

REFERENCE NO - 19/503342/FULL		
APPLICATION PROPOSAL Retention of dwelling footprint as built with alterations to the roof.		
ADDRESS Bramley Otham Street Otham Maidstone Kent ME15 8RL		
RECOMMENDATION The Head of Planning and Development BE GIVEN DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a Section 106 legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee): <ol style="list-style-type: none"> 1) The proposed works to be completed in their entirety within a set timeframe and that the timeframe be delegated to the Head of Planning and Development to agree; 2) The hard and soft landscaping schemes (being part of conditions set out in the report) be completed within the first planting season following the completion of the development; 		
SUMMARY OF REASONS FOR RECOMMENDATION The amendments to the design of the dwelling accord with the development plan policies and supplementary guidance on residential proposals.		
REASON FOR REFERRAL TO COMMITTEE The application has been called in by Councillor Newton and by Otham Parish Council		
WARD Downswood and Otham	PARISH/TOWN COUNCIL Otham	APPLICANT Mr Daniel Stratulat AGENT
TARGET DECISION DATE 08/10/19		PUBLICITY EXPIRY DATE 12/09/19

Relevant Planning History

14/505338/FULL

Single storey extensions to north, east and south elevations, erection of porch and raised terracing. **Approved** Decision Date: 18.02.2015

15/505596/FULL

Retrospective application for a mini oast shed (utility room)
Refused Decision Date: 02.11.2015

16/503664/FULL

Retrospective application for the erection of a mini Oast shed (utility room).
Not Proceeded With Decision Date: 27.07.2016

16/506074/FULL

Amended application (14/505338/FULL Single storey extensions to North, East and South elevations, erection of porch and raised terracing to regularise matters as built including replacement summer house, outbuilding, garage and mini oast.
Refused Decision Date: 02.03.2017

Enforcement and Appeal History:

18/500061/ENF

Appeal against Enforcement Notice - Following the refusal of planning applications 15/505596/FULL and 16/506074/FULL unauthorised operational development and associated engineering works have continued on the Land. Unauthorised operational development not in accordance with approved plans submitted under MA/14/505338 has also taken place on the Land.

Appeal Dismissed -Notice Upheld Decision Date: 16.01.2019. The notice required that the unauthorised dwelling and outbuilding/oast house be dismantled and removed from the site and that all associated materials, debris and rubbish also be removed from the land.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site originally comprised a detached 1930s bungalow and is located to the eastern side of Otham Street. The dwelling is located towards the south of the largely rectangular plot being surrounded by gardens on all sides. There are mature trees and landscaping along the boundary with the highway. To the rear of the site, the land levels drop quite steeply. There is a vehicular access onto Otham Street at the northern end of the plot.
- 1.02 The application site is located within the countryside, outside of any settlement boundary and is also situated within Otham Conservation Area. The surroundings therefore include buildings that are of a distinct age and character. The Limes directly to the south is Grade II listed and dates from the 17th Century. The dwellings directly opposite Bramley are also of varying styles and include Rose Cottage. This Grade II listed property features an original oast house that is now used as residential accommodation.
- 1.03 The application site is also identified as being within an area of potential archaeological importance. Public Right of Way KM92 runs adjacent to the northern boundary of the site.
- 1.04 An unauthorised oast house style building was constructed to the front of the dwelling in 2015, this has recently been demolished. Works to complete the extensions approved under application 14/505338/FULL were commenced shortly after approval was granted however the works were not in accordance with the approved plans. The footprint of the extensions was larger than approved. The roof form was also altered resulting in a series of steeply pitched gables to the front and rear elevations and a balcony was introduced on the southern elevation. The two original chimneys on the property were also enlarged, one to include a clock tower feature. Works to demolish this feature have also been completed.

2. PROPOSAL

- 2.01 This application has been submitted following an appeal against an enforcement notice that required the dwelling and the oast house style outbuilding be dismantled and removed from the site. The appeal was dismissed and the notice upheld, giving a period of 6 months for the requirements of the notice to be

carried out. The appeal decision was issued on 16.01.2019. Following this, the applicant submitted a request for pre-application advice to seek guidance on what form of residential development could be considered on the site.

- 2.02 In planning terms, the dwelling as built is unauthorised development given that the requirement of the enforcement notice is to demolish the building which was upheld by the Planning Inspectorate. This application is therefore submitted on the basis of establishing a 'replacement dwelling' on the site which retains the same footprint as built.
- 2.03 The proposed dwelling will be single storey and have a pitched roof form. Given the varying land levels across the site, the maximum height of the dwelling to the front elevation will be 6m; to the rear elevation it will be 6.45m; 6.5m to the northern flank elevation; and 5.4m to the southern flank elevation. To the front elevation, there are 3 hipped roof forms and two at the rear. The northern flank elevation will feature two gabled roof forms. To the eastern (rear elevation) will be a terrace that will have stairs leading down into the garden. The maximum width of the dwelling will be 21.3m and the depth 15m. Externally, the walls will be finished in brick, the roof will be tiled and the windows will be timber. The accommodation will provide a kitchen, dining room, living room; utility room; WC; and three bedrooms; two with en-suite bathrooms.
- 2.04 The application is accompanied by a Heritage Statement which is informed by the Conservation Area Appraisal for Otham. The Heritage Statement refers to the fact that Bramley Cottage is noted as being of neutral character in the Conservation Area Appraisal; its characteristics are defined by its low height and spacious grounds. In order to maintain the views and lessen the impacts of the proposal, the roofs of the previous design have been modified to feature hipped roofs on all elevations facing neighbouring properties. The low height of the property and spacious grounds are important to the spacious nature of the Conservation Area and these principles have been prioritised in the proposed design. The Statement concludes that the proposal will help the dwelling to be better integrated within the area by incorporating a less prominent roof shape and by allowing for clear views through the removal of the outbuilding, front elevation chimneys and the proposal of hipped roofs.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017: SP17; SP18; DM1; DM30; DM32
Supplementary Planning Documents: Residential Extensions (2009)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 5 representations received from local residents raising the following (summarised) issues:
- It still appears not to accord with the original planning permission for updating this modest bungalow;
 - This development has dragged on for five years with the whole site appearing as a ramshackle builders yard and is most unsightly in the middle of a conservation area;

- The application assumes approval of the enlarged footprint. Given the nature of this application, it is difficult to assess how much bigger the proposals are in relation to the existing bungalow;
- To support this application would be a dangerous precedent where it would seem that planning law was of no consequence and that Maidstone Borough Council do not have the ability or intention to enforce planning violations;
- This application should be refused and a house of suitable proportions built on the site;
- The proposal remains at odds with the surrounding area being both visually prominent and dominant feature, far from the neutral character of the building it replaces;
- The design neither enhances or preserves the character of the conservation area;
- The planning situation regarding the previously proposed garage and summer house is not clear;
- I would be willing for this to go ahead if it were the same size as the footprint originally approved;
- The building is too big and as a result, its appearance clashes with that of the various listed buildings which surround Bramley on two sides. These listed buildings are of typical vernacular construction for the area. The new building at Bramley is not;
- This present application does not enhance the conservation area;
- We all understand the rules for living in a conservation area, if this is allowed then anyone can break them and submit fresh plans.

4.02 The Local Ward Councillor, Cllr Newton, has also raised the following objections:

Having examined the proposal for the above application, I wish to call in the above application for determination by the MBC Planning Committee.

- The grounds for the "call in" are that the development considerably exceeds the footprint of the original building that had been granted Planning Permission by MBC for renovation. The original building was subsequently demolished /"incorporated" into a structure with a much larger footprint.
- It subsequently resulted in the construction of a large unauthorised structure without planning permission and with total disregard to the original footprint of the building.
- The application does not take note that the proposal is within the Otham Conservation Area.
- There is considerable history of Planning Enforcement attending the site that led to HM Planning Inspector supporting MBC's decision to take the building.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

Otham Parish Council

- 5.01 Otham Parish Council wishes to object to this retrospective application on the following grounds. The proposal far exceeds the footprint for which planning permission was originally granted and should be reduced in size accordingly. Whilst the roofs have been modified, there are far too many and this does not sit well with other buildings in the locality. The building is not in the style of local housing. It is unattractive and totally inappropriate for a Conservation Area. We request that planning permission is refused.

KCC Public Rights of Way Officer

- 5.02 Public Rights of Way KM92 footpath runs outside the northern boundary of the site and should not affect the application.

MBC Conservation Officer

- 5.03 Bramley was originally an interwar bungalow which made a neutral contribution to the Otham Conservation Area, with its extensive gardens making a more valuable contribution to the area's setting. A number of important listed buildings are adjacent to the site. Extensions and alterations were approved in 2014 on the basis that they were generally in keeping with the character of the existing building and would not diminish the positive contribution made by the gardens.
- 5.04 The building has since been extended far more substantially than previously approved, to include a number of features which increase its scale and prominence, resulting in a harmful impact on the conservation and setting of listed buildings. The valuable gardens have been degraded by additional development and site works, some of which are temporary.
- 5.05 The current proposed alterations would significantly reduce the impact of the unauthorised development on the Conservation Area and setting of listed buildings. This would be achieved by the demolition of the detached oast house style building, the removal of the clock tower and the replacement of several gables with hipped roofs. Proposed changes to the overall roof form and additions to the building on the south and west sides are acceptable in heritage terms as the general scale and character of the building would be similar to approved.
- 5.06 I recommend approval and raise no objection to this application on heritage grounds. I would recommend appropriate conditions are added to ensure the gardens are fully reinstated upon completion of the building works, including removal of temporary structures and the incomplete blockwork structure on the west side.

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:
- The principle of this proposal;
 - The visual impact of the development, with particular reference to the Conservation Area and setting of the adjacent listed buildings.

In view of the distance between the proposal and the neighbouring dwellings together with the level of established landscaping along the boundaries, there are no likely impacts upon the amenities of adjacent householders. In reaching this conclusion, I am mindful that there have been no such issues raised in the representations received. The enforcement notice referred to significant harm to neighbouring amenity. This directly related to an unauthorised balcony that had been constructed on the southern elevation of the dwelling and the consequent overlooking of the adjacent property at The Limes. This feature has since been removed and does not form part of the current application. The issue of significant harm to neighbouring amenity as set out in the enforcement notice has therefore been addressed.

Application Principle

- 6.02 As set out earlier within this report, the application site has a somewhat lengthy planning and enforcement history triggered by the fact that the extensions approved in 2014 were not completed in accordance with the approved plans. This resulted in a larger footprint and altered roof form to that which permission was granted for. In addition, an oast style outbuilding was constructed to the south west of the dwelling. The eventual outcome of these unauthorised extensions was the serving of an enforcement notice on the applicant which required the removal of the dwelling and the removal of the oast style outbuilding together with a requirement to remove all associated materials, debris and rubbish arising from these actions. An appeal to the Planning Inspectorate saw the notice upheld with a period of 6 months in which to carry out the requirements of the notice. The appeal decision was issued on 16.01.2019.
- 6.03 Since the appeal decision, the oast style outbuilding has been demolished and the clock tower feature constructed on the roof of the dwelling has also been removed. The current application therefore seeks the retention of a dwelling to the footprint already built, together with a reduced roof form.
- 6.04 In a policy context, the National Planning Policy Framework (2019) (NPPF) states in paragraph 200 that Local Planning Authorities should look for opportunities for new development within Conservation Areas, to enhance or better reveal their significance. In paragraph 202 it is noted that not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building that makes a positive contribution to the significance of a Conservation Area should be treated as substantial harm or less than substantial harm (as appropriate).
- 6.05 In a local context, Policy DM32 of the MBLP (2017) is supportive of proposals to rebuild dwellings in the countryside provided that the present dwelling has a lawful residential use; the present dwelling is not the result of a temporary permission; the building is not listed; the mass and volume of the replacement dwelling is no more visually harmful than the original dwelling; the replacement dwelling is individually or cumulatively visually acceptable in the countryside; and the replacement dwelling is sited to preclude the retention of the dwelling it is intended to replace.
- 6.06 Essentially, the principle of a single dwellinghouse on this site is established by the fact that historically, this was the use of the land and the residential use was never abandoned. In the context of paragraph 202 of the NPPF, the original dwelling at Bramley was not identified as making a positive contribution to the Conservation Area. In view of these factors, there would be no material planning reasons to consider a refusal based on principle. The proposal involves a single storey dwelling with a modest roof form. Much reference is made in the

objections to the increase in the footprint beyond what was originally on the site or what was approved in the 2014 planning permission. Ultimately, due to the requirements of the enforcement notice, it is reasonable to state that in planning terms, there is no longer an original dwelling or dwelling as extended. What this application is seeking is to construct a dwellinghouse to the scale and footprint indicated on the accompanying drawings.

- 6.07 The original property on the site was an interwar bungalow. It was not a listed building and indeed, the Conservation Area Appraisal identified the property as being of neutral character, its defining feature being mainly the grounds it stood in. Accordingly, in view of the proportions of the site relative to the footprint of the dwelling proposed, together with the fact that it will be single storey, I consider that there would be no substantive planning policy reasons to determine that the construction of a single storey dwelling is unacceptable in principle.

Visual Impact

- 6.08 The dwelling as proposed is located in a similar position to the original property that stood on the site, being set back a minimum of 12m from Otham Street. The boundaries of the site with the highway are lined with mature trees and landscaping. The land levels fall from west to east and therefore the front elevation, facing Otham Street, is more modest in appearance than the rear elevation. The external surfaces will be finished in brick with timber doors and windows.
- 6.09 The Otham Conservation Area Appraisal describes Bramley as being '*Set in attractive grounds, a 1930s bungalow of yellow brick in stretcher bond. Low-pitched roof of asbestos shingles. A well-made building of its period which is neutral in character on its own architectural quality. However, its low height and spacious grounds are important to the open nature of the Conservation Area at this point*'. Within the appraisal, the term neutral is defined as being those buildings/sites which do not harm the character of the area but whose retention is not necessary.
- 6.10 The original dwelling that stood on the site had a maximum width of 14.4m (including a conservatory addition to the southern elevation); a maximum depth of 14.05m; a maximum height to the front (western) elevation of 6m; and the height to the top of the chimneys on the western elevation was 7.4m. The design of the dwelling was such that it did not have a uniform footprint and featured projections to the front and rear elevations together with steps at the front and northern elevation.
- 6.11 The development approved in 2014 saw the extensions retain the maximum existing depth of 14.05m but increased the width of the dwelling to 18.25m. The maximum height of the building (including the chimneys) also remained as original.
- 6.12 Comparatively, the footprint as built and as detailed on the application proposal, details a maximum width of 21.45m and a maximum depth of 15.6m. The ridge height to the front of the dwelling is 6m. The chimney sizes are also detailed on the drawings as being reduced so that they do not project above the ridge line by more than 1m.
- 6.13 Visually, the proposal will not be a conspicuous or dominant feature in the general views of Otham Street by virtue of its proportions and the presence of established landscaping along the boundaries. The original dwelling and the extensions approved in 2014 could both be described as somewhat sprawling, having an irregular footprint as well as featuring distinctly tall chimneys

protruding from the roof. In design terms, the proposal will be a largely simplistic bungalow of which the design is somewhat led by the varying land levels across the site. This issue was also reflected in the extensions approved in 2014 as well as in the layout and access to the original bungalow.

- 6.14 The proposed ridge height of 6m to the front elevation is not excessive and the incorporation of hipped roof forms assists in lessening the bulk of the dwelling. Whilst the footprint of the dwelling is greater than the originally approved extensions, the increase of 3.05m in the width and 1.15m in depth would not be so excessive as to establish any distinctly identifiable harm, particularly given the proportions of the site.
- 6.15 The comments of MBC's Conservation Officer indicate that there are no objections to raise on heritage grounds. Furthermore, the difference between the 2014 approval and the current proposals would not result in any significant erosion to the intrinsic character of the site as identified in the Conservation Area Appraisal, i.e. the spacious grounds and low building height. In addition, the classification of 'neutral' is also a key factor in balancing the issues of this case as ultimately, the retention of the original property was not determined to be necessary.
- 6.16 In view of this, together with the guidance contained in paragraphs 200 and 202 of the NPPF and the requirements of Policy DM32, I conclude that the quality and character of Otham Conservation Area will not be compromised by this proposal and furthermore, the setting of the nearby listed buildings will not be impaired. Given the range of housing styles and designs in the locality, the proposals will not appear incongruous.
- 6.17 It is however critical in considering all of these issues to ensure that all aspects of development carried out on the site are sympathetic to the intrinsic character and visual qualities of Otham. To this end, the concerns raised in respect of the current condition of the site are an important issue. I therefore recommend the imposition of a condition that requires the submission of details of a hard and soft landscaping scheme for the entire site within 3 months of the decision being issued. The implementation and completion of the scheme can be secured through a Section 106 legal agreement that specifies a timeframe. Given the level of unauthorised works that have taken place at Bramley as well as the present condition of the site, a S106 will provide assurance that the proposed works will be completed and that this will take place within a timeframe that is acceptable to the Local Planning Authority.
- 6.18 In view of the guidance contained with paragraph 53 of the NPPF (tailoring planning controls to local circumstances) as well as paragraph 17 of Planning Practice Guidance, I do not believe that it would be reasonable to consider imposing a condition that removes permitted development rights, particularly as such rights are already more restrictive in designated conservation areas.

Other Matters

- 6.19 Policy DM1 of the local plan sets out at point viii that proposals should 'protect and enhance any on-site biodiversity and geodiversity features where appropriate, or provide mitigation.' Due to the nature of the proposal and the residential use of the site and the continued residential use, it is not considered appropriate/necessary to require any ecological surveys. However, when considering the level of development that has taken place on the site, it is considered appropriate to attach a condition requesting the submission of details of on-site mitigation measures which can be provided in the form of swift bricks,

bat tube or bricks, or through provision within the site curtilage of measures such as bird boxes, bat boxes bug hotels, log piles and hedgerow corridors.

- 6.20 Policy DM1 also notes in point vii that where possible, developments should be orientated such that the opportunity for sustainable elements are incorporated and to reduce the reliance upon less sustainable energy sources. The development proposed at Bramley presents such opportunities and accordingly, conditions are included in the recommendation requesting the submission of details of the incorporation of renewable or low carbon energy sources within the development. I also consider that the inclusion of an electric car charging point would be appropriate.

Ongoing Enforcement Issues

- 6.21 Bramley continues to be observed by MBC's Enforcement Section and issues regarding the condition of the site and other temporary/structures on the land are being actively monitored.

7. CONCLUSION

- 7.01 The application site has a lengthy planning history in recent years related to unauthorised works that have resulted in harm to the general character of the locality and quality of the Conservation Area. In planning terms, the original dwelling no longer exists due to the extent of unauthorised works that have taken place and the requirements of the enforcement notice subsequently served. The extensions approved in 2014 are a useful benchmark to guide the level of development that would be acceptable on the site and the above comparisons indicate that the current proposals are not excessively beyond what has previously been accepted on the site.
- 7.02 Policy DM32 of the Maidstone Borough Local Plan (2017) permits the rebuilding of dwellings in the countryside and the above assessments conclude that the development as proposed will retain the intrinsic qualities that are attributed to this site in the Conservation Area Appraisal, that is, a dwelling with a low pitched roof set within spacious surroundings. The conditions relating to materials and the submission and implementation of a hard and soft landscaping scheme will ensure that the visual qualities of the site are restored. Whilst there have been several objections to this scheme, the above assessments indicate that the issues raised can be satisfactorily overcome and within a timeframe that is bound by a legal agreement. I therefore recommend that this application is approved.

8. RECOMMENDATION

- 8.1 The Head of Planning and Development BE GIVEN DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a Section 106 legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee):**

- 1) The proposed works to be completed in their entirety within a set timeframe and that the timeframe be delegated to the Head of Planning and Development to agree;
- 2) The hard and soft landscaping schemes (being part of conditions set out below) are completed within the first planting season following the completion of the development;

and the imposition of the conditions as set out below:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PA0000 Revision 02; PA0010 Revision 05; PA1000 Revision 04; PA1001 Revision 03; PA1020 Revision 03; PA1021 Revision 04; PA2000 Revision 06; PA2005 Revision 06; PA2020 Revision 06; PA2021 Revision 04; Heritage Impact Assessment.

Reason: To clarify which plans have been approved.

- 2) Within a period of 3 months of the date of this decision, 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.

- 3) Within a period of 3 months of the date of this decision, details of all hard landscaping works, including any patios, stairways; paths and/or driveways, 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;

Reason: To ensure a satisfactory appearance to the development

- 5) Within a period of 3 months of the date of this decision notice, a landscape scheme designed in accordance with the principles of the Council's landscape character guidance shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show all existing trees, hedges and blocks of landscaping on and immediately adjacent to, the site and indicate whether they are to be retained or removed and include a planting specification, a programme of implementation and a 5 year management plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 6) In accordance with the details of landscaping approved by condition 5 of this planning permission, any seeding or turfing which fails to establish or any trees or plants which, within ten years of being planted, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 7) Within 3 months of the date of this decision notice, details of a scheme for the enhancement of biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through either integrated methods into the design and appearance of the dwelling by means such as swift bricks, bat tube or bricks, or through provision within the site curtilage such as bird boxes, bat boxes bug hotels, log piles and hedgerow corridors. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- 8) Within 3 months of the date of this decision, details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to first occupation and maintained thereafter;

Reason: To ensure an energy efficient form of development.

- 9) Within 3 months of the date of this decision, details of an electric vehicle charging point shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the first occupation of the development hereby approved and maintained thereafter;

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 35 of the NPPF.

INFORMATIVES

- 1) The applicant's attention is drawn to the fact that this planning permission relates only to the dwelling and not to any other structures that have been erected on the site. These matters will continue to be monitored by the Council's Enforcement Section.

Case Officer: Georgina Quinn