accordance with policy ENV6 of the Maidstone Borough-Wide Local Plan (2000).

10. Upon completion of the works identified in the Ground Investigation Report undertaken by Soils Ltd dated August 2008, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment pursuant to guidance contained in PPS23.

Informatives set out below

Attention is drawn to the COPA 1974 sections 60 & 61. The Council will normally expect contractors to adhere to the Guidance Note for Contractors contained in the Associated British Standard COP BS 5228:2009 for noise control on construction sites which includes such matters as hours of noisy working, working practices and public relation with local residents. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM regarding noise control requirements.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours, can not be highly stressed.

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

Attention is drawn to Approved Document E Building Regulations 2003 'Resistance to the Passage of Sound'. It is recommended that the applicant adheres to the standards set out in this document in order to reduce the transmission of excessive airborne and impact noise between the separate units in this development and other dwellings.

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

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

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.